

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS  
ON REFERRAL BY THE COMMISSIONER OF REVENUE**

IN THE MATTER OF: )

C. D. T. )

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OAH No. 09-0649-CSS

CSSD No. 001158596

**DECISION AND ORDER**

**I. Introduction**

The obligor, C. D. T., appeals an Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (“CSSD”) issued on November 4, 2009. The Obligee child is G., who is 1 year old.

The formal hearing was held on January 13, 2010. Mr. T. appeared by telephone; the custodian, O. R. J., did not participate.<sup>1</sup> Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on January 27, 2010.

Based on the record as a whole and after careful consideration, Mr. T.’s child support is set at \$354 per month for 2009 and \$303 per month, effective January 1, 2010, and ongoing.

**II. Facts**

*A. History*

Public assistance benefits began for G. in January 2009.<sup>2</sup> On August 14, 2009, CSSD served an Administrative Child Support and Medical Support Order on Mr. T.<sup>3</sup> He requested an administrative review but did not provide income information.<sup>4</sup> On November 4, 2009, CSSD issued an Amended Administrative Child Support and Medical Support Order that set Mr. T.’s ongoing child support at \$531 per month, with arrears of \$5,841 for the period from January 2009 through November 2009.<sup>5</sup> Mr. T. appealed on December 2, 2009, asserting he has been providing for G.’s support and he pays child support for another child.<sup>6</sup>

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1 A call placed just before the hearing to Ms. J.’s telephone number went unanswered.  
2 Exh. 5 at pg. 7.  
3 Exh. 2.  
4 Pre-hearing brief at pg. 1.  
5 Exh. 5.  
6 Exh. 6.

*B. Material Facts*

Since 2001, Mr. T. has been in an apprenticeship program to become a telephone technician. He has completed the schooling required and through his employment has acquired 7,000 of the 8,000 hours necessary to become a journeyman. The work is somewhat seasonal and he is routinely employed by more than one company in any given year.

In 2009, Mr. T. earned \$10,333.67 from one employer,<sup>7</sup> and \$18,602.91 from a second employer as reflected in his December 11, 2009, paystub.<sup>8</sup> Using the weekly pay of \$935.20, CSSD estimated Mr. T. would earn an additional \$2,805.60 in the three pay periods remaining in 2009,<sup>9</sup> with the result that his 2009 income would total \$31,742.18.<sup>10</sup> In addition to mandatory taxes and Social Security, CSSD deducted an additional \$332.95 from Mr. T.'s monthly income to reflect the total union<sup>11</sup> dues he pays. When his total income and mandatory deductions are inserted into CSSD's child support calculator, it results in a support amount of \$354 per month in 2009.<sup>12</sup>

For 2010, CSSD estimated Mr. T. would earn approximately the same income and pay the same amount of union dues.<sup>13</sup> For the 2010 calculation, however, CSSD included the full amount of Mr. T.'s order to pay support for a prior child in the amount of \$429 per month.<sup>14</sup> This additional deduction, the only change from the 2009 calculation, results in a child support amount of \$303 per month for 2010.<sup>15</sup>

**III. Discussion**

A parent is obligated both by statute and at common law to support his or her children.<sup>16</sup> Civil Rule 90.3(a)(1) provides that an Obligor's child support amount is to be calculated based on

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<sup>7</sup> Exh. 9, December 29, 2009, affidavit of Andrew Rawls based on information from the Alaska Department of Labor and Workforce Development.

<sup>8</sup> Exh. 8 at pg. 4.

<sup>9</sup> See Exh. 13 at pg. 2.

<sup>10</sup> *Id.*

<sup>11</sup> After the hearing, CSSD contacted Mr. T. union local and was informed he pays \$28 per month in monthly dues, 5% of his earnings for benevolent dues, and 3% of his income for working dues. CSSD used this information to calculate Mr. T. 2009 union dues at \$3,995.38, which equals \$332.95 per month. *Post-hearing Brief* at pg. 1.

<sup>12</sup> Exh. 13 at pg. 1. This calculation includes a deduction for support payments to Mr. T. pays for a prior child in the amount of \$175.09 per month. See Exh. 13 at pg. 2.

<sup>13</sup> See Exh. 13 at pg. 4.

<sup>14</sup> *Id.*

<sup>15</sup> Exh. 13 at pg. 3.

<sup>16</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

his or her "total income from all sources," minus mandatory deductions such as taxes and Social Security. A parent who supports an older child in the home is entitled to an additional deduction.<sup>17</sup> The amount of the deduction is determined under Civil Rule 90.3 as though the parent were paying support for that child.<sup>18</sup>

As the person who filed the appeal in this case, Mr. T. has the burden of proving by a preponderance of the evidence that the child support amount in CSSD's Amended Administrative Child Support and Medical Support Order is incorrect.<sup>19</sup>

In its amended child support order, CSSD calculated Mr. T.'s 2009 and ongoing child support at \$531 per month, but this calculation was done in November 2009 and included income from the previous four consecutive quarters of wages, not all of which was earned in 2009.<sup>20</sup> CSSD's most recent calculation for 2009 includes just his income for that year. Similarly, the calculation for 2010 is based on CSSD's best estimate of Mr. T.'s future income for this year. These most recent calculations are more accurate than the calculation in the amended order.

#### **IV. Conclusion**

Mr. T. met his burden of proving that CSSD's Amended Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h). His actual income for 2009 yields a child support amount of \$354 per month for 2009 and \$303 per month for 2010. These figures are correct and should be adopted.

#### **V. Child Support Order**

- Mr. T. is liable for child support for G. in the amount of \$354 per month for the period from January 2009 through December 2009; and \$303 per month for 2010, effective January 1, 2010;

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<sup>17</sup> Civil Rule 90.3(a)(1)(C).

<sup>18</sup> *Id.*

<sup>19</sup> 15 AAC 05.030(h).

<sup>20</sup> *See* Exh. 5 at pg. 6.

- All other provisions of the November 4, 2009, Amended Administrative Child Support and Medical Support Order remain in full force and effect.

DATED this 16th day of February, 2010.

By: Signed  
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Kay L. Howard  
Administrative Law Judge

### **Adoption**

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision and Order as the final administrative determination in this matter.

Under AS 25.27.062 and AS 25.27.250, the obligor's income and property are subject to withholding. Without further notice, a withholding order may be served on any person, political subdivision, department of the State, or other entity.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 5th day of March, 2010.

By: Signed  
\_\_\_\_\_  
Signature  
Kay L. Howard  
\_\_\_\_\_  
Name  
Administrative Law Judge  
\_\_\_\_\_  
Title

[This document has been modified to conform to technical standards for publication.]