

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

IN THE MATTER OF)
)
 K. B.)
_____)

OAH Case No. 10-0013-CSS
CSSD Case No. 001160389

DECISION & ORDER

I. Introduction

The obligor, K. B., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on November 30, 2009. The child is K. B. The custodian is the State of Alaska.

A hearing was held on January 28, 2010. Andrew Rawls represented CSSD by telephone. Mr. B. did not appear or show cause for his failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j).¹ The amended order is affirmed.

II. Facts

K.'s birth certificate shows Mr. B. as K.'s father. CSSD set support at the lowest level allowed by law, which is \$50.00 per month. It appears that Mr. B. is disabled and receives SSI Social Security payments, and that K. is also disabled and receives SSI payments on his own behalf. There is no evidence that K. receives SSI payments due to Mr. B.'s disability or retirement.

III. Discussion

Mr. B. does not dispute the support amount, which has been set at the lowest possible amount allowed by law.² Mr. B. argues that he should receive credit for SSI payments that K. receives.

According to 15 AAC 125.475(a),

An obligor may request that the agency give credit against the obligor's child support obligation for government benefits paid to or on behalf of the obligor's child as a result of the obligor's disability or retirement. In order to qualify for a credit under this section,

¹ Mr. B. had been incarcerated at the Fairbanks Correctional Center (FCC). Arrangements were made on January 13, 2010, for Mr. B. to appear by telephone from a counsel room. At the hearing, FCC advised that Mr. B. had been discharged from custody on January 23, 2010. The file contains no other telephone numbers for Mr. B. CSSD attempted to locate a working number for Mr. B. While a number was found in the Department of Corrections database, that number does not appear to be operational. Notice of the hearing had been sent to Mr. B. by first class mail and by fax to FCC. The record was left open until February 8, 2010, to provide Mr. B. an opportunity to show cause for his failure to appear. Mr. B. did not contact the Office of Administrative Hearings.

² Civil Rule 90.3(c).

- (1) the obligor must provide proof of payment of the benefits, including a statement from the government agency that paid the benefits, listing each payment made for each child for whom a credit is sought;
- (2) the benefits must be paid to the custodial parent, unless the custodial parent agrees in writing to an alternative payment arrangement;
- (3) the benefits must be paid as a result of the obligor's disability or retirement or the benefits must be otherwise attributable to the obligor; and
- (4) the benefits must be paid for the child for whom the support credit is requested.

Mr. B. has not provided proof of payments of benefits or a statement from the government agency that paid the benefits. CSSD asserts that benefits K. receives are based on K.'s own disability, not on Mr. B.'s disability or retirement. Mr. B. is correct that if the Social Security Administration is paying benefits to K. based on Mr. B.'s disability, he would be entitled to credit against his support obligation. However, in order to receive the credit Mr. B. must provide proof that the payments being made are on his behalf and not being made with K.'s own money. Mr. B. may provide such proof at any time and receive credit for the payments from CSSD. Whether or not Mr. B. is entitled to the credit would not lower Mr. B.'s support obligation, which has already been set at the lowest level allowed by law.

Mr. B. also stated on his appeal that he was requesting DNA testing. CSSD stated that it has sent Mr. B. information on how to challenge paternity and request DNA testing, but it has not received anything back from Mr. B., and is now unable to locate him. Thus, CSSD has done everything it can at this point to assist Mr. B. in obtaining DNA testing. If Mr. B. does submit the information for DNA testing, a separate disestablishment case will be started. If Mr. B. cooperates in that case and his paternity is disestablished, CSSD will remove his support obligation from the date he requested disestablishment. Again, there is nothing about that issue that can be resolved in this establishment proceeding.

IV. Conclusion

Mr. B.'s does not contest the amount of his support obligation, which has already been set at the lowest level allowed by law. There are no errors in the amended administrative order and no issues that can resolved in this formal hearing. The amended administrative order should be affirmed.

V. Order

IT IS HEREBY ORDERED that the Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division on November 30, 2009, be AFFIRMED.

DATED this 17th day of February, 2010.

By: Signed
DALE WHITNEY
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 notices, 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 R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 12th day of March, 2010.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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