

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

IN THE MATTER OF:)

R. L. P.)

) OAH No. 10-0151-CSS

) CSSD No. 001133470

DECISION AND ORDER

I. Introduction

The obligor, R. L. P., appealed an Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on December 2, 2009. The Obligee children are B., D. and C. The custodian is T. G. P.

The hearing was held on April 22, 2010. Both parties appeared by telephone. Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on May 13, 2010.

Based on the record as a whole and after careful consideration, Mr. P. is liable for support of \$393 per month for the period from May 2008 through December 2008, and \$465 per month for January 2009 through March 2009, and ongoing. Ongoing child support as of April 2009 is suspended because the parties and children are living together in the home.

II. Facts

A. History

Ms. P. began receiving public assistance benefits on behalf of B., D. and C. in May 2008.¹ On December 30, 2009, CSSD served an Administrative Child Support and Medical Support Order on Mr. P.² On March 10, 2010, he requested an administrative review on the basis that his 2008 and 2009 PFD's were denied.³ Following his request, CSSD responded that he could appeal the decision, apparently because CSSD deemed his request for an administrative review as untimely.⁴ On March 24, 2010, Mr. P. filed an appeal and requested a formal hearing, asserting once again that his 2008 and 2009 PFD's were denied.⁵

¹ Exh. 2 at pg. 10.

² Exh. 2.

³ Exh. 3.

⁴ Exh. 4.

⁵ Exh. 5.

At the formal hearing, all the parties agreed that although a remand to CSSD may be appropriate in order to have CSSD issue an Amended Administrative Child and Medical Support Order, they preferred a child support decision be issued at the formal hearing level.

B. Material Facts

The parties are married and currently living together with the children B., D. and C. in the home. In 2008, during a period of time when Mr. P. was incarcerated, Ms. P. applied for and began receiving public assistance benefits on behalf of the children. This child support case was initiated as a result. CSSD agrees that ongoing child support should be suspended as of April 2009, when the parties began cohabitating once again.

In 2008, Mr. P. received wages of \$15,054.42, plus unemployment benefits of \$1,184, for total income of \$16,238.42.⁶ He was not eligible for the PFD in 2008.⁷ A monthly child support amount calculated from this total income figure is \$393 for three children, \$321 for two children, and \$230 for one child.⁸

In 2009, Mr. P. received wages of \$9,089.67,⁹ plus unemployment benefits of \$9,550,¹⁰ for total income of \$18,639.67. He also was not eligible for the PFD in 2009.¹¹ A monthly child support amount calculated from this income figure equals \$465 for three children, \$381 for two children and \$282 for one child.¹²

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.¹³ By regulation, CSSD collects support from the date the custodial parent requested child support services, or the date public assistance or foster care was initiated on behalf of the child(ren), up to six years prior to service on the obligor of notice of his or her support obligation.¹⁴

In this case, Ms. P. received public assistance on behalf of B., D. and C. from May 2008 through March 2009, so that is the period during which Mr. P. is liable for support payable

⁶ Exh. 7 at pgs. 5 & 6.

⁷ Exh. 7 at pg. 7.

⁸ Exh. 8.

⁹ Exh. 7 at pg. 5.

¹⁰ Exh. 9.

¹¹ Exh. 7 at pg. 8.

¹² Exh. 9.

¹³ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

through CSSD. CSSD has correctly calculated his child support at \$393 per month for three children in 2008 and \$465 per month for three children in 2009. These amounts should be adopted. However, ongoing support as of April 2009 will be suspended because the parties have lived together with the children in the home since then. Having the ongoing support amounts suspended will enable Mr. P. to pay his child support arrears on a reduced basis every month.

IV. Conclusion

Mr. P. met his burden of proving that the Administrative Child Support and Medical Support Order was incorrect. CSSD has correctly calculated his child support obligation, and the agency's calculations should be adopted. Also, ongoing child support as of April 2009 should be suspended because the parties are living together in the home with the children.

V. Child Support Order

- Mr. P. is liable for child support in the amount of \$393 per month for B., D. and C. for the period from May 2008 through December 2008; and \$465 per month for January 2009 through March 2009, and ongoing;
- Ongoing child support as of April 2009 is suspended because the parties and children are living together in the home;
- All other provisions of CSSD's December 2, 2009, Administrative Child Support and Medical Support Order remain in full force and effect.

DATED this 18th day of June, 2010.

By: *Signed* _____
Kay L. Howard
Administrative Law Judge

¹⁴ 15 AAC 125.105(a)(1)-(2).

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 6th day of July, 2010.

By: Signed
Signature
Christopher Kennedy
Name
Deputy Chief Administrative Law Judge
Title

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