

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

IN THE MATTER OF:)	
)	OAH No. 10-0242-CSS
V. M. M.)	CSSD No. 001161917
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)	

DECISION AND ORDER

I. Introduction

This case involves the custodian L. M. P.’s appeal of an Order Establishing Paternity that the Child Support Services Division (CSSD) issued in Mr. M.’ child support case on April 14, 2010. The Obligee child is S., who is two years old.

The hearing was held on June 1, 2010. Ms. P. did not appear in person or by telephone;¹ Mr. M. participated by telephone. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on June 1, 2010.

Based on the record and after careful consideration, CSSD’s Order Establishing Paternity is affirmed.

II. Facts

On March 13, 2010, CSSD served a Notice of Paternity and Financial Responsibility on Mr. M.² Subsequent genetic tests reveal Mr. M.’ probability of paternity of S. is 99.99%.³ On April 14, 2010, CSSD issued an Order Establishing Paternity.⁴ Ms. P. appealed on May 3, 2010, stating she would not pay the bill for paternity testing.⁵ On May 12, 2010, CSSD filed a Motion for Dismissal of Ms. P.’s appeal.

The Office of Administrative Hearings (“OAH”) sent the parties a notice of the date and time for the hearing by certified mail. Ms. P.’s notice was faxed to the Hiland Mountain Correctional Center on May 18, 2010, so there was no green card to return to the OAH. Mr. M. received his notice on May 21, 2010, and participated in the hearing. Because Ms. P.’s notice of

¹ Ms. P. is currently incarcerated. Telephonic contact was made with her correctional facility for her to participate in the hearing, but the facility placed the call on hold. After waiting 15 minutes, the administrative law judge terminated the call and conducted the hearing.

² Exh. 1.

³ Exh. 2.

⁴ Exh. 3.

⁵ Exh. 4.

the hearing was received by her correctional facility, service of the notice was found to be effective and the hearing was conducted without her participation.

At the hearing, CSSD stated it appears Ms. P. misunderstood the meaning of the order establishing paternity in Mr. M.' case. She received a copy of the order, which includes a statement that Mr. M. is liable for reimbursing CSSD for the cost of process service.⁶ CSSD confirmed that Ms. P. is not obligated for the payment and will not receive a bill for it. Mr. M. did not understand all the procedural steps that culminated in the hearing, but he did not contest the order establishing paternity.

Since Ms. P. filed the appeal based on a misunderstanding of the paternity order, CSSD asserted that her appeal should be dismissed and the paternity order should be affirmed.

III. Discussion

Ms. P. filed an appeal of CSSD's Order Establishing Paternity and her facility received the notice of the date and time set for the hearing. However, she failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a child support decision if the person requesting the hearing fails to appear.

Based on the evidence in the record, Ms. P. does not contest the establishment of Mr. M.' paternity of the child S. Rather, it appears that Ms. P. appealed because she mistakenly thought the paternity order required her to pay process service fees. That is incorrect – Mr. M. is obligated to pay the fees. There is no evidence Ms. P. was appealing the establishment of Mr. M.' paternity of S.

The person who filed the appeal, in this case, Ms. P., has the burden of proving by a preponderance of the evidence that the agency's order was incorrect.⁷ Based on her apparent misunderstanding and in the absence of any testimony or evidence from her, there is insufficient evidence in the record to prove that CSSD's order establishing Mr. M.' paternity was incorrect.

IV. Conclusion

Ms. P. filed an appeal based on the mistaken belief that she would have to pay process service fees. There is no evidence that she was appealing the order establishing Mr. M.' paternity of S. Therefore, CSSD's Motion for Dismissal should be granted and the Order Establishing Paternity should be affirmed.

⁶ Exh. 3.

V. Order

- CSSD's May 12, 2010, Motion for Dismissal is granted and Ms. P.'s appeal is dismissed;
- CSSD's April 14, 2010, Order Establishing Paternity is affirmed.

DATED this 21st day of June, 2010.

By: Signed
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 13th day of July, 2010.

By: Signed
Signature
Jerry Burnett
Name
Deputy Commissioner
Title

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

⁷ 15 AAC 05.030(h).