

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

IN THE MATTER OF:)

P. D. G.)

) OAH No. 10-0259-CSS

) CSSD No. 001161026

DECISION AND ORDER

I. Introduction

The obligor, P. D. G., appeals an Amended Administrative Child and Medical Support Order that the Child Support Services Division (“CSSD”) issued in his case on April 28, 2010. The Obligee child is R., who is three years old. The custodian is L. M. G.

The formal hearing was held on June 2, 2010. Both Mr. G. and Ms. G. appeared in person at the hearing. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on June 11, 2010.

Based on the record and after careful consideration, Mr. G.’s child support is set at \$286 per month for May 2008 through December 2008; \$103 per month for 2009; \$50 per month for January 2010 through March 2010; and \$289 per month, effective April 1, 2010 and ongoing.

II. Facts

A. History

Ms. G. received public assistance benefits for R. for four months beginning in May 2008.¹ On March 11, 2010, CSSD served an Administrative Child Support and Medical Support Order on Mr. G.² He requested an administrative review on March 15, 2010.³ On April 28, 2010, CSSD issued an Amended Administrative Child and Medical Support Order that set Mr. G.’s ongoing child support at \$255 per month, with arrears of \$3,724 for the period from May 2008 through April 2010.⁴ Mr. G. appealed on May 5, 2010, asserting Ms. G. and R. lived in his home “during all this time.”⁵

¹ Exh. 1.
² *Id.*
³ Exh. 3.
⁴ Exh. 5.
⁵ Exh. 6.

A. *Material Facts*

Mr. G. and Ms. G. lived together from January 2007 through December 2007. When they separated, Mr. G. went to Utah to attend a drug and alcohol treatment center. Ms. G. joined him in Utah in October 2008 and they lived together for two months but broke up again in December 2008. Ms. G. returned to Alaska at that time and Mr. G. returned in October 2009. Beginning on R.'s third birthday in May 2010, the parties have been working together to facilitate Mr. G.'s regular visitation with him.

Although he is still in his early 20's, Mr. G. gained valuable job skills while employed by the No Name Corporation in 2008 doing work involving sheet metal and insulation on the North Slope. He earned approximately \$22 per hour on a 3-weeks-on/3-weeks-off schedule. Mr. G. left No Name Corp. after being injured in an automobile accident while on the job in 2008 and did not return after his workers compensation claim was resolved. Instead, he attended a treatment program in Utah and lived in Nevada for a few months before returning to Alaska in October 2009. He then started working for S&P CCC in Eagle River, where he earned approximately \$11 per hour.

Mr. G. was incarcerated from January 2010 through March 31, 2010. After his release he began working at J.'s T.S. on a temporary basis during the spring tire changeover for \$9 per hour. At the end of April 2010 he injured his hand and was off work until late May 2010. Mr. G. currently wants to join the local laborers union and obtain work utilizing his sheet metal and installation experience. He believes that his skills are easily marketable at this time. He would like to earn at least \$30,000 per year, but it is not known exactly when he will obtain employment. He believes he could return to No Name Corp., but he wants to remain in the Anchorage area to meet his financial and other obligations and to spend more time with his son, R.

Mr. G. accepted CSSD's estimation of his income for 2008 and 2009. When informed that the support obligation for the months of November and December of 2008 would be zeroed out because he and Ms. G. were together at that time, he indicated he had no further objection to the support determination for those two years. Rather, he had questions about how CSSD would enforce his child support order. The parties were informed that Mr. G.'s income for 2010 would have to be estimated in order to calculate his 2010 and ongoing child support obligation.

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.⁶ This obligation begins when the child is born, but by regulation, CSSD only 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).⁷ In this case, Ms. G. began receiving public assistance in May 2008, so that is when Mr. G.'s obligation to pay support through CSSD begins.

As the person who filed the appeal, Mr. G. has the burden of proving by a preponderance of the evidence that the child support amount calculated by CSSD in its Amended Administrative Child and Medical Support Order is incorrect.⁸

Civil Rule 90.3(a)(1) provides that an Obligor's child support is to be calculated based on his or her "total income from all sources," minus mandatory deductions such as taxes and Social Security. CSSD correctly calculated Mr. G.'s 2008 and 2009 child support amounts at \$286 and \$103 per month, respectively, based on his income for those years⁹ and he accepted those figures.

For 2010 and ongoing, CSSD set Mr. G.'s support at \$50 per month because he was incarcerated at the beginning of the year. He stated he was released on March 31, 2010, so the \$50 per month order should apply only for the months of January through March.¹⁰

Mr. G. is currently unemployed so it is necessary to estimate his income for the year. Mr. G. was earning \$9 per hour at his last place of employment. He injured his hand and could not complete his temporary assignment there. Mr. G. remains unemployed, but it appears his unemployment is only a temporary circumstance. At the time of the hearing, the obligor was preparing to join a union and hoped he would be making as much as \$30,000 per year. Given his job skills it is more likely than not that he will successfully obtain work through the union. However, since he was unemployed for the first three months of the year, it is unlikely that Mr. G. will earn \$30,000 annually. It is therefore reasonable to estimate his 2010 income based on his most recent hourly wage of \$9 per hour. This wage figure results in total income of

⁶ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

⁷ 15 AAC 125.105(a)(1)-(2).

⁸ 15 AAC 05.030(h).

⁹ *See* Exh. 5 at pgs. 7 & 8.

\$18,720,¹¹ which, when added to the PFD and inserted into CSSD's online child support calculator,¹² results in a child support amount of \$289 per month.¹³ This support amount is naturally somewhat speculative, but the \$50 per month minimum order should not be in place after his incarceration ended.

IV. Conclusion

Mr. G. proved that CSSD's Amended Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h). His child support is now correctly calculated at \$286 per month for May 2008 through December 2008; \$103 per month for 2009; \$50 per month for January 2010 through March 2010; and \$289 per month, effective April 1, 2010 and ongoing. These figures should be adopted.

V. Child Support Order

- Mr. G. is liable for child support for R. in the amount of \$286 per month for May 2008 through December 2008; \$103 per month for 2009; \$50 per month for January 2010 through March 2010; and \$289 per month, effective April 1, 2010 and ongoing;
- All other provisions of the April 28, 2010, Amended Administrative Child and Medical Support Order remain in full force and effect.

DATED this 30th day of June, 2010.

By: Signed
Kay L. Howard
Administrative Law Judge

¹⁰ See Civil Rule 90.3(c)(3).

¹¹ \$18,720 = \$9 x 2,080 hours of work per year for full time employment.

¹² <http://www.childsupport.alaska.gov/>

¹³ Attachment A.

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 19th day of July, 2010.

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

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