

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

IN THE MATTER OF:)

P. J. R.)

) OAH No. 10-0282-CSS
) CSSD No. 001158773
)

DECISION AND ORDER

I. Introduction

The obligor, P. J. R., has appealed an Amended Administrative Child Support and Medical Support Order that CSSD issued in her case on May 18, 2010. The obligee child is D., who recently turned 18 years old. The custodian in this matter is P.'s mother, B. R.¹

The formal hearing was held on June 24, 2010. P. appeared in person; B. participated by telephone. Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on July 8, 2010.

Based on the record and after careful consideration, P. is liable for child support in the amount of \$337 per month for the period from January 2009 through May 2009, when D. lived primarily in B.'s home. P. is not liable for ongoing support as of June 2009 because from then on D. resided primarily in a medical facility or residential treatment centers until his expected emancipation in September 2010. P. is entitled to a credit of \$550 for the cash payments she made to B. for D.'s support while he lived there.

II. Facts

A. Procedural History

On May 6, 2009, CSSD sent P. an Administrative Order to Provide Financial and Medical Insurance Information.² This was followed on January 13, 2010, with an Administrative Child Support and Medical Support Order in which CSSD charged P. child support of \$498 per month, with arrears of \$6,474 from January 2009 through January 2010.³ She requested an administrative review.⁴ Following the review, CSSD issued an Amended Administrative Child Support and Medical Support Order on May 18, 2010, that set P.'s ongoing child support at \$337 per month, with arrears of \$5,729 for the period from January 2009 through

¹ For clarity, P. R. and B. R. will be referred to in this decision by their first names.

² Exh. 1.

³ Exh. 2.

May 2010.⁵ P. filed an appeal on May 28, 2010, and submitted numerous documents regarding D.'s situation and her financial circumstances.⁶

B. Material Facts

P. is D.'s biological aunt and adoptive mother. She has had custody of D. and one sibling since 1998.⁷ B. is P.'s mother and D.'s biological grandmother.

In 2008, D. had been having behavioral problems so P. decided to send him to an out-of-state program for troubled teens in Tennessee. D. did not want to leave, nor did B. want him to go out of state. P. agreed to let D. live with B. beginning in about mid-November 2008 so he could attend public school in Anchorage. B. applied for child support in January 2009.

The parties' arrangement appears to have gone fairly well until May 13, 2009, when D. arrived at school under the influence of marijuana. He was admitted to North Star Hospital that day and remained until June 23rd, when he was placed at The Pathway House, a residential treatment facility. He left of his own accord on June 29th, but P. found and returned him to the facility later that day. He left the Pathway House again on September 19th, but she could not locate him this time. D. was unaccounted for until October 1st, when he was picked up for shoplifting and returned to North Star Hospital. He remained there until November 16th, when he was admitted to the Provo Canyon School in Utah. At the time of the hearing D. was still there and was expected to be released in mid-August 2010. He apparently emancipated in early September 2010.

P. has been employed at the A. N. H. for several years.⁸ Her 2009 income was \$35,114.37.⁹ This income figure results in a child support amount of \$337 per month, calculated pursuant to the third-party custody formula found in Civil Rule 90.3(i)(1).

P. paid cash directly to B. for D.'s support while he lived with his grandmother. P. claims it was \$1,900,¹⁰ but she was not able to document her payments. B. acknowledges having received cash support totaling \$500-\$600 from P.

4 Exh. 3.
5 Exh. 5.
6 Exh. 6.
7 Exh. 6 at pg. 4.
8 Exh. 7 at pg. 1.
9 *Id.*
10 Exh. 6 at pg. 20.

III. Discussion

The primary issue in this case involves the period of time for which P. is liable for support for D. CSSD began charging P. support as of January 2009, the month that B. applied for child support services.

A parent is obligated both by statute and at common law to support his or her children.¹¹ 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 children.¹² In January 2009, B. requested child support services because D. recently had come to live with her. D. was not receiving public assistance benefits. P. acknowledges she is liable for D.'s support during the time he lived with B., but she argues she is not liable for supporting D. after he was admitted to North Star Hospital in May 2009. After the hearing, CSSD agreed with P.¹³

P. is liable for paying support for D. for the time he was in the custody of B., P.'s mother. This obligation covers the time period from January 2009 through May 2009, but not thereafter. D. was admitted to North Star Hospital on May 13, 2009, and has been there or in a treatment facility almost all of the time since then. B. thought D. lived with her again in August 2009, but there is no evidence for that. D. walked out of the Pathway House on two occasions between June 23rd and October 1st. The first time he was gone for only one day¹⁴ and the second time he stayed away for about two weeks but he reported to North Star upon readmission that he had been with friends or staying in the woods.¹⁵

Civil Rule 90.3(a)(1) provides that an obligor parent's child support is to be calculated based on his or her "total income from all sources," minus mandatory deductions such as for taxes and Social Security. CSSD's amended child support order calculated P.'s child support at \$337 per month for 2009, based on her actual income for the year and calculated pursuant to the third-party custody provisions of Civil Rule 90.3.¹⁶ This calculation is correct and should be adopted.

¹¹ *Mathews v. Mathews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

¹² 15 AAC 125.105(a)(1)-(2).

¹³ CSSD mistakenly included December 2008 as a month for which P. is liable for support for D. Although he began living with B. in mid-November, B. did not apply for services until January 2009, so that is the month P.'s obligation should begin. 15 AAC 125.105(a)(2). *See also* Exh. 5 at pg. 8.

¹⁴ Testimony of P. R.

¹⁵ Exh. A at pg. 1.

¹⁶ Exh. 5 at pgs. 6 & 7.

The final issue involves P.'s claim that she paid B. cash in the amount of \$300 per month for D.'s care. B. remembers that it was between \$500-\$600 total. Neither kept track of the payments – they thought it would not be an issue.

CSSD is authorized by its statutes to credit an obligor parent with child support payments made directly to the custodian up until the time the obligor is ordered to make payments through CSSD.¹⁷ Unless the custodian agrees to the amounts received, the obligor parent must provide evidence of the payments such as cancelled checks, bank statements or receipts in order to obtain the credit.¹⁸

In this case, B. agreed that some direct payments had been received, but not to the extent that P. claims. However, P. was not able to document any payments over the \$500-\$600 figure B. acknowledged, so she is not entitled to a credit. CSSD's suggestion that the credit be \$550 is a reasonable one and should be adopted.¹⁹

IV. Conclusion

P. is obligated to support D. in this administrative child support case from January 2009 through May 2009. She is not liable for ongoing child support as of June 2009 because from then on D. was either in a medical facility or housed in local or out of state residential treatment centers until his expected emancipation in September 2010.

CSSD correctly calculated P.'s child support at \$337 per month and that figure should be adopted. P. is also entitled to a credit for direct child support payments made to B. in the total amount of \$550. This total amount should be allocated equally between January and February 2009.

V. Child Support Order

- P. is liable for child support for D. in the amount of \$337 per month for January 2009 through May 2009;
- P. is not liable for ongoing child support from June 2009 forward;
- P. is entitled to a credit for direct child support payments made to B. in the total amount of \$550 – this total amount should be allocated equally between January and February 2009;

¹⁷ AS 25.27.020(b).

¹⁸ 15 AAC 125.465(a).

¹⁹ P. also paid B.'s rent of \$319 for the month of April 2009 when her mother was on a trip. P. submitted a receipt for the payment, but it was not specifically for D.'s support, so it also cannot be credited to her.

- All other provisions of CSSD's May 18, 2010, Amended Administrative Child and Medical Support Order remain in full force and effect.

DATED this 1st day of October, 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 19th day of October, 2010.

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

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