

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

IN THE MATTER OF:)
)
S. S. R.) OAH No. 10-0306-CSS
) CSSD No. 001147466
_____)

DECISION AND ORDER

I. Introduction

This matter involves a modification to an existing Child Support and Medical Support Order. The obligor is S. S. R. The custodian is T. A. The obligee child is U. A.

A hearing was scheduled for July 8, 2010. Mr. S. R. appeared in person. The Child Support Services Division (CSSD) was represented by Child Support Specialist A. Rawls.

Ms. A., the party who filed this appeal, could not be reached at the phone number available for her. A message was left for her stating that she needed to contact the Office of Administrative Hearings within 10 days.¹ That time having expired without Ms. A. showing reasonable cause for her failure to appear, this decision is issued without taking evidence from her. Based on the evidence in the record, Mr. S. R.'s child support obligation is modified and set at \$179 per month.

II. Facts

A. Background

An Administrative Child Support and Medical Support Order was issued on April 26, 2008, setting Mr. S. R.'s support obligation at \$264 per month.² Ms. A. requested a modification of that order on February 26, 2010.³ Notice of Petition for Modification of Administrative Support Order was mailed to the parties on March 11, 2010.⁴ A Modified Administrative Child Support and Medical Support Order was issued on May 21, 2010, setting Mr. S. R.'s support

¹ 15 AAC 05.030(j).
² Exhibit 1.
³ Exhibit 2.
⁴ Exhibit 3.

obligation at \$179 per month.⁵ Ms. A. requested a formal hearing, asserting that Mr. S. R. has additional income from his own janitorial business that has not been reported to CSSD.⁶

B. Material Facts

Department of Labor records show that Mr. S. R. has received wages from J. & J. Services each quarter since at least 2006.⁷ He received \$17,205 in wages in 2008, \$11,246 in wages in 2009, and \$2,150 for the first quarter of 2010.

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.⁸ Civil Rule 90.3(a)(1) provides that an obligor's child support amount is to be calculated based on his or her "total income from all sources." Child support orders may be modified upon a showing of "good cause and material change in circumstances."⁹ If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes "material change in circumstances" has been established and the order may be modified. If the 15% change has not been met, CSSD may modify the child support obligation, but is not required to do so. A modification is effective beginning the month after the parties are served with notice that a modification has been requested.¹⁰ Finally, the person appealing CSSD's decision has the burden of demonstrating that the decision is incorrect.¹¹

Ms. A. has not met her burden of showing that CSSD's decision is incorrect. The drop in Mr. S. R.'s income from 2008 to 2009 suggests that he may be earning income from some other source, but that one fact is not sufficient to prove that he is in fact earning other income. Even though he has a business license, not every business produces income. There was no other evidence presented that he was earning any money from his own janitorial business as was asserted in Ms. A.'s appeal.¹²

CSSD set Mr. S. R.'s support obligation at \$179 per month based on his reported wages from the last three quarters of 2009 and the first quarter of 2010, in addition to an annual

⁵ Exhibit 4.

⁶ Exhibit 5.

⁷ Exhibit 6.

⁸ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

⁹ AS 25.27.190(e).

¹⁰ 15 AAC 125.321(d).

¹¹ 15 AAC 05.030(h).

¹² If additional evidence becomes available, either CSSD or Ms. A. can initiate a modification.

Permanent Fund Dividend check.¹³ This is \$85 per month less than his prior obligation and more than a 15% change from the prior amount. CSSD correctly modified Mr. S. R.'s support obligation.

IV. Conclusion

For the reasons discussed above, CSSD's Modified Administrative Child Support and Medical Support Order dated May 21, 2010 is affirmed, and Mr. S. R.'s support obligation is set at \$179 per month, effective April 1, 2010.

V. Child Support Order

The Modified Administrative Child Support and Medical Support Order dated May 21, 2010 remains in full force and effect.

DATED this 22nd day of July, 2010.

By: Signed _____
Jeffrey A. Friedman
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 9th day of August, 2010.

By: Signed _____
Signature
Jeffrey A. Friedman _____
Name
Administrative Law Judge _____
Title

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

¹³ Exhibit 4, page 4.