

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

IN THE MATTER OF:)

M. A. L., JR.)

OAH No. 10-0391-CSS

CSSD No. 001163955

**ORDER GRANTING MOTION
FOR SUMMARY ADJUDICATION**

I. Introduction

On August 12, 2010, CSSD filed a Motion for Summary Adjudication in this paternity action. Oral argument on the motion was convened on August 30, 2010. Mr. L. participated by telephone, assisted by his mother, S. M. The custodial parent, C. A. L., did not participate, but her father, T. L., listened in on her behalf. Andrew Rawls, Child Support Specialist, represented CSSD. The child in this case is T., who is nearly 2 years old.

Based on the record as a whole and after due deliberation, the Motion for Summary Adjudication is granted and CSSD's June 25, 2010, Amended Order Establishing Paternity is affirmed. Mr. L. is liable for the \$150 costs associated with DNA testing in this case.

II. Facts

This is a paternity action that was initiated after Ms. L. applied for child support services on December 3, 2009.¹ On February 12, 2010, CSSD served a Notice of Paternity and Financial Responsibility on Mr. L.² He did not respond so CSSD issued an Order Establishing Paternity on March 26, 2010.³ Mr. L. requested and was granted paternity testing, which indicates a 99.99% probability he is T.'s biological father.⁴ On June 25, 2010, CSSD issued an Amended Order Establishing Paternity that, among other things, charged Mr. L. \$150 for the cost of genetic testing.⁵ Mr. L. appealed on July 19, 2010, asserting he should not have to pay for genetic testing because he is on his mother's public assistance grant.⁶

1 Exh. 1.
2 Exh. 2.
3 Exh. 3.
4 Exhs. 4 & 5.
5 Exh. 6.
6 Exh. 7.

III. Discussion

CSSD’s motion asserts that the division should be granted summary adjudication because it is allowed to charge Mr. L. with the costs of paternity testing. Mr. L. claims he should not have to pay the costs associated with genetic testing because he is on his mother’s public assistance case.

CSSD’s statutes regarding the cost of genetic testing state that:

(i) The agency may recover any costs it pays for genetic tests required by this section from the putative father unless the testing establishes that the individual is not the father, except that costs may not be recovered from a person who is a recipient of cash assistance or self-sufficiency services under AS 47.27 (Alaska temporary assistance program). ...^[7]

The cash assistance program is one of the temporary assistance programs offered by the State of Alaska. The program provides “cash assistance to families that establish eligibility based on a determination of need that considers the family's available income, assets, and other resources, as established by the department in regulation.”⁸ Cash assistance is defined as “cash, vouchers, or third-party vendor payments”^[9]

Another program an eligible family may qualify for is “self-sufficiency” services.¹⁰ These are defined as “work-related services, community service work referrals, child care assistance, emergency assistance, service vouchers, equipment vouchers, work stipends, transportation assistance, wage subsidies, and other work supports and services determined by the department in regulation to promote family self-sufficiency”¹¹

Mr. L.’s mother does not receive cash assistance or self-sufficiency services. Rather, she testified that she receives only food stamps. The food stamp program provides eligible households with “food stamp allotments” that are “used to purchase food from retail food stores that have been approved for participation in the food stamp program.”¹² The food stamp

7 AS 25.27.165(i) (emphasis added).

8 AS 47.27.025(a).

9 AS 47.27.900(3).

10 AS 47.27.030(a).

11 AS 47.27.900(12).

12 AS 47.25.975(a) & (c).

program is not a part of the cash assistance program and in fact is totally separate from it in the statutory scheme.¹³

Mr. L. was receiving food stamps only – not cash assistance or self-sufficiency services under AS 47.27 at the time CSSD issued the Amended Order Establishing Paternity. Thus, there is no provision of CSSD’s statute AS 25.27.165(i) that relieves Mr. L. of the costs of genetic testing. He is therefore liable for the \$150 in costs that CSSD assessed against him.

IV. Conclusion

There are no material facts in dispute, and CSSD is entitled to summary judgment as a matter of law. Mr. L. did not receive cash assistance or self-sufficiency services at the time CSSD issued the Amended Order Establishing Paternity, so he does not qualify to have collection of those costs waived. Mr. L. is liable to pay the \$150 in costs associated with genetic testing. In the absence of material issues of fact, Mr. L. is not entitled to an evidentiary hearing.¹⁴ CSSD’s Motion for Summary Adjudication should be granted, and Mr. L.’s appeal should be dismissed.

THEREFORE IT IS ORDERED:

- Mr. L.’s appeal is dismissed and CSSD’s June 25, 2010, Order Establishing Paternity is affirmed.

DATED this 4th day of October, 2010.

By: Signed

Kay L. Howard
Administrative Law Judge

¹³ The provisions of the Alaska statutes that discuss the food stamp program are located at AS 47.25, or, Title 47, chapter 25. The provisions of the statutes that discuss cash assistance are located at AS 47.27, or, Title 47, chapter 27.

¹⁴ See *Church v. State, Dep’t of Revenue*, 973 P.2d 1125 (Alaska 1999); *Douglas v. State, Dep’t of Revenue*, 880 P.2d 113, 117 (Alaska 1994); and *Smith v. State, Dep’t of Revenue*, 790 P.2d 1352, 1353 (Alaska 1990).

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 25th 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.]