

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

IN THE MATTER OF: )  
                            )  
                            )  
C. W.                   ) OAH No. 10-0395-CSS  
                            )  
                            ) CSSD No. 01161731  
                            )  
\_\_\_\_\_)

**DECISION AND ORDER**

**I. Introduction**

This is an establishment case based on an application for public assistance. C. W. appeals an Amended Administrative Child Support and Medical Support Order. The custodian of record is G. D. The minor child is Q. D.

Based on the evidence in this matter, Mr. W.'s child support obligation is set at \$50 per month for 2009 and at \$186 per month beginning in 2010.

**II. Facts**

*A. Background*

A Notice of Paternity and Financial Responsibility was served on Mr. W. on October 30, 2009.<sup>1</sup> Mr. W. requested genetic testing, and an Order Establishing Paternity based on that testing was issued on January 13, 2010.<sup>2</sup> An Administrative Child Support and Medical Support Order was issued on May 18, 2010.<sup>3</sup> Mr. W. requested an Administrative Review. At the conclusion of that review, an Amended Administrative Child Support and Medical Support Order was issued setting Mr. W.'s support obligation at \$248 per month effective August 1, 2010, and arrears from June 1, 2009 through July 31, 2010.<sup>4</sup> Mr. W.'s obligation for 2009 was calculated based on the minimum monthly obligation of \$50. His 2010 obligation was based on his year to date earnings and projected future earnings at \$10 per hour.<sup>5</sup>

Mr. W. appealed, contesting the support amount for January through March, 2010; a period of time when he was unemployed. He also testified at the hearing that he was recently

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<sup>1</sup> Exhibit 1.

<sup>2</sup> Exhibit 4

<sup>3</sup> Exhibit 5.

<sup>4</sup> Exhibit 9.

<sup>5</sup> Exhibit 9, page 4.

laid off from the job he has held since April. Mr. W. did not contest the \$50 per month obligation for 2009.

The record was held open until September 9, 2010, for CSSD<sup>6</sup> to submit a post hearing brief.

*B. Material Facts*

The following findings are based on Mr. W.'s testimony. Mr. W. is currently incarcerated at a facility that allows him to obtain outside employment. He obtained a job on March 31, 2010, earning \$10 per hour. He was laid-off on August 26, 2010. He expects to be released on October 10, 2010, at which time he will move to Valdez. He hopes to obtain a job with a former employer changing tires. He can also earn additional money on the side as an auto mechanic. Mr. W. was not able to estimate how much he might earn doing that work. He also testified that he might be hired as a commercial fisherman. In 2008 he was able to earn \$38,000 fishing, but he testified that was an unusually high figure and he was unable to estimate what he might earn next season.

**III. Discussion**

A parent is obligated both by statute and at common law to support his or her children.<sup>7</sup> 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." CSSD uses the best information available to determine a parent's expected total income.<sup>8</sup>

Mr. W. was incarcerated in 2009, and was unable to earn income during the second half of that year. His support obligation for 2009 would therefore be the minimum support obligation of \$50 per month.

Mr. W. has earned a total of \$10,624.25 so far in 2010. It is uncertain how much, if any, he will be able to earn once he moves to Valdez. Periods of unemployment are considered to be temporary, however. He has a variety of job skills, and some prospects for obtaining employment. Minimum wage is \$7.75 per hour. If he works an average of 20 hours per week for the remaining 12 weeks of the year after his release, he will earn an additional \$1,860. This

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<sup>6</sup> Child Support Services Division.

<sup>7</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>8</sup> 15 AAC 125.050(a)

will put his annual income at \$12,484.25.<sup>9</sup> This is a realistic estimate of what Mr. W. can earn this year and in future years. Inserting this figure into CSSD's online child support calculator results in a child support obligation of \$186 per month.<sup>10</sup>

#### **IV. Conclusion**

Predicting Mr. W.'s future income is difficult, but based on the best information available, his current and ongoing child support obligation should be based on an annual income of \$12,484.25. His support obligation for 2009 should be based on the minimum award of \$50 per month.

#### **V. Child Support Order**

- Mr. W.'s child support obligation is set at \$50 per month for one child effective June 1, 2009 through December 31, 2009.
- Mr. W.'s ongoing child support obligation is set at \$186 per month for one child effective January 1, 2010.
- All other provisions of the Amended Administrative Child Support and Medical Support Order of July 8, 2010 remain in full force and effect.

DATED this 10<sup>th</sup> day of September, 2010.

By: Signed  
Jeffrey A. Friedman  
Administrative Law Judge

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<sup>9</sup> Earning minimum wage for 40 hours per week for 52 weeks results in annual earnings of \$16,120.

<sup>10</sup> 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 1<sup>st</sup> 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.]