



## II. Discussion

Under 15 AAC 125.070(a), the presumptive support obligation is generally based on annual income during the time the order will be in effect.<sup>3</sup> In this case, Mr. Z. was employed at a wage of \$12.79 per hour at the time of the hearing. However, he was scheduled for surgery in October, with a likely period of unemployment of up to eight weeks.

Mr. Z. is a high school graduate with a limited work history, who may have a continuing disability even after his surgery. Moreover, Mr. Z. did not begin working for C. S. S. until around May 1, and there is no assurance that he will be able to return to work with that employer after he recuperates from his surgery. Under these circumstances, his anticipated annual income should not be based on full time, year-round employment at the same wage he was earning while employed by C. C. S.

Mr. Z. earns total wages of about \$1,760 per month in his current position, which is substantially full time. Mr. Z. began work about May 1, and he is scheduled for surgery at the end of October, and will be out of work for about two months after that – essentially, for November and December. Thus, Mr. Z.’s anticipated actual total wages for the 2010 calendar year are about \$10,560 (six months’ work). Looking ahead to a full year from the date the modification is effective, and assuming that he is able to return to work at his current employer, his anticipated actual wages for the first full year the modified order is effective will be about \$17,600 (ten months). But if Mr. Z. is unable to return to his former employer, it is reasonable to anticipate income at no more than the minimum wage, in light of his education and work history; this would yield actual total wages for the first full year of the modified order of \$16,956, which is substantially equivalent to full time work for a full year at the minimum wage (\$16,120).

Under the circumstances of this case, the most reasonable prediction for Mr. Z.’s future anticipated total annual wage income is for full time work at the minimum wage. Based on those wages, and including his veteran’s disability payments and an Alaska Permanent Fund dividend, Mr. Z.’s child support obligation is \$303, as shown in Appendix A, attached.

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<sup>3</sup> See 15 AAC 125.030(a) (“total income...is the expected annual income that the parent will earn or receive when the child support award is to be paid.”); 15 AAC 125.050(c) (“the agency will base the support obligation on the total annual income that the parent is likely to earn or receive when the child support is to be paid.”). The agency will modify the order if anticipated annual income is 15% greater or less than the existing order. See 15 AAC 125.070(b)(1).

**IV. Conclusion**

The child support obligation as calculated under 15 AAC 125.070 and the child support guidelines of Alaska Rule of Civil Procedure 90.3 is more than 15 percent less than the existing order. The existing order should therefore be modified.

**CHILD SUPPORT ORDER**

The Administrative Child Support and Medical Support Order dated July 20, 2004, is **MODIFIED** as follows; in all other respects, the Administrative Child Support and Medical Support Order dated July 23, 2009, is **AFFIRMED**:

Modified ongoing child support is set at \$303 per month, effective June 1, 2010.

DATED: October 22, 2010.

*Signed* \_\_\_\_\_  
Andrew M. Hemenway  
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 notices, 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 R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 22<sup>nd</sup> day of October, 2010.

By: *Signed* \_\_\_\_\_  
Signature  
Andrew M. Hemenway  
Name  
Administrative Law Judge  
Title

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