

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

IN THE MATTER OF: )  
 )  
P. H. )  
 )  
 ) OAH No. 10-0545-CSS  
 ) CSSD Case No. 001059849  
\_\_\_\_\_ )

**DECISION AND ORDER**

**I. Introduction**

This case concerns the obligation of P. H. for the support of J. S. The custodian of record is T. R. E.

The Child Support Services Division issued a modified administrative support order on October 13, 2008, setting support at the amount of \$431 per month. Mr. H. filed a petition for modification of the order on July 12, 2010. The division denied the petition on the ground that financial information had not been submitted, and Mr. H. filed an appeal.

The assigned administrative law judge conducted a telephonic hearing on November 10, 2010. Mr. H. and Ms. E. participated. Andrew Rawls represented the division.

Mr. H. was unemployed for a significant period of time following the request for modification, and his support order should be modified to reflect his changed circumstances. Based on the testimony and evidence at the hearing, modified ongoing support is set at \$137 effective August 1, and at \$337 effective November 1.

**II. Facts**

P. H. worked full time as a mechanic from 2007 through 2009, earning an average total annual wage of about \$26,610.<sup>1</sup> He was laid off from his job in March, 2010. Mr. H. received unemployment compensation at the rate of \$283 per week until mid-September.<sup>2</sup> Mr. H. remained unemployed until November, 2010, when he began a new

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<sup>1</sup> See Ex. 7, p. 1; Ex. 5, p. 6.

<sup>2</sup> See Ex. 6, p. 2; Ex. 7.

job working as a personal care attendant at F. C. S., earning a starting wage of \$10.82 per hour.<sup>3</sup>

Mr. H. lives with his mother and his adult daughter, who is disabled. Mr. H.'s monthly household expenses are \$1,047-\$1,077, including utilities (\$547), internet and telephone (\$200), cellular phone (\$90), gasoline (\$120-\$150), automobile maintenance (\$40), and automobile insurance (\$50). His mother pays for rent, food and personal items. He has no debt.

### **III. Discussion**

For one child, a parent's basic support obligation is 20% of that parent's adjusted annual income,<sup>4</sup> that is, income after allowable deductions for such things as taxes and contributions to a retirement plan (to a maximum of 7.5% of income).<sup>5</sup> A support order will be modified when the amount of support as calculated under 15 AAC 125.070 changes by 15% or more<sup>6</sup> or when the circumstances as a whole justify modification.<sup>7</sup>

Mr. H.'s circumstances changed significantly in March, 2010, when he lost his job, and again in November, when he found new employment in a new field. Mr. H. testified that he looked for work in his prior field but was unable to find a suitable position. He had no income other than unemployment for more than six months. Moreover, Mr. H.'s income in his new field will at least initially be somewhat less than he earned previously. Under these circumstances, the support order should be modified twice: first, to reflect his substantial period of unemployment (effective the first day of the month after the request was filed), and second, to reflect his new occupation (effective the month he began work). The division submitted a post-hearing brief calculating Mr. H.'s support obligations for both periods, based on evidence in the record. Those calculations are adopted.

### **IV. Conclusion**

Because the amount of support as calculated under 15 AAC 125.070 has changed by more than 15%, modification is appropriate.

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<sup>3</sup> Mr. H. testified that he does not want to return to his former employment as a mechanic because he needs a complete knee replacement. He testified that he did seek work in that field but was unable to find a suitable position.

<sup>4</sup> 15 AAC 125.070(a); Civil Rule 90.3(a)(2)(A).

<sup>5</sup> 15 AAC 125.070(a); -.065; Civil Rule 90.3(a)(1).

<sup>6</sup> 15 AAC 125.321(b)(1).

<sup>7</sup> 15 AAC 125.321(b)(2)(B).

## CHILD SUPPORT ORDER

The Modified Administrative Child Support and Medical Support Order dated October 13, 2008, is **AMENDED** as follows; in all other respects, the Amended Administrative Child Support and Medical Support Order dated October 13, 2008, is **AFFIRMED**:

Modified ongoing child support is set at \$137 per month, effective August 1, 2010, and at \$337 per month, effective November 1, 2010.

DATED: January 4, 2011.

*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 Corrected 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 31<sup>st</sup> day of January, 2011.

By: *Signed* \_\_\_\_\_  
Signature  
Jerry Burnett \_\_\_\_\_  
Name  
Deputy Commissioner \_\_\_\_\_  
Title

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