

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

IN THE MATTER OF:)	
)	OAH No. 10-0591-CSS
D. R. N.)	CSSD No. 001114282
_____)	

DECISION AND ORDER

I. Introduction

The obligor, D. R. N., appeals a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on October 26, 2010. The obligee child is H., 9 years old. The custodian is C. M. B.

The formal hearing was held on December 16, 2010. Both Mr. N. and Ms. B. participated by telephone. Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, Mr. N.'s child support is modified to \$248 per month for one child, effective August 1, 2010, and ongoing.

II. Facts

A. History

Mr. N.'s child support obligation for H. was set at \$50 per month in 2002.¹ Ms. B. filed a petition for modification on July 19, 2010.² On July 26, 2010, CSSD issued a Notice of Petition for Modification of Administrative Support Order to the parties.³ Mr. N. did not provide income information.⁴ On October 26, 2010, CSSD issued a Modified Administrative Child Support and Medical Support Order that modified Mr. N.'s child support to \$255 per month for one child, effective August 1, 2010.⁵ He appealed on November 19, 2010.⁶

1 Exh. 1.
2 Exh. 2.
3 Exh. 3.
4 Pre-Hearing Brief at pg. 1.
5 Exh. 4.
6 Exh. 5.

B. Material Facts

Mr. N. and Ms. B. are the parents of H., who is 9 years of age. H. lives with Ms. B. Mr. N.'s child support has been \$50 per month since 2002. Mr. N. lives in northwest Alaska and is one of the individuals who participates in the Iditarod Trail Sled Dog Race, which is held in March of every year.

Mr. N. derives his income from several sources. In 2010, he earned \$8,705.80 from part-time employment at his local airport, \$1,680 in Native corporation dividends, \$4,182 from seasonal commercial fishing and \$1,281 from the Permanent Fund dividend.⁷ These various sources of income total \$15,848.80⁸ and when inserted in CSSD's online child support calculator, yield a modified child support amount of \$248 per month.⁹

Mr. N. and his wife, V., have two children, three and five years of age. In addition, Mr. N.'s older children from a previous relationship who are 15 & 17, also live with him part-time pursuant to a verbal shared custody arrangement with their mother, who lives in Fairbanks. Mr. N. was urged to submit documentation regarding these children because it could have affected his child support calculation. However, after conferring with their mother, he declined to provide proof that his older children live in his home on a part-time basis.

Ms. B. and her partner, G., have two children in the home – the obligee H. and their own child. G. is a carpenter but is currently on a winter hiatus from employment. Ms. B. is employed full-time and earns \$22.30 per hour. She testified that she has a difficult time making ends meet because their mortgage is very high, at \$1,630 per month, in addition to their other utilities and expenses, which include school lunches.

III. Discussion

Mr. N. appealed CSSD's calculation of his modified child support obligation. He has the burden of proving by a preponderance of the evidence that the Modified Administrative Child Support and Medical Support Order is incorrect.¹⁰ A modification is effective beginning the month after the parties are served with notice that a modification has been requested, so this

⁷ See CSSD's Post-Hearing Brief at pgs. 1 & 11.

⁸ Exh. 11.

⁹ <http://www.childsupport.alaska.gov/default.asp>. The link to the calculator is on the right-hand side of the page.

¹⁰ 15 AAC 05.030(h).

modification is effective as of August 1, 2010.¹¹ Child support orders may be modified upon a showing of “good cause and material change in circumstances.”¹² 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.

Civil Rule 90.3 provides for additional deductions from income for parents who pay support for children from prior relationships or support older children in their home.¹³ Mr. N. has children older than H. who live in his home at least part of the time. Mr. N. understood at the hearing that he would need to submit documentation regarding his older children if he were to be entitled to any consideration for them in the calculation of support for H. He filed a statement after the hearing indicating that he would not be providing evidence on this issue and as a result is not entitled to any deduction for supporting them.

For the modification review, CSSD calculated Mr. N.’s modified child support at \$255 per month. After the hearing, CSSD submitted a revised calculation of \$248 per month which was calculated from the total of his various sources of income, including his part-time airport wages reported by the Alaska Department of Labor and Workforce Development, his fishing income, Native corporation dividends, self-employment income and the PFD. This resulted in a child support amount of \$248 per month.¹⁴

IV. Conclusion

Mr. N. met his burden of proving by a preponderance of the evidence that CSSD’s Modified Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h). That order, which modified Mr. N.’s child support to \$255 per month, should be adjusted to \$248 per month based on his actual 2010 income. CSSD’s post-hearing calculation should be adopted.

V. Child Support Order

- Mr. N. is liable for modified ongoing child support for H. in the amount of \$248 per month, effective August 1, 2010, and ongoing;

¹¹ 15 AAC 125.321(d). In this case, the notice was issued on July 26, 2010. Exh. 3.

¹² AS 25.27.190(e).

¹³ Civil Rule 90.3(a)(1)(C) - (D).

¹⁴ Exh. 11.

- All other provisions of the Modified Administrative Child Support and Medical Support Order dated October 26, 2010, remain in full force and effect.

DATED this 22nd day of February, 2011.

By: Signed _____
Kay L. Howard
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 11th day of March, 2011.

By: Signed _____
Signature
Kay L. Howard _____
Name
Administrative Law Judge _____
Title

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