

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

IN THE MATTER OF:)

A. R.)

OAH No. 10-0593-CSS

CSSD No. 001164573

DECISION AND ORDER

I. Introduction

This case involves the Obligor A. R.’s appeal of an Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (“CSSD”) issued in his case on August 23, 2010. The Obligee child is S., who is five years old.

The formal hearing was held on December 16, 2010. Neither Mr. A. nor the custodian of record, L. B., appeared or participated. Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on December 27, 2010.

Based on the record and after careful consideration, Mr. R.’s child support is set at \$809 per month for November 2009 through December 2009, and \$608 per month for January 2010 through September 2010 and ongoing.

II. Facts

A. Proceedings

This is an establishment case initiated when a request for public assistance on behalf of S. was received by the State of Alaska. On August 24, 2010, CSSD served an Administrative Child Support and Medical Support Order (dated August 23, 2010) on Mr. A.¹ CSSD issued a Notification of Correction to Order on September 29, 2010. It then issued an Amended Administrative Child Support and Medical Support Order on October 29, 2010 ordering Mr. R. to pay \$608 per month effective October 1, 2010 with arrears owing in the amount of \$7,090 from November 1, 2009 through September 30, 2010.² Mr. R. appealed believing that the

¹ Exh. 1.

² Exh. 3.

amount of child support was overstated because it did not account for the time S. was in Mr. R.'s custody.³

The Office of Administrative Hearings (“OAH”) sent the parties a notice of the date and time for the hearing by certified mail. Notices were received and signed for November 30, 2010. Just before the hearing began telephone calls were placed to the numbers of record for both Mr. R. and Ms. B., but the numbers were no longer in service, the wrong number, or were answered by voice mail. Messages were left on the voice mail informing the parties that the hearing would proceed. The voice mail left for Mr. R. informed him that as the party requesting the hearing a decision may issue without taking evidence unless he contacted OAH within ten days and showed reasonable cause for failure to appear.⁴ Because Mr. R.'s notice was sent to the address he provided with his appeal,⁵ service of the notice was found to be effective and the hearing was conducted without his participation.

B. Findings

1. Notice of the date and time for the hearing was sent by certified mail to Mr. R. at his last-known address;
2. The notice was delivered by certified mail to Mr. R.'s last-known address;
3. Mr. R. did not appear for the hearing;
4. CSSD correctly calculated Mr. R.'s child support at \$809 per month for November 2009 through December 2009, and \$608 per month for January 2010 through September 2010 and ongoing.

III. Discussion

Mr. R. filed an appeal of a child support order and the notice of the date and time set for the hearing was sent to his last-known address. However, he failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a child support decision if the person requesting the hearing fails to appear.⁶

³ Exhs. 3-5.

⁴ 15 AAC 05.030(j).

⁵ See Exh. 4 at pg. 1.

⁶ “If the department mails a document by registered or certified mail, service is effective if the mailing is addressed to the latest address provided to the department.” 15 AAC 05.010(c).

A parent is obligated both by statute and at common law to support his or her children.⁷ 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." By regulation, CSSD collects support from the date the custodial parent requested child support services, or the date public assistance, foster care or Denali Kid Care was initiated on behalf of the child(ren).⁸

CSSD calculated Mr. R.'s child support obligation for 2009 from the actual income figures he reported to the State of Alaska Department of Labor and Workforce Development Records, unemployment insurance income, and the PFD.⁹ Mr. R.'s support obligation for 2010 was based on actual wages, unemployment insurance income, the PFD and his last hourly wage.¹⁰

As the person requesting the hearing, Mr. R. has the burden of proving that CSSD's order is incorrect.¹¹ The issue raised by Mr. R. on appeal is factual. He did not appear to present testimony or other evidence in support of his appeal. Thus, in the absence of any additional evidence, CSSD's October 29, 2010 Order is correct.

IV. Conclusion

Mr. R. did not meet his burden of proving by a preponderance of the evidence that CSSD's Amended Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h). Mr. R. has not presented evidence sufficient to support a finding that child support should not be calculated base on Ms. B. having primary custody of S. Accordingly, CSSD's Amended Administrative Child Support and Medical Support Order issued October 29, 2010 should be affirmed.

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

⁸ 15 AAC 125.105(a)(1)-(2).

⁹ Exh. 3 at 7.

¹⁰ As explained at Exh. 3 at 4, CSSD took Mr. R.'s last hourly wage \$34.33 and multiplied this amount by 840 hours (40 hours per week x 21 weeks remaining in the year) to calculate Mr. R.'s income for the remainder of the year.

V. Child Support Order

CSSD's Amended Administrative Child Support and Medical Support Order issued October 29, 2010 is affirmed.

DATED this 12th day of January, 2011.

By: Signed
Rebecca L. Pauli
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 31st day of January, 2011.

By: Signed
Signature
Rebecca L. Pauli
Name
Administrative Law Judge
Title

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

¹¹ 15 AAC 05.030(h).