

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

IN THE MATTER OF: )

M. B. )  
\_\_\_\_\_ )

OAH No. 10-0614-CSS  
CSSD Case No. 001134222

**DECISION AND ORDER**

**I. Introduction**

This case concerns the obligation of M B. for the support of T. W. S., E. A. S., and D. D. S. The custodian of record is L. A. S.

The Child Support Services Division issued an administrative child support order on September 16, 2008, establishing Mr. B.'s support obligation for all three children in the amount of \$50 per month.<sup>1</sup> On September 21, 2010, Ms. S. filed a request for modification of the order. On November 18, 2010, the division granted the request and issued an order setting modified ongoing support at \$937.<sup>2</sup>

Mr. B. filed an appeal. The case was referred to the Office of Administrative Hearings and the assigned administrative law judge conducted a hearing on December 28, 2010. Mr. B. participated and Andrew Rawls represented the division. Ms. S. was not available at her telephone number of record; a message was left advising her to contact the Office of Administrative Hearings within ten days. Ms. S. did not contact the office, and this decision is therefore based on the evidence in the record.<sup>3</sup>

Based on the preponderance of the evidence in the record and the testimony at the hearing, modified child support is set at \$107 per month.

**II. Facts**

M B. lives in D. L. His total annual income is approximately \$32,701, including wages (\$31,420) and an Alaska Permanent Fund dividend (\$1,281), and his adjusted annual income is approximately \$27,056.<sup>4</sup> Mr. B.'s two school-age children, T. and E., have been living with him since prior to the beginning of the 2010-2011 school year, and are attending school in D. L. His youngest child, D., lives with his mother, Ms. S. Ms.

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<sup>1</sup> Ex. 1.

<sup>2</sup> Ex. 5.

<sup>3</sup> See 15 AAC 05.030(j).

<sup>4</sup> See Ex. 7, p.1; Ex. 11, p.2.

S.'s total annual income, based on full time employment at the minimum wage (\$16,120) plus an Alaska Permanent Fund dividend (\$1,281), is approximately \$17,401.

## **II. Discussion**

The division initially calculated Mr. B.'s support obligation based Ms. S. having primary custody of all three children. With his appeal, Mr. B. provided documentation that two of the three children reside with him. Accordingly, the division obtained income information from the Department of Labor and Workforce Development for both parents and recalculated the support obligation based on divided custody. For Mr. B., the division used actual income information to determine his anticipated income. For Ms. S., who lives in Fairbanks but appears not to be employed full time, the division determined anticipated income based on full time employment at the minimum wage.<sup>5</sup> The division's revised calculation shows a support obligation of \$107 per month and reflects the evidence in the record. Mr. B. agreed to that amount.

## **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 greater than the existing order, and there has been a change in custody. The support order should therefore be modified.<sup>6</sup>

### **CHILD SUPPORT ORDER**

The Modified Administrative Child Support and Medical Support Order dated November 18, 2010, is **AMENDED** as follows; in all other respects, the Modified Administrative Child Support and Medical Support Order dated November 18, 2010, is **AFFIRMED**:

Modified ongoing child support is set at \$107 per month, effective October 1, 2010.

DATED: January 26, 2011.

*Signed*  
\_\_\_\_\_  
Andrew M. Hemenway  
Administrative Law Judge

<sup>5</sup> Ex. 9; Ex. 10, p. 2. See 15 AAC 125.050(c)(2), (7), (8).

<sup>6</sup> See Boone v. Bone, 960 P.2d 579 (Alaska 1997).

## 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 16<sup>th</sup> day of February, 2011.

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

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