

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

IN THE MATTER OF: )  
 )  
K. M. V. ) OAH No. 11-0150-CSS  
 ) CSSD No. 001170558  
\_\_\_\_\_ )

**DECISION AND ORDER**

**I. Introduction**

K. M. V. appeals an Administrative Review Decision issued by Child Support Services Division (CSSD). The custodian of record is B. L. The obligee child is M. X.

A hearing was held on May 10, 2011. Mr. V. appeared by telephone. CSSD was represented by Child Support Specialist Erinn Brian, who also appeared by telephone. Ms. L. did not participate as she could not be contacted at either of the telephone numbers listed for her in the OAH file. At the conclusion of the hearing, the record was left open to allow the parties time to submit additional information.

Based on the evidence in the record Mr. V.'s child support obligation should be set at \$666 per month for 2010 and at \$431 per month for 2011.

**II. Facts**

*A. Background*

The State of Minnesota petitioned to establish a child support order on behalf of M. X.<sup>1</sup> An Administrative Child Support and Medical Support Order was issued on January 28, 2011.<sup>2</sup> Mr. V. requested an administrative review of that decision.<sup>3</sup> After reviewing his request, CSSD affirmed its prior decision.<sup>4</sup> Mr. V. requested a formal hearing.<sup>5</sup>

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<sup>1</sup> Exhibit 1.  
<sup>2</sup> Exhibit 2.  
<sup>3</sup> Exhibit 3.  
<sup>4</sup> Exhibit 5.  
<sup>5</sup> Exhibit 6.

*B. Material Facts*

Mr. V. works for UPS and in 2010, he earned \$50,369.<sup>6</sup> However, on March 30, 2011 he went on disability leave because of his arthritis. While on disability, he earns \$500 every week, before taxes are deducted.<sup>7</sup> Prior to going on disability leave, his year to date income was \$9,879.72.<sup>8</sup> Based on his pay stubs, Mr. V. also pays 1.9% of his salary for union dues.<sup>9</sup>

Mr. V. has seven additional children living in his home.<sup>10</sup> Four of these are his biological children, and three are his wife's children from a prior relationship. All seven of these children are younger than M., the obligee child in this matter.

**III. Discussion**

A parent is obligated both by statute and at common law to support his or her children.<sup>11</sup> 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." The amount of a child support award is a percentage of that income after certain adjustments.<sup>12</sup> A parent may receive an adjustment for supporting children older than the child who is the subject of a particular support order.<sup>13</sup> Except in unusual circumstances, no adjustment is made for supporting younger children.<sup>14</sup>

Mr. V.'s child support obligation for 2010 should be based on the amount he actually earned that year.<sup>15</sup> He earned a total of \$50,369.09 in 2010. Based on this amount of income, plus a permanent fund dividend, Mr. V.'s child support for 2010 should be \$666 per month for one child.<sup>16</sup>

Mr. V.'s child support for 2011 should be based on what he is likely to earn during 2011. It is most likely that Mr. V. will continue to receive his disability benefit of \$500 per week. His disability income for 39 weeks plus the amount he earned prior to taking disability leave will

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<sup>6</sup> Exhibit 4, page1 & page 6.

<sup>7</sup> Exhibit 8, pages 6 – 8. The disability statements show he is paid \$100 per day, five days per week.

<sup>8</sup> Exhibit 8, page 1. In its post hearing brief, CSSD referred to Department of Labor income information from 2011. 2011 Department of Labor information for Mr. V. is not in the record.

<sup>9</sup> Exhibit 8, pages 1 – 5.

<sup>10</sup> Testimony of Mr. V.

<sup>11</sup> *Mathews v. Mathews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>12</sup> Civil Rule 90.3(a)(2).

<sup>13</sup> Civil Rule 90.3(a)(1)(D).

<sup>14</sup> Civil Rule 90.3, Commentary III.D.

<sup>15</sup> 15 AAC 125.050(b)(1).

<sup>16</sup> Attachment A.

total \$29,379.72. This results in a child support obligation of \$431 per month for one child.<sup>17</sup> If Mr. V. returns to work, or if his disability continues beyond December of 2011, it may be appropriate to apply for a modification of this amount.

#### **IV. Conclusion**

Mr. V.'s child support should be set based on the amount he actually earned in 2010 and the amount he can be expected to earn in 2011. Accordingly, his child support for 2010 should be set at \$666 per month, and his ongoing child support for 2011 should be set at \$431 per month for one child.

#### **V. Child Support Order**

- Mr. V.'s child support obligation is set at \$666 per month effective September 1, 2010 through December 31, 2010.
- Mr. V.'s ongoing child support obligation should be set at \$431 per month effective January 1, 2011.
- All other provisions of the January 28, 2011 Administrative Child Support and Medical Support Order remain in effect.

DATED this 20<sup>th</sup> day of May, 2011.

By: Signed  
Jeffrey A. Friedman  
Administrative Law Judge

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<sup>17</sup> Attachment B.

**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 6<sup>th</sup> day of June, 2011.

By: Signed  
Signature  
Jeffrey A. Friedman  
Name  
Administrative Law Judge  
Title

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