

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

IN THE MATTER OF:)

B. M. N.)

OAH No. 11-0209-CSS

CSSD No. 001119133/001165644

DECISION AND ORDER

I. Introduction

The obligor, B. N., appeals the Child Support Services Division's (CSSD) denial of modification of her child support. The child in this case is M. N., who is in state custody.

Based on the evidence in the record, Ms. N.'s ongoing support obligation should be set at \$149 per month.

II. Facts

A. Background

An Amended Administrative Child and Medical Support Order was issued on April 12, 2004, setting child support at \$286 per month.¹ Ms. N. requested a modification on December 1, 2010.² Notice of Petition for Modification of Judicial Support Order was issued on December 14, 2010.³ CSSD denied the request for modification because no income information had been submitted by Ms. N.⁴ Ms. N. appealed and requested more time to submit the requested information.⁵

B. Material Facts

Ms. N. works for the Confidential Business.⁶ She began work in October of 2010, and by January 1, 2011, she was working 20 hours per week at \$7.75 per hour. Beginning on June 13, 2011, she began working full time. She has no paid time off and no holiday pay. This is

¹ Exhibit 1.

² Exhibit 2.

³ Exhibit 3. This exhibit appears to be incomplete. In addition, it appears the wrong form was used as the existing order is an Administrative Support Order and not Judicial Support Order.

⁴ Exhibit 4.

⁵ Exhibit 5.

⁶ The factual findings are based on Ms. N.'s testimony.

temporary job, although it could potentially be converted into a permanent position. She received a dividend of \$100 from her Native Corporation last year.

III. Discussion

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." Child support orders may be modified upon a showing of "good cause and material change in circumstances."⁸ 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. If the 15% change has not been met, CSSD may modify the child support obligation, but is not required to do so. A modification is effective beginning the month after the parties are served with notice that a modification has been requested.⁹ Finally, the person appealing CSSD's decision has the burden of demonstrating that the decision is incorrect.¹⁰

At the hearing, CSSD proposed that Ms. N.'s support obligation be based on her half-time work January through May of 2011. Using that amount on an annualized basis, plus a PFD and her Native Corporation dividend, her child support obligation would be \$149 per month for one child.¹¹ This amount is more than 15% less than the current support obligation.

IV. Conclusion

Ms. N. has shown a material change in circumstances and her ongoing child support obligation should be set at \$149 per month.

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⁷ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.
⁸ AS 25.27.190(e).
⁹ 15 AAC 125.321(d).
¹⁰ 15 AAC 05.030(h).
¹¹ Attachment A.

V. Child Support Order

- Ms. N.'s ongoing child support obligation is set at \$149 per month effective January 1, 2011.
- All other provisions of the April 12, 2004 Amended Administrative Child and Medical Support order remain in effect.

DATED this 21st day of June, 2011.

By: Signed
Jeffrey A. Friedman
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 July, 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.]