

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

IN THE MATTER OF:)
)
 J J. B) OAH No. 11-0227-CSS
) CSSD No. 001173146
_____)

DECISION AND ORDER

I. Introduction

This matter involves the establishment of a child support obligation amount. The obligor parent is J B. The custodian of record is S H, and the child in this case is S B.

A hearing was held on June 29, 2011. Mr. B and Ms. H appeared by telephone. The Child Support Services Division (CSSD) was represented by Child Support Specialist Erinn Brian, who also appeared by telephone.

Based on the evidence in this matter, Mr. B's child support obligation should be set at \$1,113 per month.

II. Facts

A. Background

Ms. H applied for services from CSSD on January 10, 2011.¹ An Administrative Child Support and Medical Support Order was issued on March 17, 2011.² This order set Mr. B's support obligation at \$1,307 per month, and determined that there were arrears in the amount of \$3,821 for the period of January 1, 2011 through March 31, 2011. Mr. B submitted a Request for Administrative Review seeking genetic testing.³ This request was denied because Mr. B had previously signed an affidavit of paternity.⁴

Mr. B requested a second administrative review, stating that his income for 2011 will be less than he earned in 2010.⁵ The administrative review was denied as untimely on May 31, 2011.⁶ This appeal followed.⁷

¹ Exhibit 1.
² Exhibit 2.
³ Exhibit 3.
⁴ Exhibit 5.
⁵ Exhibit 7, pages 1 – 2.

B. Material Facts

In 2010, and Mr. B earned \$103,500.⁸ Based on his testimony, his income during 2011 will be considerably lower because he earned more overtime in 2010 than he is likely to earn this year. His employer confirmed that the amount of overtime is likely to be less this year.⁹ In addition, Mr. B does not work – and therefore receives no income – during Thanksgiving week and for two weeks around the time of the Christmas holiday.¹⁰

Mr. B's most recent paystub shows that he earned \$42,220.55 during the first 24 weeks of the year.¹¹ This is an average of \$1,759.19 per week. Assuming he will work 49 weeks during the year, his annual income will be \$86,200.31.

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.¹² 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 person appealing CSSD's decision has the burden of demonstrating that the decision is incorrect.¹³

Mr. B has met his burden of demonstrating that CSSD's prior decision was incorrect. That he is likely to earn less during 2011 than in the prior year is shown both by the letter from his employer and from his most recent pay stub. Mr. B's child support obligation should be based on the income he will be earning when the support is paid.¹⁴ Using his anticipated annual earning and CSSD's online child support calculator, Mr. B's ongoing support obligation should be set at \$1,113 per month for one child.¹⁵

Mr. B raised two other issues during the hearing. He has been providing health insurance for S and is entitled to a credit for a portion of that cost. He has submitted documentation to support this credit, and rather than include the calculation as part of this order, the credit will be

6 Exhibit 8.
7 Exhibit 9.
8 Exhibit 7, page 7.
9 Exhibit 12, page 1.
10 Testimony of Mr. B.
11 Exhibit 12, page 4.
12 *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.
13 15 AAC 05.030(h).
14 Civil Rule 90.3, Commentary III.E.
15 Attachment A.

applied by his caseworker, and no ruling is made on that issue in this order. Second, he has made some payments directly to Ms. H for child support, which would be applied to any arrears. Again, that issue is being addressed by the caseworker, and no ruling on that issue is made in this order.

IV. Conclusion

Mr. B has shown that CSSD's calculation of his child support obligation was incorrect. His child support obligation should be set at \$1,113 per month for one child.

V. Child Support Order

- Mr. B's child support obligation is set at \$1,113 per month effective January 1, 2011, and ongoing.
- All other provisions of the March 25, 2011 Administrative Child Support and Medical Support Order remain in effect.

DATED this 30th 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 19th 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.]