

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

IN THE MATTER OF: )

J F )

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) OAH No. 11-0229-CSS  
) CSSD No. 001170972  
)

**DECISION AND ORDER**

**I. Introduction**

This case involves the Obligor J F’s appeal of the Administrative Review and Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (“CSSD”) issued in his case on May 23, 2011. The Obligee child is S, who is three years old.

The formal hearing was held on June 30, 2011. Neither Mr. F nor the custodian of record, S D. F, appeared or participated. Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on July 11, 2011.

Based on the record and after careful consideration, Mr. F’s child support is set at \$50 per month for August 2010 through December 2010, and \$174 per month for January 2011 through May 2011 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 March 4, 2011, CSSD issued an Administrative Child Support and Medical Support Order establishing Mr. F’s child support obligation for one child to be \$50 per month from August 2010 through December 2010 and to be \$231 effective January 2011 and ongoing.<sup>1</sup> On April 1, 2011, Mr. F requested CSSD conduct an administrative review asserting that CSSD did not correctly determine his income.<sup>2</sup> Mr. F provided additional income information. Using this new information CSSD issued an Amended Administrative Child Support and Medical Support Order dated May 23, 2011.<sup>3</sup> This order concluded that Mr. F’s

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<sup>1</sup> Exh. 1.  
<sup>2</sup> Exh. 2.  
<sup>3</sup> Exh. 4.

monthly child support obligation for one child from August 2010 through December 2010 should be \$50, and effective January 2011 and ongoing, Mr. F's monthly obligation for one child should be \$174.<sup>4</sup> Mr. F appealed contending that the calculation for tax year 2011 was premature because tax year 2011 was not concluded.<sup>5</sup>

The Office of Administrative Hearings ("OAH") sent the parties a notice of the date and time for the hearing by certified mail. Mr. F's Notice was received and signed for June 22, 2011. Just before the hearing began telephone calls were placed to the numbers of record for both the obligor and the custodian, but the numbers 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. F informed him that as the party requesting the hearing a decision maybe issued without taking evidence unless he contacted OAH within ten days and showed reasonable cause for failure to appear.<sup>6</sup> Because Mr. F's notice was sent to the address he provided with his appeal,<sup>7</sup> 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. F at his last-known address;
2. The notice was delivered by certified mail to Mr. F's last-known address;
3. Mr. F did not appear for the hearing;
4. CSSD correctly calculated Mr. F's child support at \$50 per month for August 2010 through December 2010, and \$174 per month for January 2011 through May 2011 and ongoing.

### **III. Discussion**

Mr. F 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.

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*Id.*

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Exh. 5.

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15 AAC 05.030(j).

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*See* Exh. 4 at pg. 1.

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.<sup>8</sup>

A parent is obligated both by statute and at common law to support his or her children.<sup>9</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." 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).<sup>10</sup>

CSSD calculated Mr. F's child support obligation for 2010 from the actual income figures reported to the State of Alaska Department of Labor and Workforce Development, unemployment insurance income, and the PFD.<sup>11</sup> Mr. F's support obligation for 2011 was based on unemployment insurance income for the first half of 2011, the PFD, and full time minimum wage for the second half of 2011.<sup>12</sup>

As the person requesting the hearing, Mr. F has the burden of proving that CSSD's order is incorrect.<sup>13</sup> 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 May 23, 2011 Order is correct.

#### **IV. Conclusion**

Mr. F 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). Accordingly, CSSD's Amended Administrative Child Support and Medical Support Order issued May 23, 2011 should be affirmed.

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<sup>8</sup> "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).

<sup>9</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>10</sup> 15 AAC 125.105(a)(1)-(2).

<sup>11</sup> Exh. 4 at 8.

<sup>12</sup> Exh. 4 at 6, 9.

<sup>13</sup> 15 AAC 05.030(h).

**V. Child Support Order**

- CSSD's Amended Administrative Child Support and Medical Support Order issued May 23, 2011 is affirmed.

DATED this 22<sup>nd</sup> day of July, 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 8<sup>th</sup> day of August, 2011.

By: Signed  
Signature  
Christopher Kennedy  
Name  
Administrative Law Judge  
Title

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