

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

IN THE MATTER OF:)	
)	OAH No. 11-0255-CSS
N B)	CSSD No. 001132888
_____)	

DECISION AND ORDER

I. Introduction

The obligor parent, N B, appealed a determination by the Child Support Services Decision (CSSD) not to modify a child support order. The custodian of record is S W. The children in this matter are Y W and Z W-B.

A hearing was held on July 18, 2011. Mr. B appeared by telephone. His parents, who are the actual current custodians of Y, appeared in person. Because there is no current child support order in effect, there is no order that may be modified and Mr. B's appeal should be dismissed.

II. Facts

A Child Support and Medical Support Order was issued by CSSD on December 13, 2004.¹ CSSD mailed a Notice of Petition for Modification of Administrative Support Order on April 28, 2011.² CSSD denied the modification on June 8, 2011 because the modification had been scheduled "in error."³ Mr. B appealed that denial.⁴ In his appeal, Mr. B asserted that he has been and remains married to S W.⁵ He testified to this fact at the hearing, and Exhibit 2 is a statement by S W-B stating that she and Mr. B were married on January 15, 2005 and requesting the withdrawal of CSSD services.

¹ Exhibit 1.
² Exhibit 3.
³ Exhibit 4.
⁴ Exhibit 6.
⁵ Exhibit 6, page 2.

III. Discussion

The purpose of the proposed modification at issue in this case was “because there is another child of the relationship that is not on your current support order.”⁶ It is undisputed that Mr. B married Ms. W-B in 2005, shortly after the Administrative Child Support and Medical Support Order was issued. When parties subject to a support order marry each other, that support order is terminated.

The agency will terminate an administrative support order issued under AS 25.27.160 of the agency determines that the parties married each other after the order was issued. . . . If the parties subsequently separate and the agency’s services are requested under 15 AAC 125.800(a), the agency will

(1) issue a new administrative support order¹⁷¹

Because the support order was terminated and is no longer in effect, it cannot be modified. CSSD correctly determined that it should not modify an order that is no longer in effect.⁸

IV. Conclusion

Based on the evidence in the record, and the applicable law, CSSD is entitled to summary adjudication in its favor upholding the denial of the modification of the 2004 Administrative Child Support and Medical Support Order.

V. Order

The Denial of Modification dated June 8, 2011 is upheld.

DATED this 21st day of July, 2011.

By: Signed
Jeffrey A. Friedman
Administrative Law Judge

⁶ Exhibit 3, page 1.

⁷ 15 AAC 125.870(d).

⁸ After the legal posture of this matter was explained to Mr. B, he agreed that his appeal should be dismissed.

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 8th day of August, 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.]