

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

IN THE MATTER OF:)
)
A F) OAH No. 11-0302-CSS
) CSSD Case No. 001059268
_____)

DECISION AND ORDER

I. Introduction

This case concerns the obligation of A F for the support of K F. The Child Support Services Division issued an amended administrative child support order establishing Mr. F's child support obligation. Mr. F filed an appeal and requested an administrative hearing. The case was referred to the Office of Administrative Hearings and the administrative law judge conducted a telephonic hearing on August 29, 2011. Erinn Brian represented the division. Both Mr. and Ms. F participated.

II. Facts

A and B F are the parents of K F. K is a teenager with significant behavioral issues. A and B F separated in July, 2008. In October or November, 2009, with the agreement of both parents, K was placed in a residential treatment program. In January, 2010, again with the agreement of both parents, K left residential treatment went to live with one of her siblings. She has been living with a sibling since then. Neither of the siblings with whom K has been living has obtained public assistance benefits for K, and neither of them has requested assistance from the Child Support Services Division to obtain child support for K from either A F or B F. A F has made direct contributions for the support of K during the time she has been living with a sibling.¹

B F filed an application for services dated January 29, 2010. On June 27, 2011, the Child Support Services Division issued an amended administrative child support order establishing Mr. F's obligation for arrears at the rate of \$1,357 per month, for a total of \$24,462 for the period from January 1, 2010 through June 30, 2011, together with an ongoing support obligation of \$1,357 per month effective July 1, 2011.

¹ The facts in this paragraph are based on the testimony at the hearing and the written statements of K's siblings, A, S and R. See Ex. 4.

III. Discussion

Ms. F filed an application for services in January, 2010. The application for services asks for “retro pay...since the date of separation.” Ms. F did not request ongoing support, because K was not living with her.

Where no public assistance is involved, the Division, by regulation, will not establish arrears accruing prior to the most recent application for services.² Accordingly, under the facts of this case, issuance of an order of support was mistaken: Ms. F did not request establishment of an order for ongoing support, and the Division’s regulations did not provide for an order for arrears.

IV. Conclusion

In light of the facts of this case, no support order should have been issued. The Division did not object to entry of an order vacating the support order.

ORDER

The Amended Administrative Child Support Order dated June 27, 2011, is **VACATED**.

DATED: August 29, 2011

Signed _____
A M. Hemenway
Administrative Law Judge

² 15 AAC 125.105(a)(2).

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 notices, 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 R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 19th day of September, 2011.

By: Signed _____
Signature
Andrew M. Hemenway _____
Name
Administrative Law Judge _____
Title

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