

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

IN THE MATTER OF: )  
 )  
D C. A ) OAH No. 11-0350-CSS  
 ) CSSD No. 001125487  
\_\_\_\_\_ )

**DECISION AND ORDER**

**I. Introduction**

The obligor, D C. A, appealed a Decision on Request for Modification that the Child Support Services Division (CSSD) issued in his case on August 25, 2011. The obligee children are B, 8, and R, 2. The custodian is G F.

The formal hearing was held on October 12, 2011. Mr. A did not participate. Ms. F appeared by telephone. Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record as a whole and after due deliberation, CSSD’s Decision on Request for Modification is affirmed. Mr. A’s child support shall remain at \$236 per month.

**II. Facts**

*A. Procedural History*

Mr. A’s child support was set at \$236 per month for two children in June 2010.<sup>1</sup> On June 17, 2011, Ms. F requested a modification.<sup>2</sup> On June 27, 2011, CSSD issued a Notice of Petition for Modification of Administrative Support Order to the parties.<sup>3</sup> Mr. A did not provide income information.<sup>4</sup> On August 25, 2011, CSSD issued a Decision on Request for Modification for the reason that there was “no significant change in circumstance.”<sup>5</sup> Mr. A appealed on September 6, 2011, asserting he would be adopting a child soon and needed to have the child support lowered.<sup>6</sup>

The hearing was originally calendared for September 27, 2011, but the parties agreed to hold the hearing on October 12, 2011. When the hearing was convened, Mr. A could not be

---

1 Exh. 1.  
2 Exh. 2.  
3 Exh. 3.  
4 Pre-Hearing Brief.  
5 Exh. 4.  
6 Exh. 5.

reached by telephone. A voicemail message was left for him to call the Office of Administrative hearings (OAH), but as of this date, he has not contacted the OAH.

*B. Material Facts*

In 2011, Mr. A has worked for the no name and no name, with total reported earnings of \$9,860.69.<sup>7</sup> He has also received unemployment benefits of \$1,078.<sup>8</sup> When the PFD is added to these figures, it results in total estimated annual income of \$12,219.69. All of these figures, when inserted into CSSD's online child support calculator, yield a projected child support amount of \$255 per month for two children.<sup>9</sup>

**III. Discussion**

Mr. A filed an appeal and requested a formal hearing, but he failed to appear for the hearing. 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 requesting party fails to appear. The record must remain open for at least 10 days after the hearing so as to provide the individual the opportunity to show "reasonable cause" for his or her failure to appear. A telephone message was left for Mr. A at the time of the hearing but he did not contact the OAH within 10 days, so the record was closed to further input so that the decision could be issued.

Child support orders may be modified upon a showing of "good cause and material change in circumstances."<sup>10</sup> If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes a "material change in circumstances" has been established. Even if the newly calculated support amount does not reach the 15% threshold, CSSD may modify the support obligation if the requesting party makes a showing of "good cause and material change in circumstances" in another manner.<sup>11</sup>

CSSD denied Mr. A's modification request because a child support calculation prepared from an estimate of his 2011 income yielded the amount of \$255 per month, which is not 15% higher than his previous order.<sup>12</sup> Since this amount does not reach the 15% threshold that

---

<sup>7</sup> Exh. 6 at pg. 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> AS 25.27.190(e).

<sup>11</sup> *Id.*

<sup>12</sup>  $\$236 \times 1.15 = \$271.40$ . *See* Exh. 4 at pg. 3.

presumes a material change in circumstances, Mr. A must show that a material change in circumstances has occurred in another way.

In his appeal statement, Mr. A claims that he will be adopting another child soon, so he needs the child support amount to be lowered. However, Mr. A did not appear and present any evidence or testimony on this issue. So in the absence of any additional evidence, CSSD correctly denied Mr. A's request to modify his child support obligation.

#### **IV. Conclusion**

CSSD denied Mr. A's petition for modification for the reason that a child support amount calculated from his income is not sufficient to meet the requirement for "good cause and material change in circumstances." Mr. A did not meet his burden of proving by a preponderance of the evidence that CSSD's Decision on Request for Modification was issued in error, as required by 15 AAC 05.030(h). Therefore, CSSD's order denying the modification should be affirmed.

#### **V. Child Support Order**

- CSSD's Decision on Request for Modification dated August 25, 2011, is AFFIRMED;
- Mr. A remains liable for child support of \$236 per month for two children, as set forth in the prior order issued in his case, the Modified Administrative Child Support and Medical Support Order dated June 29, 2010. That order remains in full force and effect.

DATED this 9<sup>th</sup> day of November, 2011.

By: Signed  
Kay L. Howard  
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 28<sup>th</sup> day of November, 2011.

By: Signed  
Signature  
Kay L. Howard  
Name  
Administrative Law Judge  
Title

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