

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

IN THE MATTER OF:)	
)	OAH No. 11-0366-CSS
N J. S)	CSSD No. 001159570
_____)	

DECISION AND ORDER

I. Introduction

The obligor, N S, appealed a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD). The custodian of record is J D, and the obligee child is C.

A hearing was held on October 6, 2011. Mr. S appeared in person. Ms. D appeared by telephone, and CSSD was represented by Child Support Specialist Andrew Rawls, who appeared in person. After the conclusion of the hearing, CSSD submitted a post-hearing brief that included a new child support calculation. Based on the evidence presented at the hearing, Mr. S' child support obligation should be modified, but to a different amount than originally calculated. His ongoing child support obligation should be set at \$346 per month.

II. Facts

A. Background

An Amended Administrative Child and Medical Support Order was issued by CSSD on January 12, 2010, setting Mr. S' support obligation at \$220 per month.¹ Ms. D requested a modification,² and CSSD mailed a Notice of Petition for Modification of Administrative Support Order on June 23, 2011.³ CSSD issued a Modified Administrative Child Support and Medical Support Order on August 22, 2011, setting Mr. S' support obligation at \$418 per month.⁴ Mr. S appealed that order.⁵

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

B. Material Facts

Mr. S testified that he works for the State of Alaska and that his position became full-time this year. He confirmed that his wages during the first two quarters of this year were \$17,070.32.⁶ This results in annual taxable wages of \$34,140.64.⁷ In addition, to C, Mr. S has two additional children, both of whom are older than C. He is paying child support for each of them. CSSD's review of its records shows that he is paying a total of \$601 per month for the support of those two children.⁸ Mr. S' mandatory union dues are \$38.96 per month.⁹

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.¹⁰ 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." Child support orders may be modified upon a showing of "good cause and material change in circumstances."¹¹ If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes "material change in circumstances" has been established and the order may be modified. If the 15% change has not been met, CSSD may modify the child support obligation, but is not required to do so. A modification is effective beginning the month after the parties are served with notice that a modification has been requested.¹² Finally, the person appealing CSSD's decision has the burden of demonstrating that the decision is incorrect.¹³

Mr. S has met his burden of demonstrating that CSSD's decision is incorrect. His appeal asked that the child support obligation take into account that he is providing support for three children. Child support is generally set at a percentage of the obligor's adjusted income.¹⁴ In determining the adjusted income, the obligor receives a deduction for support actually paid for

⁶ See Exhibit 7, Affidavit showing taxable wages reported to the Department of Labor.

⁷ \$17,070.32 times 2. CSSD's support calculator automatically adds in non-taxable wages for state employees, which results in a total wage of \$36,244.07. See Exhibit 8.

⁸ Exhibit 8.

⁹ Exhibits 8 and 9.

¹⁰ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

¹¹ AS 25.27.190(e).

¹² 15 AAC 125.321(d).

¹³ 15 AAC 05.030(h).

¹⁴ Civil Rule 90.3(a)(2).

children of prior relationships when those payments are required by a court or administrative order.¹⁵

In its original calculation, CSSD gave Mr. S a deduction for one child from a prior relationship, but not for a child from a separate prior relationship.¹⁶ CSSD's corrected calculation gives him a deduction for both children and also corrected the amount of his union dues and used the correct amount of this year's Permanent Fund Dividend.¹⁷ The corrected calculation results in an ongoing child support obligation of \$346 per month.

Both Mr. S and Ms. D testified that they have been paying for and providing health insurance for C. They questioned why the cost of insurance was not included in the child support calculation. The Medical Support portion of the administrative order requires the purchase of medical insurance when it is available at a reasonable cost.¹⁸ The procedure set out in this order allows each parent to provide proof of insurance and the cost of that insurance. This order then directs CSSD to provide appropriate credits and debits based on the cost of insurance.¹⁹ Pursuant to this order, CSSD has the authority to administratively change the credit or debit amount as the cost of insurance changes, without issuing a new order.²⁰ The current amount of any credit or debit is not set in this decision, but CSSD should set the correct amount once it has proof of insurance coverage for C along with the cost of that coverage.

IV. Conclusion

Mr. S has met his burden of proving that the modified support obligation was set at an incorrect amount. Based on the evidence in the record, Mr. S' ongoing child support obligation should be set at \$346 per month for one child.

V. Child Support Order

- Mr. S' ongoing child support obligation is set at \$346 per month effective July 1, 2011.
- CSSD shall apply the appropriate medical insurance credits and/or debits once the parties provide it with proof of insurance coverage along with the cost of coverage for C.

¹⁵ Civil Rule 90.3(a)(1)(C). No deduction is made for children of subsequent relationships.

¹⁶ Exhibit 5, page 6.

¹⁷ Exhibit 8.

¹⁸ Exhibit 5, page 2 (section II.A.1 of the order).

¹⁹ Section II.B & C of the order.

²⁰ Section II.D of the order.

- All other provisions of the August 22, 2011 Modified Administrative Child Support and Medical Support order remain in effect.

DATED this 17th day of October, 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 4th day of November, 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.]