

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

In the Matter of:)	
)	OAH No. 12-0299-CSS
V D. H)	CSSD No. 001173176
_____)	

DECISION AND ORDER

I. Introduction

This case involves the obligor V D. H's appeal of an Amended Administrative Child and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on July 12, 2012. The children in this case are E, O, K, N, C and B. The other parent is Q B. Z.

The hearing was held on September 11, 2012, and October 29, 2012. Mr. H appeared in person for both sessions. Ms. Z appeared by telephone for the first session.¹ Erinn Brian, Child Support Specialist, represented CSSD. The hearings were recorded.²

Based on the record and after careful consideration, Mr. H's child support is set at \$1,144 for December 2010; \$277 per month for 2011; \$1,022 per month for January 2012 through September 2012; and \$212 per month, effective October 2012, and ongoing.

II. Facts

A. Procedural History

Mr. H and Ms. Z, who are divorcing, are the parents of E, O, K, N, C and B. Public assistance benefits began to be paid on behalf of the children in November 8, 2008, but the parties and children constituted an intact family up to and including November 2010.³

CSSD initiated the process of establishing Mr. H's child support obligation by requesting financial information from him and issuing an administrative child support order on April 25, 2011.⁴ Mr. H requested an administrative review and provided financial information and witness

¹ For unknown reasons, Ms. Z was dropped from the conference call during the first hearing and attempts to call her back were unsuccessful. A call placed to her number before the second hearing went unanswered. She has not returned the voicemail message that was left for her.

² The first hearing was interpreted in the Nuer language for Ms. Z. The second hearing was not interpreted because she did not participate.

³ Exh. 5 at pg. 13.

⁴ Exh. 1.

letters on his behalf.⁵ On July 12, 2012, CSSD issued an Amended Administrative Child Support and Medical Support Order that set his ongoing child support at \$902 per month, effective August 2012, with additional arrears of \$7,963 for the period from November 2008 through July 2012.⁶ Mr. H appealed on July 31, 2012.⁷

B. Material Facts

Mr. H and Ms. Z, who are both from the Sudan, have lived with their children in Alaska for many years. Mr. H has made two trips to the Sudan since 2008. His first trip lasted just one month, but the second trip was eighteen months long. Nevertheless, Ms. Z reported him as being in the home or supporting the family during that time, so CSSD is not charging him support until December 2010. Mr. H and Ms. Z separated in November 2010, and he agrees that his child support obligation should commence as of December 2010.

Mr. H's income from wages in 2010 totaled \$22,470.97.⁸ He also received unemployment benefits (UIB) of \$14,719 and the PFD, for total income from all sources of \$38,470.97.⁹ CSSD correctly calculated his child support from that income figure at \$1,144 per month for six children.¹⁰

In May 2011, Mr. H was appointed to a post with the Government of Southern Sudan, as the No Name.¹¹ His only income during 2011 was from this position, and totaled \$6,744 US. CSSD arrived at this income figure by converting his monthly income in Sudanese pounds to United States dollars.¹² Mr. H agrees with CSSD's calculation of his income from his Sudanese employment.¹³ He also received a 2011 PFD of \$1,174,¹⁴ for total income from all sources of \$7,918.¹⁵ A 2011 child support amount calculated from this total income figure equals \$277 per month for six children.¹⁶

⁵ Exhs. 2-4.

⁶ Exh. 5. Although the arrears time period began in November 2008, Mr. H was not charged with support until December 2010.

⁷ Exh. 6.

⁸ Exh. 7 at pg. 1.

⁹ Exh. 5 at pg. 9.

¹⁰ *Id.*

¹¹ Exh. 2 at pg. 2.

¹² *See* Exh. 10.

¹³ Mr. H's hearing testimony on October 29, 2012.

¹⁴ *See* CSSD's Notice of Filing Calculations, at pg. 1, received October 31, 2012.

¹⁵ Exh. 12.

¹⁶ *Id.*

Mr. H returned to Alaska at the end of his long visit to the Sudan in April 2012. At that time, he returned to his former temporary, on-call position with No Name, Inc., a North Slope oilfield services company. He worked until September 7, 2012, at which time he was laid off.¹⁷ While he was employed there, Mr. H earned \$26,112 in wages from the company.¹⁸ He was, and still is, employed by the Government of Southern Sudan. CSSD estimated that he would earn a total of \$6,046 from this position during 2012; Mr. H agrees with this figure. Adding the 2012 PFD results in total estimated income of \$33,036.¹⁹ A child support amount calculated from this total income is \$1,022 per month for six children.²⁰

Since he was laid off in September 2012, Mr. H's only income is what he receives from his employment with the Government of Southern Sudan. As soon as the parties' divorce is final, Mr. H will be returning to live in the Sudan. CSSD agreed to calculate an ongoing support amount from his estimated Sudanese income of \$6,046 in 2012. A child support amount calculated from this income figure is \$212 per month.²¹

III. Discussion

A parent is obligated both by statute and at common law to support his or her children,²² beginning when the child is born.²³ If a child support case is initiated by CSSD, the agency charges the obligor parent support from the date the custodial parent requested child support services, or the date public assistance or foster care was initiated on behalf of the child.²⁴ In this case, public assistance benefits began to be paid on behalf of the children in November 2008, but Ms. Z reported she and Mr. H and their children were an intact family until November 2010, so Mr. H's child support obligation should begin that month.²⁵

In a child support matter, the person who files the appeal has the burden of proving that CSSD's order was incorrect.²⁶ Mr. H filed the appeal, so he must prove by a preponderance of the evidence that the Amended Administrative Child Support and Medical Support Order was

¹⁷ Exh. 13.

¹⁸ Exh. 9 at pg. 1.

¹⁹ Exh. 14 at pg. 1. This exhibit was filed as Exhibit 13, but that number was already assigned to another exhibit, so it has been re-numbered by the administrative law judge as Exhibit 14.

²⁰ Exh. 14 at pg. 1.

²¹ Exh. 14 at pg. 2.

²² *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

²³ *CSSD v. Kovac*, 984 P.2d 1109 (Alaska 1999).

²⁴ 15 AAC 125.105(a)(1)-(2).

²⁵ 15 AAC 125.105(a)(2).

²⁶ 15 AAC 05.030(h).

incorrect, either as to the support amount calculated or the time periods during which support has been assessed against him.²⁷

Civil Rule 90.3(a)(1) provides that an obligor's child support amount is to be calculated from his or her "total income from all sources," minus mandatory deductions such as taxes and Social Security. Following two hearing sessions and extensive cooperation with Mr. H, CSSD has correctly calculated the obligor's child support for each year at issue, commencing with the month of December 2010. The calculations are based on his actual income, which consists of his earnings from wages in both the Sudan and United States, unemployment benefits and the Alaska PFD. The calculations result in child support amounts as follows, all of them for six children: \$1,144 for December 2010; \$277 per month for 2011; \$1,022 per month for January 2012 through September 2012; and \$212 per month, effective October 2012 and ongoing.

The ongoing support amount reflects the fact that Mr. H was laid off from his work at CCI in September 2012, and that he would be returning to his employment with the Sudanese government. He was informed that in the event CSSD learns he is still in this country for a significant period of time after the parties' divorce is final, that the agency should initiate a modification action to obtain a child support amount that reflects Alaska income and not just his Sudanese employment. Mr. H insists that he will be returning to the Sudan, so at this time the ongoing amount correctly reflects his ability to pay support.

IV. Conclusion

Mr. H met his burden of proving by a preponderance of the evidence that the Amended Administrative Child and Medical Support Order CSSD issued in his case was incorrect. His child support is now correctly calculated for E, O, K, N, C and B at \$1,144 for December 2010; \$277 per month for 2011; \$1,022 per month for January 2012 through September 2012; and \$212 per month, effective October 2012 and ongoing. These amounts were determined from Civil Rule 90.3, and should be adopted.

There was no request for, or grant of, a variance under Civil Rule 90.3(c) in this appeal.

²⁷ 2 AAC 64.290(e).

V. Child Support Order

- Mr. H is liable for child support for E, O, K, N, C and B at \$1,144 for December 2010; \$277 per month for 2011; \$1,022 per month for January 2012 through September 2012; and \$212 per month, effective October 2012 and ongoing;
- All other provisions of the Amended Administrative Child and Medical Support Order dated July 12, 2012, remain in full force and effect.

DATED this 20th day of November, 2012.

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 7th day of December, 2012.

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

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