

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

IN THE MATTER OF)	
H A. D)	OAH No. 12-0759-CSS
_____)	CSSD No. 001182181

DECISION AND ORDER

I. Introduction

This case is H A. D’s appeal of an administrative order establishing his child support obligation for his children, A, B and C, for the months of February and March of 2012. The Child Support Services Division (Division) issued this order. Mr. D’s appeal was referred to the Office of Administrative Hearings and assigned to Administrative Law Judge Mark T. Handley.

On December 6, 2012, a hearing was held to consider Mr. D’s appeal. Mr. D participated. Mr. D was represented by his attorney, A. Fred Miller. Z J. D, the custodial parent, also participated. The Division was represented by Andrew Rawls, Child Support Services Specialist. The hearing was audio-recorded. The record closed at the end of the hearing.

Mr. D argued that child support court order, which started child support in April of 2012 was intended to cover all the child support that he was obligated to pay. Mr. D argued the Division should not have child support for the months of February and March of 2012. The Division’s order is upheld. The court order does not preclude an administrative order for child support for months that the court order does not cover.

II. Facts

In February of 2012, Ms. D applied to the Division for child support services for A, B and C.¹ Paternity is not in dispute. Mr. D is named as the children’s father on their birth certificates.²

A child support order was issued in case number 1XX-12-00000CI, which established Mr. D’s child support obligation for the children beginning in April of 2012.³ The Division

¹ Exhibit 1.
² Recording of Hearing.
³ Exhibit 3.

issued an Administrative Child and Medical Support Order on July 11, 2012.⁴ In this order, the Division set Mr. D's monthly ongoing child support obligation for A, B and C at \$922.93. This monthly ongoing child support obligation in this order was based on the monthly amount set in the court order.⁵

The Division's order also established arrears beginning in February of 2012. The order set no ongoing monthly child support or arrears for the months of April, May, and June because the court order set child support beginning in April of 2012 and therefore established child support for those months.⁶

Mr. D requested a formal hearing to appeal the Division's order establishing child support for the months of February and March of 2012. Mr. D raised concerns about the credit for providing medical insurance and the amounts that the Division seeks to collect in its withholding order.⁷

Prior to the hearing, the Division filed a motion for summary adjudication. The Division argued that the withholding order and the credit for insurance coverage were not within the scope of an administrative appeal in a formal hearing of the establishment order.

At the hearing, Mr. D explained his concerns about the credit for insurance and the withholding order and agreed to work with the Division to address these concerns. Mr. D's attorney explained that for the purpose of his appeal of the Administrative Child and Medical Support Order was to argue that the court order was intended to cover Mr. D's entire child support obligation and therefore it superseded the Division's order.⁸

III. Discussion

Some of Mr. D's questions about his child support order were addressed at the hearing. The remaining issue is whether the court order effectively set child support for February and March of 2012 at zero. Mr. D relies on the language of the court order in support of this position. While the court does set child support at \$922.93 per month and requires the first payment to be made by April 2, 2012, the order does not explicitly set child support for months that precede that date.

⁴ Exhibit 4.
⁵ Exhibit 3 & 4.
⁶ Exhibit 4.
⁷ Exhibit 8.
⁸ Recording of Hearing.

The Division is required to establish the month child support obligation beginning the month that a request for its services is file in a case like this one where there was not public assistance for the children.⁹ The court order does not appear to address child support for the months February and March of 2012. The Division was required by law to establish child support for those months. The Division set child support at \$922.93 per month, the monthly amount that the court set in its order. If Mr. D believes that the court intended to set child support at \$0 for each of those two months, he may wish to file a motion for clarification or correction with the court. If the court explicitly set child support for those two months at \$0 or some other amount, the Court's order will supersede the Division's.

IV. Conclusion

I conclude that the Division correctly established a child support obligation for the two months between Ms. D's application for services and the effective date of the court order establishing child support. The child support amount in the Division's order was calculated using the primary custody formula in Civil Rule 90.3(a).

IV. Child Support Order

The Division's Amended Administrative Child and Medical Support Order issued on July 11, 2012 is affirmed.

DATED this 12th day of December, 2012.

By: Signed
Mark T. Handley
Administrative Law Judge

⁹ 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 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 3rd day of January, 2013.

By: Signed
Signature
Terry L. Thurbon
Name
Chief Administrative Law Judge
Title

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