

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

IN THE MATTER OF:)	
)	OAH No. 12-0885-CSS
C E. K)	CSSD No. 001183646
_____)	

DECISION AND ORDER

I. Introduction

This matter involves C E. K's appeal of an Administrative Review Decision that the Child Support Services Division (CSSD) issued on October 23, 2012. That agency decision adopted an Administrative Child Support and Medical Support Order that CSSD issued on August 15, 2012. The obligee child is B, born in 2011. The other party is K V. T.

The formal hearing was held on December 5, 2012. Mr. K appeared by telephone; Ms. T did not participate.¹ Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, the Administrative Review Decision that CSSD issued in Mr. K's case is affirmed. He is liable for child support in the amount of \$50 per month, effective November 1, 2011, and ongoing. Mr. K's request for paternity disestablishment is denied because he made an admission of paternity in this case. He will have to pursue paternity disestablishment in court.

II. Facts

A. Procedural History

Ms. T applied for and began receiving Medicaid benefits on B's behalf in November 2011.² Ms. T then applied for child support services in May 2011.³ CSSD initiated a paternity action against Mr. K.⁴ When he responded to the Notice of Paternity, he admitted his paternity of B, so CSSD issued an Order Establishing Paternity.⁵ CSSD subsequently issued an

¹ Calls were placed to Ms. T's two telephone numbers of record just before the hearing. The first number was out of service; a voicemail message was left on the second number for Ms. T to call the OAH, but she has not returned the call as of the date of this decision.

² Exh. 6 at pg. 9.

³ Exh. 1.

⁴ Exhs. 2-3.

⁵ Exhs. 4-5.

Administrative Child Support and Medical Support Order that set Mr. K's child support at \$50 per month, effective November 2011.⁶ He requested an administrative review and CSSD issued an Administrative Review Decision on October 23, 2012 that affirmed its earlier Administrative Child Support and Medical Support Order.⁷ Mr. K appealed on November 9, 2012, asserting primarily that he had requested paternity tests but they had not been provided.⁸

B. Material Facts

Mr. K lives in No Name, Alaska. According to the Alaska Department of Labor and Workforce Development, he earned \$1,501 during the first three quarters of 2012.⁹ CSSD calculated his child support at \$50 per month after making a determination that he lives in an economically distressed community with few opportunities for increased earnings.¹⁰

After Ms. T applied for child support services, CSSD initiated a paternity action against Mr. K. When he responded to the notice of paternity, Mr. K returned a blank form entitled "Response to Paternity Action" that CSSD had sent him regarding his stance as to paternity of B. On the form that he returned, Mr. K checked the box that stated: "I admit that I am the father of the child listed in this document." The child listed on the form is B, born in 2011, child of K V. T.¹¹

III. Discussion

Mr. K filed the appeal in this matter. He is not challenging the income determinations CSSD made or the child support calculation of \$50 per month. Rather, his primary issue on appeal concerns CSSD's denial of his request for genetic testing. As the party who filed the appeal, Mr. K has the burden of proving by a preponderance of the evidence that CSSD's Administrative Review Decision is incorrect.¹²

CSSD's statutes provide that the agency may disestablish paternity of a child at the request of a party.¹³ However, disestablishment proceedings cannot be initiated for all of the children in CSSD's cases. CSSD may not process a disestablishment request for a child whose

⁶ Exh. 6.

⁷ Exhs. 7-8.

⁸ Exh. 9.

⁹ Exh. 10.

¹⁰ See Exh. 6.

¹¹ Exh. 4.

¹² 15 AAC 05.030(h).

¹³ AS 25.27.166(a).

paternity was determined by court order, genetic tests, an acknowledgment of paternity executed by both parents, or an admission of paternity submitted by the alleged father in connection with a paternity action.¹⁴

In this case, CSSD initiated a paternity action against Mr. K on May 29, 2012 to establish paternity of B. When he responded to the notice of paternity, Mr. K returned a “Response to Paternity Action” to CSSD on which he had checked the box that stated: “I admit that I am the father of the child listed in this document.”¹⁵ By checking this box, Mr. K was admitting he is B’s biological father.

Under CSSD statute AS 25.27.166(a), Mr. K’s statement is considered an admission of paternity. For purposes of this administrative child support action, Mr. K’s paternity of the child has therefore been established. Thus, neither CSSD nor the administrative law judge has the authority to order paternity testing or initiate proceedings seeking to disestablish his paternity of B. If the obligor still wants to pursue an action to have his paternity disestablished, he will have to file an action in court to do so.

IV. Conclusion

Mr. K did not meet his burden of proving that CSSD’s Administrative Review Decision was incorrect, as required by 15 AAC 05.030(h). His child support has been correctly calculated at \$50 per month, beginning in November 2011. Additionally, although he has requested genetic tests in connection with his paternity of B, CSSD is not authorized to conduct disestablishment proceedings because Mr. K admitted his paternity of B during the paternity action that CSSD initiated in his case. As a result of that admission, Mr. K’s paternity of B was established. Thus, if he still wants to contest his paternity of B, Mr. K will have to file an action in court.

CSSD’s Administrative Review Decision should be adopted. There has been no variance requested or granted under Civil Rule 90.3(c) in this appeal.

¹⁴ AS 25.27.166(a).

¹⁵ Exh. 4.

V. Child Support Order

- CSSD’s Administrative Review Decision dated October 23, 2012, is affirmed.

DATED this 8th day of January, 2013.

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 28th day of January, 2013.

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

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