

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

IN THE MATTER OF:)

S J. Q)

) OAH No. 13-0391-CSS
) CSSD No. 001170703 &
) 001104798

DECISION AND ORDER

I. Introduction

The obligor parent, S J. Q, appealed a Modified Administrative Child Support and Medical Support Order that CSSD issued on December 19, 2012. The child in this case is O, 17. This is a foster care case, so the other party is the State of Alaska. Russell Crisp, Child Support Specialist, represented CSSD.

Ms. Q participated in telephonic hearing sessions on April 15, 2013 and May 15, 2013. A final hearing was calendared for June 13, 2013, but Ms. Q could not be reached by telephone and did not participate. An order was issued on June 13, 2013, that informed Ms. Q the record would close on June 28, 2013, and that she would be allowed to submit additional information prior to that date. She did not respond.

Based on the evidence in the record and after careful consideration, Ms. Q's child support is modified to \$50 per month, effective December 1, 2012, and ongoing.

II. Facts

Ms. Q's child support was set at \$353 per month for four children in 2001.¹ The three oldest children have all emancipated, and the remaining child on the order is O, who will also reach the age of eighteen later this year. Ms. Q petitioned for modification of her child support order on November 13, 2012.²

Ms. Q has a GED. She was the No Name in No Name from 1984-1999, when she resigned to take care of her son, who had juvenile diabetes.³ She has worked only sporadically since then. Her last employment was in 2010, when she worked for No Name during the annual No Name, which is held every year. Ms. Q was homeless and lived in a tent until February 2013, when she obtained housing. She relied on food stamps and adult public assistance for her

¹ Exh. 1 at pg. 1. The one-child amount is \$196 per month. See Exh. 1 at pg. 2.

² Exh. 2.

³ The facts are taken from Ms. Q's hearing testimony or the evidence in the written record.

support. In March 2013, her 17 year-old granddaughter was placed with her, so Ms. Q applied for TANF (Temporary Assistance for Needy Families).

Ms. Q has asthma and is under the care of a pulmonologist and cardiologist. She had an appointment with the latter in April 2013, but the results of that consultation are unknown. Ms. Q applied for Social Security disability in January 2013, but was denied and is appealing that decision. Also, she is currently waiting to be accepted into the Cook Inlet Tribal Council vocational rehabilitation program. She does not receive Social Security or any benefits from the Veterans' Administration.

Ms. Q did not work in 2012. Other than the PFD, more likely than not her only income was \$1,020, the total Native corporation benefits she received in 2012. For child support purposes, that income amount yields a monthly child support obligation of \$50, the minimum amount allowed under Alaska law.⁴

III. Discussion

Child support orders may be modified upon a showing of “good cause and material change in circumstances.”⁵ 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. Ms. Q’s child support has been \$196 per month for one child. Thus, a child support calculation of \$166.60 or less would be sufficient to warrant modification in this case.⁶

A modification is effective beginning the month after the parties are served with notice that a modification has been requested, so this modification is effective as of December 1, 2012.⁷ In a child support matter, the person who files the appeal, in this case, Ms. Q, has the burden of proving by a preponderance of the evidence that CSSD’s Modified Administrative Child Support and Medical Support Order was incorrect.⁸

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,” minus mandatory deductions such as taxes and Social Security. In this case, CSSD modified Ms. Q’s child support to \$334 per month for

⁴ See Attachment A.

⁵ AS 25.27.190(e).

⁶ $\$196 \times 15\% = \29.40 . $\$196 - \$29.40 = \$166.60$.

⁷ 15 AAC 125.321(d). In this case, the notice was issued on November 20, 2012. Exh. 3.

⁸ 15 AAC 05.030(h); 2 AAC 64.290(e).

one child, based on imputed annual income of \$16,120. CSSD calculated this annual income figure from the minimum wage of \$7.75, the PFD of \$878 and “other taxable income” of \$5,628.94, which CSSD indicated was an estimate of Ms. Q’s Native corporation dividends.⁹

Based on all of the evidence presented, Ms. Q met her burden of proving by a preponderance of the evidence that CSSD’s Modified Administrative Child Support and Medical Support Order was incorrect. Ms. Q established, more likely than not, that CSSD overestimated her “total income from all sources,” and that her actual total income is currently less than \$2,000 per year.

IV. Conclusion

Ms. Q is liable for supporting her youngest child, O, who will turn eighteen in late 2013. Ms. Q has been homeless for most of the last three years and has relied on food stamps and adult public assistance to support herself. Recently her granddaughter has been placed in Ms. Q’s custody and she has applied for TANF. Ms. Q’s child support should be set at the minimum amount of \$50 per month.

V. Child Support Order

- Ms. Q is liable for modified ongoing child support for O in the amount of \$50 per month, effective December 1, 2012, and ongoing;
- All other provisions of the Modified Administrative Child Support and Medical Support Order CSSD issued on December 19, 2012, remain in full force and effect.

DATED this 18th day of July, 2013.

Signed

Kay L. Howard
Administrative Law Judge

⁹ Exh. 9.

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 5th day of August, 2013.

By: Signed
Signature
Lawrence A. Pederson
Name
Administrative Law Judge
Title

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