

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

|                   |   |                     |
|-------------------|---|---------------------|
| In the Matter of: | ) |                     |
|                   | ) | OAH No. 13-0731-CSS |
| N E. Q            | ) | CSSD No. 001148756  |
| _____             | ) |                     |

**DECISION AND ORDER**

**I. Introduction**

The obligor, N E. Q, appealed a Modified Administrative Child Support and Medical Support Order. The obligee children are M Q, N Q, and T Q. The custodian of record is U A. Q.

A hearing was scheduled for June 12, 2013. Mr. Q' appeal stated that he was incarcerated, and his notice was sent to him at the address he provided. By the date of the hearing, however, Mr. Q had been released. He did not appear in person, and he could not be reached by telephone.

An address and telephone number was subsequently found for Mr. Q, and he was sent a notice that his hearing was rescheduled for June 26, 2013. That notice was returned as undeliverable. Mr. Q was called on June 26 at the telephone number where it was believed he could be reached, but he was not available at that number.

Because he did not appear and present any evidence to show that CSSD's determination was incorrect, and because the documents in the record indicate that the determination is correct, CSSD's amended order is upheld.

**II. Facts**

In February of 2008, CSSD issued an Amended Administrative Child and Medical Support Order. This order set Mr. Q' support obligation at \$807 per month for two children, M and N.<sup>1</sup> On March 18, 2013, Ms. Q submitted an application for services seeking to add T to the prior support order.<sup>2</sup> A Modified Administrative Child Support and Medical Support Order was issued on April 23, 2013. This order set Mr. Q' support obligation at \$61 per month for three children.<sup>3</sup> It also set arrears for August 1, 2012 through March 1, 2013.<sup>4</sup>

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<sup>1</sup> Exhibit 3, page 3.  
<sup>2</sup> Exhibit 1.  
<sup>3</sup> Exhibit 4, page 1.  
<sup>4</sup> Id.

Mr. Q earned \$2,210 in unemployment benefits in 2013 before he was incarcerated.<sup>5</sup> With an annual income of that amount, Mr. Q' support obligation for three children would be \$61 per month.<sup>6</sup>

### III. Discussion

A parent is obligated both by statute and at common law to support his or her children.<sup>7</sup> 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."<sup>8</sup> 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.<sup>9</sup> Finally, the person appealing CSSD's decision has the burden of demonstrating that the decision is incorrect.<sup>10</sup>

Based on the written record, Mr. Q' primary argument is that he is only required to pay \$50 per month in child support because of his incarceration. \$50 per month is the *minimum* obligation amount that can be set.<sup>11</sup> Because Mr. Q did have some income during 2013, in the form of unemployment benefits, his support obligation is slightly higher.<sup>12</sup>

Mr. Q did not provide evidence or appear to otherwise argue his case.<sup>13</sup> Thus, in the absence of sufficient evidence, Mr. Q has not met his burden of proving that CSSD's Modified Administrative Child Support and Medical Support Order is incorrect.

### IV. Conclusion

CSSD correctly calculated Mr. Q' support obligation to be \$61 per month for three children. This child support calculation was made pursuant to the guidelines in Civil Rule 90.3.

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<sup>5</sup> Exhibit 4, page 4.

<sup>6</sup> Exhibit 4, page 7.

<sup>7</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>8</sup> AS 25.27.190(e).

<sup>9</sup> 15 AAC 125.321(d).

<sup>10</sup> 15 AAC 05.030(h).

<sup>11</sup> Civil Rule 90.3(c)(3).

<sup>12</sup> Since it appears he is no longer incarcerated, the modified order may actually be based on an understatement of his annual income for 2013 and subsequent years.

<sup>13</sup> 15 AAC 05.030(j) authorizes the entry of a decision if the requesting party fails to appear.

**V. Child Support Order**

All provisions of the April 23, 2013, Modified Administrative Child Support and Medical Support Order remain in effect.

DATED this 18<sup>th</sup> day of July, 2013.

*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 5<sup>th</sup> day of August, 2013.

By: *Signed*  
\_\_\_\_\_  
Signature  
Jeffrey A. Friedman  
\_\_\_\_\_  
Name  
Administrative Law Judge  
\_\_\_\_\_  
Title

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