

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

In the Matter of:)
)
 E G. T) OAH No. 13-0786-CSS
) CSSD No. 001188237
_____)

DECISION AND ORDER

I. Introduction

This case involves obligor E T's appeal of an Administrative Review Decision and Amended Administrative Child and Medical Support Order issued by the Child Support Services Division (CSSD) on April 20, 2013. The children in this case are J, age nine, C, age eight, and K, age five. The custodian of record is Foster Care Alaska.

The formal hearing was held on June 25, 2013. Neither Mr. T nor the custodian of record participated.¹ Andrew Rawls, Child Support Specialist, represented CSSD. Based on the record, and after careful consideration, CSSD's Administrative Review Decision and Amended Administrative Child and Medical Support Order dated April 20, 2013 are affirmed.

II. Facts

A. Material Facts

Mr. T is the father of J, age nine, C, age eight, and K, age five.² Mr. T did not testify at the hearing or submit documentary evidence, so the only information concerning his financial circumstances is the information provided by CSSD. Information obtained by CSSD from the Alaska Department of Labor and Workforce Development (DOL) indicates that Mr. T earned wages of \$72,443.28 in 2009, \$65,347.13 in 2010, and \$32,669.69 in 2011.³ He was incarcerated for an unknown period between the fourth quarter of 2011 and May 2013.⁴ He received \$19,006 in unemployment insurance benefits (UIB) in 2012 and \$7,558 in UIB through June 8, 2013.⁵ Based on this information, Mr. T's taxable gross income for 2012 was \$19,884 and his adjusted income for

¹ A telephone call was made to Mr. T's contact number at the beginning of the hearing, but the number was not in service. Neither the Office of Administrative Hearings (OAH) or CSSD had any other telephone number for Mr. T, so the hearing proceeded in Mr. T's absence. The record was left open for 10 days (through July 5, 2013) for Mr. T to show cause for his failure to appear. Mr. T never contacted OAH.

² Ex. 1 p. 1; Ex. 4 p. 1.

³ Ex. 7 p. 1.

⁴ Ex. 3; Ex. 5 p. 1; Ex. 7 p. 1.

⁵ Ex. 7.

2012 was \$18,728.88.⁶ Using this income figure, Mr. T's child support obligation is \$515 per month for three children.⁷

B. Procedural History

On March 8, 2013 CSSD issued an Administrative Child and Medical Support Order which required that Mr. T pay child support in the amount of \$966 per month for three children beginning April 1, 2013.⁸ The order also established child support arrears for the months of December 2012 through March 2013 in the total amount of \$3,434.⁹ On March 29, 2013 Mr. T requested an administrative review of CSSD's initial determination on the basis that he had been incarcerated and had not worked for almost two years.¹⁰ On April 20, 2013 CSSD issued an Administrative Review Decision and an Amended Administrative Child and Medical Support Order¹¹ which reduced Mr. T's ongoing child support obligation from \$966 per month to \$515 per month from May 1, 2013 forward, and reduced Mr. T's child support arrears from \$3,434 to \$2,575 for the months of December 2012 through April 2013.¹² On May 24, 2013 Mr. T appealed the Administrative Review Decision.¹³ In his appeal request he stated, without elaboration, that he no longer has the ability to earn as much money as he did in past years.¹⁴

III. Discussion

Mr. T filed this appeal and requested the formal hearing in this case. Other than his brief appeal statement, he provided no written evidence regarding his employment, income, or expenses, and he did not participate in the hearing. Accordingly, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a child support decision if the person requesting the hearing fails to appear.

A parent is obligated both by statute and at common law to support his or her children.¹⁵ A biological parent's duty of support begins on the child's date of birth.¹⁶ In those cases in which the child support obligation is determined by CSSD, the agency collects support from the date that a

⁶ Ex. 4 pp. 8, 9. These figures included a Permanent Fund Dividend (PFD) of \$878 (*see* Ex. 4 p. 8).

⁷ Ex. 4 pp. 1, 3, 6, 8, 9.

⁸ Ex. 1.

⁹ Ex. 1 pp. 2, 9.

¹⁰ Ex. 3.

¹¹ Ex. 4.

¹² Ex. 4 p. 1.

¹³ Ex. 5.

¹⁴ Ex. 5.

¹⁵ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987); A.S. 25.20.030.

¹⁶ *State of Alaska, Department of Revenue, Child Support Enforcement Division ex rel. Hawthorne v. Rios*, 938 P.2d 1013, 1015 (Alaska 1997).

parent / custodian requests child support services, or the date public assistance or Medicaid benefits are initiated on behalf of the child.¹⁷ The Office of Children’s Services (OCS) applied for assistance from CSSD when Mr. T’s children were placed in foster care in late November 2012, so Mr. T’s child support obligation began at that time.¹⁸

Civil Rule 90.3(a)(1) requires that an obligor’s child support amount be calculated based on his or her “total income from all sources.” Because Mr. T was unemployed for all of 2012, CSSD used his actual 2012 unemployment (UIB) income and the PFD in calculating his 2012 child support.¹⁹ Further, because Mr. T was still unemployed and receiving UIB through the date of the Administrative Review Decision, the Division also calculated Mr. T’s 2013 and ongoing support obligation from his 2012 income.

The person who appeals a CSSD child support determination (in this case, Mr. T) has the burden of proving, by a preponderance of the evidence, that CSSD’s support order is incorrect.²⁰ Mr. T did not provide any evidence to prove that CSSD’s Administrative Review Decision was incorrect.²¹ CSSD’s calculation of Mr. T’s child support obligation is supported by credible evidence in the record, and Mr. T did not provide any evidence to disprove it. Accordingly, CSSD’s determination as to Mr. T’s child support obligation is correct.

IV. Conclusion

Mr. T did not meet his burden of proving, by a preponderance of the evidence, that CSSD’s Administrative Review Decision and Amended Administrative Child and Medical Support Order dated April 20, 2013 were incorrect. Mr. T’s ongoing child support obligation for three children is correctly calculated at \$515 per month from May 1, 2013 forward, and his child support arrears are correctly calculated at \$2,575 for the months of December 2012 through April 2013.²² There was no request or grant of a variance under Civil Rule 90.3(c) in this appeal.

V. Child Support Order

- CSSD’s Administrative Review Decision dated April 20, 2013 is affirmed. Mr. T is liable for ongoing child support for J, C, and K in the amount of \$515 per month from May 1, 2013

¹⁷ 15 AAC 125.105(a)(1)-(2).

¹⁸ See CSSD’s filing dated June 11, 2013 and Andrew Rawls’ hearing testimony.

¹⁹ Ex. 4 p. 1.

²⁰ 15 AAC 05.030(h).

²¹ Ex. 4 p. 1.

²² Ex. 4 p. 1.

forward, and for child support arrears in the total amount of \$2,575 for the months of December 2012 through April 2013.

DATED this 24th day of July, 2013.

By: Signed
Jay D. Durych
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 21st day of August, 2013.

By: Signed
Signature
Angela M. Rodell
Name
Acting Commissioner
Title

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