

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

IN THE MATTER OF:

L B. C

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OAH No. 13-0826-CSS
CSSD No. 001190631

DECISION AND ORDER

I. Introduction and Background

The custodian, O L. E, challenges the Child Support Services Division’s (“CSSD”) June 4, 2013 Amended Administrative Child Support and Medical Support Order and its Administrative Review Hearing Decision crediting \$5,630 as a direct payment against arrears owing by the obligor, L B. C. At the July 16, 2013 hearing it was agreed by all parties that \$4,000 of the \$5,630 was never intended to be child support and Mr. C’s arrears should be adjusted accordingly.

II. Facts

The three obligee children in this case began receiving Medicaid in February 2013, and as a result, CSSD sought child support from the children’s father, L B. C. Mr. C provided the financial information requested by CSSD, and using this information CSSD issued an Administrative Child Support and Medical Support Order establishing Mr. C’s monthly child support obligation for three children in the amount of \$1,037 effective May 1, 2013 with arrears of \$3,111 from February 2013 through April 2013.¹ Mr. C requested an administrative review hearing and provided Money Gram receipts and cashier checks payable to Ms. E in varying amounts over several months totaling \$5,630.²

The administrative review hearing was held June 4, 2013. Only Mr. C participated. He asked that the money previously paid be considered child support. CSSD agreed and provided Mr. C with a credit for direct child support payments in the amount of \$600 in February 2013, \$4,000 in March 2013, and \$1,030 in April 2013. The Amended Administrative Child Support and Medical Support Order issued June 4, 2013 accounted for these payments and set Mr. C’s

¹ Exhibits 2, 3.

² Exhibit 4.

child support obligation for three children in the amount of \$1,037 per month effective August 1, 2013 with arrears of \$592 from February 2013 through July 2013.³

Ms. E appealed CSSD's findings because \$4,000 of the amount credited was not child support, but rather what she was owed from the couple's 2012 tax refund. At the formal hearing, Mr. C agreed with Ms. E regarding the purpose of the \$4,000 payment. CSSD agreed that the \$4,000 credit against arrears owing was in error and that Mr. C should only receive a \$1,630 credit for direct payment for the period from February through July 2013.

On July 3, 2013, Mr. C provided a copy of a June 26, 2011 Money Gram receipt payable to X M from Mr. C in the amount of \$768. Ms. M is Ms. E's landlord. Mr. C testified that the amount was for rent on Ms. E's apartment and should be treated as child support. Ms. E disagreed, but did agree that the money was paid to her landlord so that she and the children would not be evicted. CSSD stated they had no objection to the amount being treated as a credit against July's child support because the children received a benefit from the payment.

III. Discussion

It is undisputed that CSSD should reverse a \$4,000 direct credit against Mr. C's past due child support. It is also undisputed that Mr. C should receive a direct credit for \$1,630 paid to Ms. E. Regarding the \$768 payment to Ms. E's landlord, Ms. E agreed that the money was paid on her behalf to provide housing for the children, but does not believe it should be considered child support.

The regulation governing credits for direct payments is precise. It requires that the payment be made to the custodial parent and that the payment is intended to be a direct payment of child support.⁴ The \$768 payment was not paid to Ms. E, it was paid to a third party. Therefore, under the controlling regulation, Mr. C is not entitled to a credit for this payment to Ms. E's landlord.

Mr. C is cautioned that any further direct payments to Ms. E may not be credited against arrears. All future payments must be made as provided for in the June 4, 2013 Amended Administrative Child Support and Medical Support Order.

³ Exhibit 5.

⁴ 15 AAC 125.465(a).

IV. Conclusion

Mr. C is entitled to a credit for direct payment to Ms. E in the amount of \$1,630.

V. Child Support Order

1. Mr. C is liable for child support for three children in the amount of \$1,037 effective February 2013.

2. Mr. C is entitled to a credit for direct payment of child support as follows: \$600 paid to Ms. E in February 2013 and \$1,030 paid to Ms. E in April 2013.

3. Arrears should be calculated accordingly.

4. All other provisions of the June 4, 2013 Amended Administrative Child Support and Medical Support Order remain in effect.

DATED this 29th day of July, 2013.

By: Signed
Rebecca L. Pauli
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 27th 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.]