

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

In the matter of:)
)
P D)
)
_____) OAH No. 13-0847-CSS
CSSD Case No. 001169255

DECISION AND ORDER

I. Introduction

This case concerns the obligation of P D for the support of his children E O. D and C O. D. The custodian is J M.

The Child Support Services Division issued a modified administrative child support order dated January 18, 2011, in the amount of \$760 per month.¹ Ms. M filed a request for modification,² and on March 22, 2013, the division denied the request.³

Ms. M appealed and requested a formal hearing. The case was referred to the Office of Administrative Hearings, and the assigned administrative law judge conducted a telephonic hearing on July 8, 2013. Ms. M participated. Mr. D was not available at his telephone number of record and did not participate. Russell Crisp represented the division.

Because Ms. M has not shown that there has been a material change of circumstances, the division's decision is sustained.

II. Facts

In 2011, the Child Support Services Division set P D's child support obligation at \$760 per month for two children. The division projected 2011 total annual income of \$41,427, based on 2010 Department of Labor income information (for three quarters) and his anticipated Alaska Permanent Fund dividend.⁴

The custodial parent, J M, filed a request for modification of the support order on February 11, 2013.⁵ Based on the Department of Labor income information for 2013, the division estimated total annual income for Mr. D in 2013 of \$38,381, with a monthly

¹ Exhibit 1.
² Exhibit 2.
³ Exhibit 4, p. 1.
⁴ Exhibit 1, pp. 4, 8.

child support obligation of \$723 for two children.⁶ It therefore denied the request for modification.⁷

Mr. D works full time seasonally and collects unemployment compensation when not working; in February, 2103, he was working full time, earning \$11 an hour with a three week on-three week off schedule.⁸ His monthly gross income from wages was about \$3,100, and his anticipated total income from wages and unemployment compensation in 2013 is about \$37,000.⁹

Ms. M lives by herself with her two children. At the time of the hearing she had just started a new job, earning \$9.81 per hour, working full time.¹⁰ Ms. M and her children have had a variety of significant health issues, leading to substantial unpaid medical bills.¹¹ Ms. M has no health insurance.¹²

II. Discussion

The annual child support payment for two children in the absence of shared custody is 27% of the adjusted annual income.¹³ The division will modify the child support order when the child support obligation changes by an amount greater than 15% of the existing order.¹⁴

In this case, Ms. M has requested an increase in the amount of the support obligation. However, because his income has not increased, Mr. D's presumptive child support obligation has not increased by at least 15% from what it was when the division last modified his support obligation in 2011. When the amount of the presumptive support obligation changes by less than 15%, the division will not modify the existing order unless there has been a showing of a material change of circumstances. In this case, Mr. D's is employed in the same capacity as in 2011, and there has been no material change in his circumstances. While it is true that his children have incurred substantial medical expenses, Mr. D is presently in arrears on his order, and collecting on his current

⁵ Exhibit 2.

⁶ Exhibit 4, p. 3.

⁷ Exhibit 4, pp. 1-2.

⁸ Hearing statement of R. Crisp (contact with employer); Exhibit 6, pp. 1-6.

⁹ *Id.*

¹⁰ Testimony of J. M.

¹¹ Exhibit 5, pp. 2-8.

¹² Testimony of J. M.

¹³ 15 AAC 125.010, -.070(a); Civil Rule 90.3(a)(2)(A).

¹⁴ 15 AAC 125.321(b)(1).

order would meet the medical bills even if the monthly obligation is not increased. Moreover, Ms. M has recently started working; since she was previously unemployed, she will have a greater ability to meet the medical bills out of her income.

IV. Conclusion

The amount of the presumptive support obligation has not changed by more than 15%, and there has been no showing of a material change of circumstances. The petition for modification should be denied.

CHILD SUPPORT ORDER

1. The petition for modification is **DENIED**.
2. Mr. D’s child support obligation remains at \$760 per month for two children.

DATED: August 19, 2013.

Signed _____
Andrew M. Hemenway
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 11th day of September, 2013.

By: *Signed* _____
Signature
Andrew M. Hemenway
Name
Administrative Law Judge
Title

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