

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

In the Matter of :)	
)	OAH No. 13-1004-CSS
B M. T)	CSSD No. 001157071
_____)	

DECISION AND ORDER

I. Introduction

The obligor, B M. T, appealed a Decision on Request for Modification Review that the Child Support Services Division (CSSD) issued in his case on June 18, 2013. That order denied his request for modification review of the child support amount set in September 2011. The obligee children are P, 10, and L, 6. The custodial parent is T V. D.

The hearing was held on August 12, 2013. Mr. T appeared telephonically; Ms. D did not participate.¹ Russell Crisp, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the evidence and after careful consideration, CSSD's Decision on Request for Modification Review is affirmed. Mr. T has not shown a material change in circumstances sufficient to modify his ongoing child support, which shall remain at \$514 per month.

II. Facts

A. Procedural Background

Mr. T's child support case was initiated in 2009.² His ongoing child support obligation for P and L was modified to \$514 per month in September 2011.³ On April 5, 2013, Mr. T requested a modification review.⁴ On April 10, 2013, CSSD issued a Notice of Petition for Modification of Administrative Support Order.⁵ Mr. T submitted income information.⁶ On June 18, 2013, CSSD issued a Decision on Request for Modification Review that denied Mr. T's petition because the

¹ The appeal referral form with Ms. D's contact information did not include a telephone number for her.
² Exh. 1.
³ Exh. 7.
⁴ Exh. 2.
⁵ Exh. 9.
⁶ Exh. 10.

calculation based on his current income had not shown a minimum 15% change from the support order.⁷ Mr. T appealed on July 9, 2013 and provided paystubs from his current employer.⁸

B. Material Facts

Mr. T and Ms. D are the parents of P and L. Both children live with the custodian.

Mr. T has had numerous jobs since his obligation to support the children was established in 2009. Mr. T earned \$58,547.20 in 2010; \$58,670.15 in 2011; and \$30,631.83 in 2012.⁹

In April 2013, Mr. T started a new job with No Name, LLC. He is paid \$15 per hour as an inventory controller. The hours from his four most recent paystubs in June through August 2013 were averaged to determine he works an average of 37 hours per week,¹⁰ which equals approximately 1,924 hours worked per year. Multiplying the number of hours worked by \$15 per hour results in annual income of about \$28,860 per year. When this figure is inserted into CSSD's online child support calculator, it yields a child support amount of \$559 per month for two children (\$414 for one child).¹¹ This is less than a 15% change from Mr. T's current support amount of \$514 per month.¹²

III. Discussion

Child support orders may be modified upon a showing of "good cause and material change in circumstances."¹³ 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. Mr. T's child support has been \$514 per month since September 2011. Thus, a child support calculation would have to be at least \$77.10 more or less than that figure in order to warrant modification in this case. The calculation based on Mr. T's average weekly income as of August 2013 is \$559 per month, which is not a sufficient enough change to allow a modification of Mr. T's child support.

Mr. T argued that his income has been reduced by more than 15%, but that is not the correct measure of what must change in order to allow a modification. Civil Rule 90.3(h)

⁷ Exh. 11.

⁸ Exh. 12.

⁹ Exh. 15, from the Alaska Department of Labor and Workforce Development.

¹⁰ See Exh. 16: $79.03 + 61.62 + 78.26 + 77.07 = 295.98 \div 4 = 73.995$ per pay period $\div 2 = 3396.75$ per week, which is rounded to 37 hours per week.

¹¹ See Attachment A.

¹² $\$514 \times 15\% = \$77.10 + \$514 = \591.10 .

¹³ AS 25.27.190(e).

specifically states that the calculated child support amount must change by 15%, not the parent's income. Since that requirement has not been met in Mr. T's case, his child support may not be modified.

IV. Conclusion

Mr. T did not meet his burden of proof in this appeal. He did not show by a preponderance of the evidence that CSSD's Decision on Request for Modification Review was incorrect. There has not been a "material change in circumstances" sufficient to modify his child support order from the current amount of \$514 per month. CSSD's order denying modification should be affirmed.

V. Child Support Order

- CSSD's Decision on Request for Modification Review is affirmed – Mr. T's child support for P and L remains at \$514 per month;
- All other provisions of the prior order issued by CSSD – the Modified Administrative Child Support and Medical Support Order dated September 21, 2011 – remain in full force and effect.

DATED this 16th day of December, 2013.

Signed _____
Kay L. Howard
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 3rd day of January, 2014.

By: Signed
Signature
Kay L. Howard
Name
Administrative Law Judge
Title

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