

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

In the Matter of:)	
)	OAH No. 13-1018-CSS
K C. L)	CSSD No. 001186603
_____)	

DECISION AND ORDER

I. Introduction

This case involves the obligor K C. L's appeal of an Amended Administrative Child and Medical Support Order that the Child Support Services Division (CSSD) issued on June 10, 2013. The obligee child is M, 1 year of age. The custodian of record is D L. N.

The formal hearing was held on August 13, 2013. Neither Mr. L nor Ms. N could be reached for the hearing.¹ Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on all the evidence, CSSD's Amended Administrative Child Support and Medical Support Order dated March 5, 2013 is affirmed, with one adjustment – Mr. L's child support for M is set at \$405 per month, effective September 2012, and ongoing.

II. Facts

A. Procedural History

Ms. N began receiving public assistance benefits on M's behalf in September 2012.² CSSD initiated the process of establishing Mr. L's child support obligation by requesting financial information from him on November 13, 2012 and issuing an administrative child support order on March 5, 2013.³ He requested an administrative review but did not provide income information.⁴ CSSD issued an Amended Administrative Child Support and Medical Support Order on June 10, 2013 that set Mr. L's ongoing child support at \$443 per month, with arrears of \$4,278 from September 2012 through June 2013.⁵ Mr. L appealed on July 8, 2013,

¹ Mr. L did not answer a call placed to his contact number at the time of the hearing. A message was left for him to contact the Office of Administrative Hearings (OAH), but he has not returned the call. Ms. N's contact number was out of service.

² Exh. 2 at pg. 10.

³ Exhs. 1-2.

⁴ Exh. 3.

⁵ Exh. 4.

asserting his last day of work was November 2, 2012, and that he started getting unemployment benefits (UIB) of \$800 per month in January 2013. Mr. L also asserted CSSD cannot assume he will return to work and earn the same wages in the future.⁶

On July 26, 2013, the Office of Administrative Hearings (OAH) sent each party a notice of the date and time for the hearing by certified mail. Mr. L signed his green card on August 1, 2013 and it was returned to the OAH on August 5, 2013.

Before the hearing, an attempt was made to reach Mr. L by telephone for the hearing. There was no answer at his contact number, so a voicemail message was left for him. He has not contacted the OAH in response. Because Mr. L received and signed for his notice of the hearing, service on him of the notice was found to be effective and the hearing was conducted without his participation.⁷

B. Material Facts

The obligee child, M, lives with his custodial parent, D L. N. She began receiving public assistance benefits on M's behalf in September 2012. Mr. L's paternity of M was established by genetic testing results issued on February 27, 2013.⁸

In 2012, Mr. L was working in the construction industry, having been employed by the same company since 2009.⁹ His last day of work for No Name, LLC was November 2, 2012, and he earned \$27,306.50 from No Name in 2012.¹⁰ He began receiving unemployment in December 2012 of about \$224 per month, of which \$22.40 per month was garnished by the IRS.¹¹ He was still receiving UIB in June 2013.¹²

III. Discussion

Mr. L filed an appeal and requested a formal hearing, but he did not participate in the hearing. Otherwise, other than his appeal statement, the only evidence he provided was a letter from No Name, LLC regarding his last day of employment. Therefore, 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. As the person who filed the appeal, Mr. L has

⁶ Exh. 5.

⁷ See 15 AAC 05.010(c).

⁸ Exh. 3 at pg. 2.

⁹ Exh. 6 at pg. 1.

¹⁰ Exh. 3 at pg. 6.

¹¹ Exh. 6 at pg. 2.

¹² Exh. 6 at pg. 1.

the burden of proving by a preponderance of the evidence that CSSD's amended order is incorrect.¹³

A parent is obligated both by statute and at common law to support his or her children.¹⁴ In cases established by CSSD, the agency collects support from the date the custodial parent requested child support services, or the date public assistance or foster care was initiated on behalf of the child.¹⁵ Ms. N began receiving public assistance on M's behalf beginning in September 2012, so that is the month Mr. L's obligation to support his child through CSSD should begin.¹⁶

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." In its original administrative order, CSSD used Mr. L's 2012 earnings of \$27,306.50 to calculate his child support at \$405 per month.¹⁷ After the administrative review, CSSD added a calculation for 2013 that included Mr. L's last three quarters of income plus his first quarter of unemployment benefits, all of which totaled \$31,613, including the PFD.¹⁸ This calculation resulted in a child support amount of \$443 per month for one child. This calculation is higher than the one for 2012 because Mr. L's first quarter of unemployment benefits was higher than his first quarter of earnings that was dropped from 2012.¹⁹

Mr. L did not appear and participate in the hearing, so there is no evidence of what his circumstances have been in the second half of 2013 and whether he has started working again. Thus, in the absence of any additional evidence, Mr. L did not meet his burden of proving by a preponderance of the evidence that CSSD calculated his child support incorrectly. Since the 2012 calculation of \$405 per month is based on a full year of income, Mr. L's child support should be set in that amount for all the time periods at issue.

IV. Conclusion

Mr. L's child, M, received public assistance benefits while in the custody of the custodian, Ms. N. Mr. L is obligated to reimburse the state for those benefits in an amount to be

¹³ 15 AAC 05.030(h).

¹⁴ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

¹⁵ 15 AAC 125.105(a)(1)-(2).

¹⁶ See Exh. 4 at pg. 11

¹⁷ Exh. 2 at pg. 9.

¹⁸ Exh. 4 at pg. 10.

¹⁹ See Exh. 4 at pg. 6; Exh. 6 at pg. 1.

determined by calculating his child support amount. Mr. L's 2012 and ongoing child support obligation has been correctly calculated at \$405 per month, beginning in September 2012, and it should be adopted.

No variance under Civil Rule 90.3(c) has been requested or granted.

V. Child Support Order

- Mr. L is liable for child support for M in the amount of \$405 per month, effective September 2012, and ongoing;
- All other provisions of the Amended Administrative Child Support and Medical Support Order dated June 10, 2013 remain in full force and effect.

DATED this 13th day of December, 2013.

By: 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 30th day of December, 2013.

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

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