

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

In the Matter of: )  
 )  
K L. X ) OAH No. 13-1108-CSS  
 ) CSSD No. 001187106  
\_\_\_\_\_ )

**DECISION AND ORDER**

**I. Introduction**

K L. X appealed an Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued on July 9, 2013. The obligee child is U, 3 years of age. The custodian is B A. C.

The hearing was held on September 4, 2013. Both parties appeared by telephone. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, Mr. X's child support is set at \$292 per month from October 2012 through December 2012; and \$403 per month, effective January 2013 and ongoing.

**II. Facts**

*A. Procedural History*

Ms. C began receiving public assistance benefits on U's behalf in October 2012.<sup>1</sup> CSSD initiated a child support action against Mr. X,<sup>2</sup> and subsequently issued an Amended Administrative Child and Medical Support Order on July 9, 2013 that set his ongoing child support at \$487 per month, with arrears of \$4,285 for the period from October 2012 through July 2013.<sup>3</sup> Mr. X appealed on August 8, 2013.<sup>4</sup>

Prior to the hearing, CSSD filed a revised child support calculation for 2013 that set Mr. X's child support at \$424 per month. This calculation includes an additional deduction of \$602 per month for supporting prior children.<sup>5</sup>

*B. Material Facts*

Mr. X is employed as an oilfield worker in Oklahoma. At the hearing, he testified he does not contest the facts as determined by CSSD in its revised calculation in Exhibit 8: Mr. X is

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<sup>1</sup> Exh. 1 at pg. 10.  
<sup>2</sup> Exhs. 1-4.  
<sup>3</sup> Exh. 5.  
<sup>4</sup> Exh. 6.  
<sup>5</sup> Exh. 8.

paid \$18 per hour. As a result, his 2013 “total income from all sources” is estimated to be \$42,409. Mr. X is not an Alaska resident, so he does not receive the PFD and it should not be included in his income. His deductions for taxes and Social Security total \$813.33 per month.

Mr. X challenged only one aspect of CSSD’s revised calculation for 2013 – the amount of the deduction he was given for paying child support for older children. CSSD included a deduction of \$602 per month, which increased his deductions from income from \$813.33 per month to \$1,415.33 per month.<sup>6</sup>

Based on the evidence in the record and as discussed below, Mr. X is entitled to a deduction from income in the total amount of \$706.83. When inserted into CSSD’s revised calculation in place of the \$602 per month CSSD previously attributed to him, this deduction results in a child support amount of \$403 per month for 2013.<sup>7</sup>

### **III. Discussion**

In a child support matter, the person who files the appeal has the burden of proving that the division’s order was issued in error.<sup>8</sup> Mr. X filed the appeal, so he must prove by a preponderance of the evidence that the Amended Administrative Child and Medical Support Order dated July 9, 2013 was incorrect.<sup>9</sup>

A parent is obligated both by statute and at common law to support his or her children.<sup>10</sup> In cases established by CSSD, the agency collects support from the date the custodial parent requests child support services, or the date public assistance or Medicaid benefits are initiated on behalf of the child.<sup>11</sup> U began receiving public assistance in October 2012, so that is the month in which Mr. X’s obligation to support the child through CSSD should begin.<sup>12</sup>

Mr. X’s only issue concerns the amount of the deduction CSSD included in his child support calculation for paying support for prior children. According to Civil Rule 90.3(a)(1)(C), a noncustodial parent is entitled to a deduction from income for “child support . . . payments arising from prior relationships which are required by other court or administrative proceedings and actually paid . . . .”

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<sup>6</sup> Exh. 8.

<sup>7</sup> Attachment A.

<sup>8</sup> 15 AAC 05.030(h).

<sup>9</sup> 2 AAC 64.290(e).

<sup>10</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>11</sup> 15 AAC 125.105(a)(1)-(2).

<sup>12</sup> CSSD’s calculation for 2012, \$292 per month, remains unchanged. *See* Exh. 5 at pg. 9.

CSSD included a prior child deduction in Mr. X's revised calculation in the amount of \$602 per month.<sup>13</sup> Mr. X contests that figure, claiming that he pays over \$800 per month on his child support cases administered by CSSD and in cash to the mother of two of his children. At the hearing, Mr. X acknowledged he has not documented those cash payments and he did not provide any evidence on that issue to supplement his hearing testimony.<sup>14</sup> Thus, in the absence of any proof of the cash payments, he may not have a deduction from income for them.

After the hearing, CSSD conducted a survey of Mr. X's child support cases for which it has records. Case no. 001137230 concerns his son who was born in 2004 – in that case, Mr. X was ordered to pay ongoing child support of \$513 per month in June 2006.<sup>15</sup> The initiating state is administering this support obligation.<sup>16</sup>

Mr. X's case no. 001143204 is for a daughter born in 2006 – Mr. X was ordered to pay \$89 per month by the court in November 2008.<sup>17</sup> CSSD reported that the obligor has paid an average of \$140.57 per month for the last six months on this case.<sup>18</sup>

Finally, case no. 001152808 contains a CSSD order for Mr. X to pay \$359 per month for two sons, one born in 2007 and one born in 2008.<sup>19</sup> CSSD stated its records indicate Mr. X has paid an average of \$53.26 per month on this case for the last year.<sup>20</sup>

The total of Mr. X's monthly child support payments for the prior children discussed above is \$706.83.<sup>21</sup> Mr. X is entitled to a deduction from income in that amount in the child support calculation for U. This amount should be inserted into CSSD's revised calculation in order to replace the division's prior child deduction of \$602. The result of including the new deduction figure into the calculation is a child support amount of \$403 per month for U.<sup>22</sup>

Mr. X also requested credit for the arrears payments he makes on his other child support cases, but he is not entitled to a deduction for arrears payments. The purpose of Civil Rule 90.3(a)(1)(C) is to give an obligor parent a deduction for supporting prior children to whom he or

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<sup>13</sup> See Exh. 8.

<sup>14</sup> Mr. X was given the opportunity after the hearing to submit evidence of the child support payments he makes that are not administered by CSSD. He was given three weeks after the hearing to file his additional evidence with CSSD, to be included in the division's last Submission to Record. Mr. X did not submit any additional evidence. See CSSD's Submission to Record dated October 9, 2013.

<sup>15</sup> Exh. 10 at pg. 4.

<sup>16</sup> Exh. 11.

<sup>17</sup> Exh. 12 at pg. 9.

<sup>18</sup> CSSD's October 9, 2013 Submission to Record at pg. 1.

<sup>19</sup> Exh. 13.

<sup>20</sup> CSSD's October 9, 2013 Submission to Record at pg. 1.

<sup>21</sup>  $\$513 + \$140.57 + \$53.26 = \$706.83$ .

<sup>22</sup> Attachment A.

she owes a current support obligation during the same time as the child in the case at issue. To give an obligor a deduction for arrears payments is merely giving him or her a credit for paying a past debt, not for actually supporting a prior child at the same time.

#### **IV. Conclusion**

Mr. X met his burden of proving by a preponderance of the evidence that CSSD's Amended Administrative Child Support and Medical Support Order was incorrect. The calculated child support amount has been adjusted slightly to reflect his most accurate payment figures for his prior children. Mr. X's 2013 and ongoing child support for U is now correctly calculated at \$403 per month, effective January 2013. The 2012 figure remains \$292 per month for the period from October 2012 through December 2012. These figures should be adopted, without variation under Civil Rule 90.3(c).

#### **V. Child Support Order**

- Mr. X is liable for child support for U in the amount of \$292 per month from October 2012 through December 2012; and \$403 per month, effective January 2013, and ongoing;
- All other provisions of the Amended Administrative Child Support and Medical Support Order dated July 9, 2013 remain in full force and effect.

DATED this 29<sup>th</sup> day of October, 2013.

*Signed*  
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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 18<sup>th</sup> day of November, 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.]