

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

In the Matter of:)	
)	OAH No. 13-1521-CSS
D D. N)	CSSD No. 001117996
_____)	

DECISION AND ORDER

I. Introduction

The obligor, D D. N, filed an appeal of a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on September 25, 2013. The obligee child is B, 12 years old. The other party is T G. A.

The formal hearing was held in three sessions and was completed on January 16, 2014. Mr. N appeared by telephone during each session; Ms. A appeared during one session of the hearing. Erinn Brian and Andrew Rawls, Child Support Specialists, represented CSSD. The hearing was recorded.

Based upon the record and after careful consideration, Mr. N's modified child support obligation is set at \$325 per month, effective July 1, 2013, and ongoing.

II. Facts

A. Procedural History

Mr. N's child support for B was set at \$503 per month in January 2005.¹ On June 21, 2013, Mr. N initiated a modification review of the order.² On June 28, 2013, CSSD sent the parties a Notice of Petition for Modification of Administrative Support Order.³ Mr. N provided income information.⁴ On September 25, 2013, CSSD issued a Modified Administrative Child Support and Medical Support Order that set Mr. N's modified child support at \$338 per month, effective July 1, 2013.⁵ Mr. N appealed on October 19, 2013.⁶

1 Exh. 1.
2 Exh. 2.
3 Exh. 3.
4 Exh. 4.
5 Exh. 5.
6 Exh. 6.

*B. Material Facts*⁷

Mr. N and Ms. A are the parents of B, born in November 2001. B has previously been living with Ms. A, but the custodian recently informed CSSD that the child was living with someone else.

Mr. N previously spent 12 years in the military and was discharged in December 2012. He was incarcerated from November 2012 through April 2013. Thereafter, he has been working part-time in a series of jobs in No Name. He worked for No Name in mid-2013, and in July 2013, he started working at the No Name Inn, where he still works two days per week. In addition, he was hired in December 2013 by No Name, LLC, as personal assistant to the director. He works two days per week and averages about 12-13 hours of work per week, for which he is paid \$20 per hour. Thus, he works four days per week and about 25 hours total.

Mr. N provided his 2013 paystubs, and CSSD also obtained income data for Mr. N from the Alaska Department of Labor and Workforce Development.⁸ CSSD used all of this information to determine Mr. N's total gross income for 2013 was \$21,919.14.⁹ That total income figure yields a child support amount of \$325 per month for one child.¹⁰

III. Discussion

Child support orders may be modified upon a showing of “good cause and material change in circumstances.”¹¹ 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. In 2005, CSSD set Mr. N's child support at \$503 per month for one child.¹² A new child support calculation \$75.45 more or less than the 2005 amount would be sufficient to modify Mr. N's child support obligation.¹³ After the modification was requested, CSSD calculated Mr. N's modified ongoing child support at \$338 per month for one child, which meets the presumption that a “material change in circumstances” has been shown.

⁷ The facts are taken from the obligor's hearing testimony, unless otherwise stated.

⁸ Exh. 8.

⁹ Exh. 9.

¹⁰ *Id.*

¹¹ AS 25.27.190(e).

¹² Exh. 1 at pg. 1.

¹³ $\$503 \times 15\% = \75.45

A modification is effective beginning the first of the month after the parties are served with notice that a modification has been requested.¹⁴ CSSD issued the notice in Mr. N's case on June 28, 2013, so any modification of his child support obligation would be effective as of July 1, 2013.¹⁵ As the person who filed the appeal, Mr. N has the burden of proving by a preponderance of the evidence that the Modified Administrative Child Support and Medical Support Order was incorrect.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," minus mandatory deductions such as taxes and Social Security. By combining Mr. N's paystubs and the online data available from the Alaska Department of Labor and Workforce Development, CSSD was able to determine that Mr. N's total gross income for 2013 was about \$21,919.14. When this income figure was inserted into CSSD's online child support calculator, it yielded a child support amount of \$325 per month for one child.¹⁷ Mr. N has not submitted any evidence that would refute this amount. CSSD's calculation should therefore be adopted.

IV. Conclusion

Mr. N's 2013 income has been determined, and from it, CSSD has calculated his modified child support for B at \$325 per month, effective July 1, 2013. This figure is based on Mr. N's actual income and it should be adopted.

V. Child Support Order

- Mr. N is liable for modified ongoing child support for B in the amount of \$325 per month, effective July 1, 2013;
- All other provisions of the Modified Administrative Child Support and Medical Support Order dated September 25, 2013 remain in full force and effect.

DATED this 18th day of February, 2014.

By: Signed _____
Kay L. Howard
Administrative Law Judge

¹⁴ 15 AAC 125.321(d).

¹⁵ Exh. 3.

¹⁶ 15 AAC 05.030(h); *see also* 2 AAC 64.290(e).

¹⁷ Exh. 9.

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 7th day of March, 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.]