

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

IN THE MATTER OF:

B L. Q

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OAH No. 13-1657-CSS
CSSD No. 001109412

DECISION AND ORDER

This matter arises out of an agency-initiated modification review brought about by the obligor's, B L. Q's, release from prison. The modification review resulted in a reduction in Mr. Q's monthly child support amount from \$216 set in 2005 to \$211 set October 14, 2013.¹ Mr. Q appealed, noting that he was paying support in several other cases. However, it was difficult to ascertain the exact basis for his appeal or the relief requested because Mr. Q did not participate in the hearing, thereby depriving him of the opportunity to clearly articulate the reasons for his appeal.² The custodian, L F. X, did not participate.

After issuing its October 14, 2013 Modified Administrative Child Support and Medical Support Order, the agency realized that the parties to this child support proceeding no longer reside in Alaska. Therefore, under the Uniform Interstate Family Support Act (UIFSA) and 15 AAC 125.316(b)(3), the review was in error because Alaska no longer had continuing exclusive jurisdiction over the 2005 support order, and thus had no jurisdiction to modify that order. As a result, the division moved to have the matter remanded.

A hearing was held on December 11, 2013. At that time the agency's motion to remand was considered. However, after hearing the agency's position and considering the matter further, it was agreed that the modification was issued in error for two reasons: lack of jurisdiction and lack of a material change in circumstances.

Child support orders may be modified upon a showing of "good cause and material change in circumstances."³ 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. The amount calculated does not come close

¹ Exh. 1, 4.

² As required by regulation, the record remained open for 10 days to provide Mr. Q with an opportunity to contact the Office of Administrative Hearings and request another hearing. 15 AAC 05.030(j).

³ AS 25.27.190(e).

to the 15% presumptive threshold. Therefore, regardless of the jurisdictional question, the order granting modification was in error.

Therefore, the Modified Administrative Child Support and Medical Support Order issued October 14, 2013 was issued in error and the Administrative Child Support and Medical Support Order issued on February 16, 2005 setting Mr. Q's child support at \$216 per month for one child remains in full force and effect pending action from another state with jurisdiction under UIFSA.

Child Support Order

1. CSSD's October 14, 2013 Modified Administrative Child Support and Medical Support Order is vacated;
2. CSSD's February 16, 2005 Administrative Child Support and Medical Support Order remains in full force and effect.

DATED this 27th day of December, 2013.

Signed

Rebecca L. Pauli
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 27th day of January, 2014.

By: *Signed*

Signature
Rebecca L. Pauli

Name
Administrative Law Judge

Title

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