

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
FROM THE COMMISSION OF REVENUE**

IN THE MATTER OF	)	
C R. Q	)	OAH No. 14-0078-CSS
_____	)	CSSD No. 001189585

**DECISION AND ORDER**

**I. Introduction**

This case is C R. Q's appeal of the Alaska administrative order establishing his child support obligation for his child, B. This order was issued by the Alaska Child Support Services Division on September 25, 2013.

Mr. Q requested a formal hearing. This request was referred to the Alaska Office of Administrative Hearings. Administrative Law Judge Mark T. Handley was assigned to conduct the formal hearing. The original February 4, 2014 hearing was continued to March 10, 2014 to give the Division's an opportunity to review the jurisdictional issues raised by the existence of a Colorado child support order covering two other children of the same relationship. The children's mother, F J, did not participate in either hearing. Russell Crisp, Child Support Services Specialists, represented the Division. The record closed on March 10, 2014.

At the continued hearing, the Division requested an order vacating the Division's establishment order because the Division determined that it could not modify the Colorado Court's child support order by adding the third child of the relationship, B. The Administrative Law Judge grants the Division's request.

**II. Facts**

Mr. Q and Ms. J were married and had two biological children, L and D. Mr. Q and Ms. J later divorced. In a Colorado Court order issued October 11, 2002, Ms. J was granted primary custody of L and D. In this order, Mr. Q's ongoing child support obligation for L and D was set at \$517 per month.<sup>1</sup>

B was adopted by Mr. Q and Ms. J on February 23, 2010.<sup>2</sup> Two petitions under the Uniform Interstate Family Support Act (UIFSA) were filed with the Division by the State of Colorado in with a cover letter dated June 19, 2013. One of these petitions asked the Division to

---

<sup>1</sup> Exhibit 1.  
<sup>2</sup> Exhibit 2.

enforce the Colorado court's child support order for Mr. Q and Ms. J's biological children, L and D. The other asked to modify that order or establish a new order to provide child support for B.<sup>3</sup> The Division began enforcement action on the Colorado court's child support order for L and D.<sup>4</sup> That action is not the subject of this appeal. The Division also initiated the establishment action for B which is the subject of this appeal.<sup>5</sup>

The Division issued an Administrative Child and Medical Support Order on September 25, 2013.<sup>6</sup> Mr. Q filed a request for an Administrative Review.<sup>7</sup>

The Division issued an Administrative Review Decision dated December 23, 2013, which simply upheld the Administrative Child and Medical Support Order.<sup>8</sup> This order set Mr. Q's ongoing child support obligation for B at \$314 per month effective October 1, 2013. The order also established arrears for B totaling \$4,396 going back to August of 2012.<sup>9</sup> Mr. Q asked for an administrative review of the Division's order. B moved to Alaska on December 20, 2013. The Division's Administrative Review Decision affirmed the order on December 23, 2013.

B and one of Mr. Q and Ms. J's two biological children are currently living with Mr. Q and his wife in Alaska. The other child lives with Ms. J in Colorado.

### **III. Discussion**

Mr. Q's appeal of the Administrative Medical and Child Support order that set Mr. Q's arrears and ongoing monthly child support obligation for his son B is based on his concern that he now has custody of two of his three children and is already ordered to pay child support to Ms. J for two of them.

At the hearing on February 4, 2014, the Division and Mr. Q agreed to continue the hearing so that the Division would have time to review the issue of whether the Division had the authority to effectively modify the existing Colorado court child support order for the two other

---

<sup>3</sup> Recording of Hearing & Exhibit 2.

<sup>4</sup> Recording of Hearing.

<sup>5</sup> Exhibit 4.

<sup>6</sup> Exhibit 4, page 1.

<sup>7</sup> Exhibit 6.

<sup>8</sup> Exhibit 8.

<sup>9</sup> See Exhibit 4, page 2. The arrears are set at \$4,396, but there is a typographical error in the order that lists August of 2013 as the date arrears start, instead of 2012. The Summary of Support Obligation at Exhibit 4, page 10 uses the correct date of August of 2012.

children of this relationship through an administrative child support order establishing child support for B. A notice was issued rescheduling the hearing and explaining this issue. This notice was sent to both parents and the Division.

Ms. J was not available at her phone number of record at the times set for the hearings and did not respond to the messages left for her.<sup>10</sup> At the second hearing the Division explained that it had sought legal advice and determined that it should request that its child support order for B be vacated.

Mr. Q agreed with the Division's request and explained that he plans to work with his attorney to ask the Colorado court to modify both the custody and child support orders that it has issued for the two children of this relationship to also cover B, and to account for the change to divided custody that has taken place since those orders were issued.

Alaska Regulation 15 AAC 125.340(c)(3) directs the Division to send a notice of petition of modification in cases where support an additional child of the same relationship is being established when there is already an existing order for other children of the relationship. The Division may not modify an existing court order for child support issued in another state through an administrative child support order.<sup>11</sup> This is a UIFSA case. UIFSA allows only one effective child support order to exist at a time. UIFSA accomplishes this by giving the state that issues a child support order continuing and exclusive jurisdiction over a child support order that the state initiates for as long as the state remains the residence of the obligor, the individual obligee, or one the child for whose benefit the support order is issued.<sup>12</sup>

Ms. J currently lives in Colorado. The parents are currently exercising divided custody of their three children, with B and another child living with Mr. Q. Alaska Civil Rule 90.3(b)(2) requires that all the children of the parent's relationship be taken into account when calculating the child support obligation. Setting support in accordance with current custody situation and the rule would therefore require a modification of the existing court order. The Division correctly concluded that this could not be done through the administrative establishment action for B that

---

<sup>10</sup> Ms. J contacted the Office of Administrative hearings before the hearing requesting that it be rescheduled, but was not available at her phone number of record at the time set for the hearing to put her request on the record and give the other parties an opportunity to respond.

<sup>11</sup> *State, Dept. of Revenue, Child Support Enforcement Div. v. Dunning*, 907 P.2d 1, 7 (Alaska 1995).

<sup>12</sup> *State, Child Support Enforcement Div. v. Bromley*, 987 P.2d 183, 188-89 (Alaska 1999).

is the subject of this appeal.

**IV. Conclusion**

Mr. Q's Alaska administrative child support order for B should be vacated because a Colorado Court child support order has already been established for two of the children of this relationship and the Division does not have the authority to modify that order by adding B through an administrative establishment action.

**V. Child Support Order**

The Division's Administrative Child Support and Medical Support Order issued on September 25, 2013 and the Administrative Review Decision affirming that order are vacated. DATED this 12<sup>th</sup> day of March, 2014.

By: Signed  
Mark T. Handley  
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 2<sup>nd</sup> day of April, 2014.

By: Signed  
Signature  
Mark T. Handley  
Name  
Administrative Law Judge  
Title

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