

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

In the Matter of:)	
)	OAH No. 14-0297-CSS
K R. J)	CSSD No. 001059430
_____)	

DECISION AND ORDER

I. Introduction

The custodian, H R. M, appealed a Modified Administrative Child Support and Medical Support Order that CSSD issued in Mr. J's case on January 30, 2014. The obligee child is Z, who turned eighteen in March 2014.

A hearing was held on March 17, 2014. Both Mr. J and Ms. M appeared by telephone. James Pendergraft, Child Support Specialist, represented CSSD.

Based on the evidence in the record, Mr. J's child support is modified to \$662 per month, effective October 1, 2013. Since Z graduated from high school in 2013 and reached the age of eighteen years in March 2014, Mr. J's ongoing obligation to support Z through CSSD is suspended effective April 1, 2014.

II. Facts

A. Procedural History

Mr. J's child support for Z was set at \$531 per month in February 2013.¹ On September 13, 2013, Mr. J requested a modification.² On September 19, 2013, CSSD sent the parties a Notice of Petition for Modification of Administrative Support Order.³ Mr. J did not provide income information, so on January 30, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order that did not change Mr. J's child support from the \$531 previously ordered.⁴ Rather, the modification order simply added a visitation credit in the event Mr. J should ever exercise visitation with Z in excess of 27 consecutive days.⁵ Ms. M appealed on February 26, 2013.⁶

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

B. Material Facts

Mr. J was formerly a driller on an oil rig in north Texas, where he was earning \$27 per hour. The contract under which he was employed was completed, so he got laid off and in September 2013, started working as a roustabout with a pay rate of \$17 per hour. Mr. J's 2013 income totaled \$49,202.00, minus the PFD.⁷ Mr. J is not an Alaska resident, so he is not entitled to the dividend.⁸ CSSD used the total income figure to calculate his child support obligation for 2013 at \$662 per month.⁹

Mr. J has an older child named T who turned nineteen years of age in March 2013 and graduated from high school in the spring of 2013. Thus, Mr. J's deduction for paying support for a prior child ended upon T's graduation, which occurred prior to the effective date of this modification.

Z, the child in this case, graduated from high school in 2013 and reached the age of eighteen years in March 2014. On that basis, Mr. J's ongoing obligation to support Z through CSSD ended, and should be suspended, effective April 1, 2014.

III. Discussion

A. Applicable Law

Child support orders may be modified upon a showing of "good cause and material change in circumstances."¹⁰ 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. Mr. J's child support was previously set at \$531 per month. Thus, a child support calculation of \$610.65 or more would be sufficient to warrant modification in this case.¹¹

A modification is effective beginning the first of the next month after CSSD issues a notice to the parties that a modification has been requested.¹² In this case, the notice was issued on September 19, 2013, so a modification would be effective as of October 1, 2013.¹³ In a child support matter, the person who files the appeal has the burden of proving that the division's

⁷ Exhs. 8 & 9.

⁸ See AS 43.23.005(a)(2).

⁹ Exh. 11. CSSD also prepared a calculation that included a deduction for paying support for a prior child, but Mr. J is no longer entitled to that deduction.

¹⁰ AS 25.27.190(e).

¹¹ \$531 x 1.15 = \$610.65.

¹² 15 AAC 125.321(d).

¹³ Exh. 3.

order was issued in error.¹⁴ Ms. M filed the appeal, so she must prove by a preponderance of the evidence that the Modified Administrative Child Support and Medical Support Order was incorrect.¹⁵

B. Deduction for Child of Prior Relationship

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. In this case, CSSD calculated Mr. J's modified child support at \$662 per month for one child, based on his actual 2013 income of \$49,212.00, minus the PFD.¹⁶

Civil Rule 90.3(a)(1)(C) states that an obligor parent is entitled to an additional deduction from income for "child support . . . payments arising from prior relationships which are required by other court or administrative proceedings and actually paid" Mr. J was previously entitled to this deduction for paying support for his older child, T. However, T turned nineteen years of age in March 2013 and also graduated from high school in the spring of 2013, so Mr. J's obligation to provide support for T ended upon T's graduation.¹⁷ Thus, the obligor was no longer entitled to the deduction for supporting a prior child when this modification became effective in October 2013.

Mr. J's modified child support is now correctly calculated.

IV. Conclusion

Ms. M met her burden of proving that the Modified Administrative Child Support and Medical Support Order was incorrect. Mr. J's child support is now correctly calculated, based on his actual 2013 income and the figure should be adopted. This amount was calculated pursuant to Civil Rule 90.3, without variance under Civil Rule 90.3(c), and should be adopted.

V. Child Support Order

- Mr. J is liable for modified ongoing child support for Z in the amount of \$596 per month, effective October 1, 2013, and ongoing;
- Z graduated from high school in 2013 and reached the age of eighteen years in March 2014, so Mr. J's ongoing obligation to support Z through CSSD ended, and is suspended, effective April 1, 2014;

¹⁴ 15 AAC 05.030(h).

¹⁵ 2 AAC 64.290(e).

¹⁶ Exh. 5 at pg. 8.

¹⁷ See AS 25.27.061.

- All other provisions of CSSD's Modified Administrative Child Support and Medical Support Order dated January 30, 2014 remain in full force and effect.

DATED this 24th day of April, 2014.

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 12th day of May, 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.]