

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

In the Matter of:)	
)	OAH No. 14-0450 -CSS
D R. X)	CSSD No. 001141464
_____)	

DECISION AND ORDER

I. Introduction

The custodian, L X, appealed a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD). The obligee children are G and C. The obligor parent is D X.

A hearing was scheduled for April 15, 2014. Ms. X was called at the telephone number she listed on her appeal form. She was not available at that number, and she did not appear in person. A voice message was left for Ms. X instructing her to contact the Office of Administrative Hearings if she wished to reschedule her hearing. CSSD did not have current contact information for Mr. X, so there was no attempt to call him.¹

Because Ms. X did not appear for the hearing, she has not met her burden of proving that CSSD's decision was incorrect.

II. Facts

An Administrative Child Support and Medical Support Order was issued by CSSD on April 7, 2006, setting Mr. X's child support obligation at \$279 per month for one child, G.² A Notice of Adding a Child was issued on January 2, 2014.³ The Modified Administrative Child Support and Medical Support Order was issued on February 4, 2014. This order set Mr. X's child support at \$524 per month for two children.⁴ Ms. X appealed that order, stating that she did not want CSSD to collect support from Mr. X, and that they shared custody of the children.⁵

¹ Both parents were notified of the hearing by certified mail. The hearing notice states that each party should contact OAH in advance to provide a telephone number at which he or she may be contacted for the hearing.

² Exhibit 1.

³ Exhibit 2.

⁴ Exhibit 4. C was added to the support order.

⁵ Exhibit 5.

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.⁶ 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." Child support orders may be modified upon a showing of "good cause and material change in circumstances."⁷ 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. If the 15% change has not been met, CSSD may modify the child support obligation, but is not required to do so. A modification is effective beginning the month after the parties are served with notice that a modification has been requested.⁸

Similarly, CSSD is allowed to modify an existing support order to add a child. This may be done at the request of a parent or an enforcement agency of another state.⁹ The additional child may also be added if the child is receiving public assistance or medical assistance.¹⁰

Finally, the person appealing CSSD's decision has the burden of demonstrating that the decision is incorrect.¹¹

Regardless of whether CSSD is actually collecting child support from the obligor, the obligor does owe support. CSSD has the authority to set the amount of that support. As noted in CSSD's prehearing brief, Ms. X has the option of not using CSSD's services. She can instruct CSSD not to collect any money from Mr. X. She also has the option of informing CSSD that any arrears that may have accrued have been fully satisfied by Mr. X. Finally, since she notes they have shared custody, either parent could ask that the ongoing support obligation be modified to reflect that custody arrangement. In the absence of any action by one or both parents, however, Mr. X's support obligation will continue to accrue arrears until the children both turn 18 and are not attending high school.

Ms. X did not appear for the hearing.

If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless the person,

⁶ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

⁷ AS 25.27.190(e).

⁸ 15 AAC 125.321(d).

⁹ 15 AAC 125.340(a)(1).

¹⁰ 15 AAC 125.340(a)(2). Ms. X noted in her appeal that she had applied for Denali Kid Care for C.

¹¹ 15 AAC 05.030(h).

within 10 days after the date scheduled for hearing, shows reasonable cause for failure to appear.^[12]

It has been more than ten days since the date of the hearing, and Ms. X has not shown reasonable cause for failing to appear. She has the burden of proving any factual errors in CSSD's decision. She has not presented admissible evidence to show any error. Nor has she made any legal argument that CSSD was not authorized to issue its order.

IV. Conclusion

CSSD correctly added one child to the existing child support order. It also correctly set Mr. X's support obligation at \$388 per month for one child, and \$544 per month for two children.

This child support calculation was made pursuant to the guidelines in Civil Rule 90.3.

V. Child Support Order

All provisions of the February 4, 2014 Modified Administrative Child Support and Medical Support order remain in effect.

DATED this 29th day of April, 2014.

Signed _____
Jeffrey A. Friedman
Administrative Law Judge

¹² 15 AAC.05.030(j).

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 16th day of May, 2014.

By: Signed
Signature
Jeffrey A. Friedman
Name
Administrative Law Judge
Title

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