

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

In the Matter of:)	
)	OAH No. 14-0614-CSS
U E. S)	CSSD No. 001117892
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DECISION AND ORDER

I. Introduction

The obligor, U E. S, appealed a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on March 19, 2014. The obligee child is D, 16 years old. The custodian is J B. J.

The hearing was held on May 12, 2014. Mr. S could not be reached, so he did not participate. Ms. J appeared by telephone. Russell Crisp, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record as a whole and after careful consideration, the Modified Administrative Child Support and Medical Support Order dated March 19, 2014 is affirmed. Mr. S's child support is modified to \$444 per month for one child, effective February 1, 2014.

II. Facts

A. Procedural History

Mr. S's support obligation for D was set at \$564 per month in December 2003.¹ On January 3, 2014, Mr. S requested a modification review.² On January 6, 2014, CSSD issued a Notice of Petition for Modification of Administrative Support Order to the parties.³ Mr. S did not provide financial information. On March 19, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order that lowered his child support to \$444 per month, effective February 1, 2014.⁴ He appealed on April 11, 2014.⁵ Prior to the hearing, CSSD filed an affidavit of Mr. S's earnings history obtained from the Department of Labor.⁶

¹ Exh. 1.
² Exh. 2.
³ Exh. 3.
⁴ Exh. 4.
⁵ Exh. 5.
⁶ Exh. 7.

On April 24, 2014, the Office of Administrative Hearings (OAH) sent both parties a notice of the date and time for the hearing by certified mail to each person's last-known address. Ms. J's notice was not returned, and she appeared at the hearing. Mr. S's notice was signed for and returned, but the OAH file indicates his notice was actually signed by Ms. J. She could not remember signing it for him or telling him about the hearing. At the beginning of the hearing, a call was placed to Mr. S's telephone number of record. It went unanswered, so a voicemail message was left for him to call the OAH. As of the date of this decision, Mr. S has not returned the telephone message. Had he contacted the OAH and requested another hearing, his request would have been granted. Since Mr. S had actual notice by virtue of the voicemail message left for him at the beginning of the hearing, service on him was found to be effective and the hearing was conducted without his participation.

III. Discussion

Mr. S filed an appeal and requested a formal hearing, but he failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a child support decision if the requesting party fails to appear.

Child support orders may be modified upon a showing of "good cause and material change in circumstances." 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. S's child support has been \$564 per month since 2003. Thus, a child support calculation \$84.60 higher or lower than the previous amount would be sufficient to warrant modification in his case.

A modification is effective beginning the first of the month after the parties are served with notice that a modification has been requested. CSSD issued the notice in Mr. S's case on January 6, 2014, so a modification would be effective as of February 1, 2014. CSSD correctly indicated that effective date in its modification order.

Mr. S did not provide his income information, as requested by CSSD for the modification. He appealed CSSD's Modified Administrative Child Support and Medical Support Order and attached copies of medical records from 2011 to his appeal request, but he did not appear at the hearing to present testimony on that evidence or to explain his current circumstances.

CSSD learned from Mr. S's labor data that he previously earned \$15 per hour.⁷ The agency used that income information to estimate an annual income figure of \$31,200.⁸ With the addition of the PFD of \$900, this equals total annual income of \$32,100. Inserting this income figure into CSSD's online child support calculator yields a child support amount of \$444 per month for one child.

Mr. S claimed that the modified child support amount CSSD calculated is incorrect, but he did not provide sufficient evidence or appear to explain his current circumstances and the medical documents he filed. Thus, Mr. S has not met his burden of proving that CSSD's Modified Administrative Child Support and Medical Support Order is incorrect.

IV. Conclusion

Mr. S did not appear at the hearing or provide sufficient evidence. As a result, he did not meet his burden of proving by a preponderance of the evidence that CSSD's Modified Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h). Therefore, CSSD's order should be affirmed. There was no variation requested or granted under Civil Rule 90.3(c).

V. Child Support Order

- The Modified Administrative Child Support and Medical Support Order dated March 19, 2014 is affirmed;
- Mr. S is liable for modified ongoing child support for D in the amount of \$444 per month, effective February 1, 2014.

DATED this 11th day of July, 2014.

Signed

Kay L. Howard
Administrative Law Judge

⁷ See Submission to Record dated May 12, 2014.

⁸ Exh. 4 at pg. 8.

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 28th day of July, 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.]