

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

IN THE MATTER OF:)	
)	OAH No. 14-0741-CSS
D T. X)	CSSD No. 001190498
_____)	

DECISION AND ORDER

I. Introduction

The obligor, D T. X, appealed a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued on April 12, 2014. This order added the child B and increased Mr. X’s monthly support obligation to \$1,217 per month for two children as of February, 2014. The custodian is B D. J. The obligee children are U and B. The obligor appeared in person. The custodian was unavailable for the second hearing.¹ Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, Mr. X is liable for support in the amount of \$1,377 per month for two children effective February, 2014 and ongoing. Ongoing support is suspended as of February 1, 2014 because Mr. X has established by a preponderance of the evidence that he has been the primary custodian of the children prior to February, 2014 and remains their primary custodian. In the event Mr. X becomes liable for ongoing support again in the future, CSSD may begin charging him \$1,377 per month immediately, subject to future modification.

II. Facts

Mr. X and Ms. J have two children, U and B. Mr. X has had an order to pay support for U in the amount of \$614 effective February, 2013²

By notice dated February 27, 2014, CSSD initiated an “add-a-kid” modification to add B to the order for U.³ On April 12, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order adding B and increasing Mr. X’s child support. CSSD calculated the child support using a hybrid calculation. Subsequently, on April 30, 2014, CSSD received a

¹ A telephone call placed to Ms. J’s contact number and a voicemail message was left for her.
² Exh. 1.
³ Exh. 4.

letter from Mr. X and Ms. J informing CSSD that Mr. X has primary custody of the children and that Ms. J was withdrawing from support services.⁴

On May 2, 2014, Mr. X appealed the April 12, 2014 order increasing his child support because he has custody of the children.⁵

III. Discussion

Mr. X filed this appeal and requested a formal hearing. As the person who requested the hearing, Mr. X has the burden of proving by a preponderance of the evidence that CSSD's modification order is incorrect.⁶

Child support orders may be modified upon a showing of "good cause and material change in circumstances."⁷ Adding other children to a child support order is a material change in circumstance.⁸ In this case, CSSD has modified Mr. X's child support for the purpose of adding B to his previous order for U.

CSSD calculated Mr. X's modified support amount using his employer reported earnings and the permanent fund dividend. This calculation resulted in a \$1,509 monthly child support payment for two children before a hybrid calculation was performed. However, this calculation overstated his child support obligation.

Through the hearing process, Mr. U and CSSD presented evidence that his annual earnings would, more likely than not, be \$89,640.77. Mr. X provided evidence that he contributed \$373.50 per month to a 401(k) retirement plan and pays union dues, which averages \$150 per month. As set forth in Attachment A, this amount results in a \$1,377 monthly child support obligation for two children. CSSD agrees that, using the evidence developed at hearing, this is an accurate amount which best reflects Mr. X's support obligation under a primary custody arrangement. CSSD also agrees that Mr. X has been the primary custodian of the children since February 2014 and asks that his support obligation be suspended effective February 2014.

⁴ Exh. 6
⁵ Exh. 8.
⁶ 15 AAC 05.030(h).
⁷ AS 25.27.190(e).
⁸ See 15 AAC 125.321(b)(2)(B).

Effective January 2014, his child support should increase to \$1,377 per month. This amount reflects his actual earning capacity and allowable deductions. Ongoing support is suspended effective February 1, 2014 because Mr. X has had primary custody on or before that date. Should the custodial arrangement change and Mr. X become liable for ongoing support again in the future, CSSD shall base the amount of support owing on a monthly child support obligation in the amount of \$1,377 per month immediately, subject to future modification.

IV. Conclusion

Mr. X met his burden of proving by a preponderance of the evidence that CSSD's April 12, 2014 Modified Administrative Child and Medical Support Order was incorrect.

Mr. X is liable for support for two children from February 2014 forward. The record supports the conclusion that Mr. William's child support effective February 2014 should be \$1,377. However, his support should be suspended effective February 1, 2014 because Mr. X is the primary custodian of the children.

V. Child Support Order

- Mr. X's ongoing child support obligation for U and B is \$1,377 effective February 1, 2014, and ongoing.
- Support owing under this order is suspended while Mr. X lives in the same home as his children. Should Mr. X no longer be the primary custodian of the children and Mr. X become liable for ongoing support again in the future, CSSD may begin charging him \$1,377 per month immediately, subject to future modification.
- All other provisions of the Modified Administrative Child Support and Medical Support Order dated April 12, 2014 remain in full force and effect.

DATED this 2nd day of June, 2014.

By: 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 20th day of June, 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.]