

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

In the matter of:)	
)	OAH No. 14-0922-CSS
D N. N)	CSSD No. 001142629
_____)	

DECISION AND ORDER

I. Introduction

This case involves obligor D N. N's appeal of the Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on March 20, 2014. This order increased his monthly child support obligation for one child from \$497 to \$957 effective February 1, 2014. The custodian is U L. G, and the obligee child is L, age 8.

On June 6, 2014, the Alaska Superior Court entered an Order Modifying Child Support effective April 1, 2014. The court's order set Mr. N's child support at \$932 per month for one child. As a practical matter, the timing of the court's order limits the scope of this proceeding to two months, February and March of 2014.

A formal hearing was held at Mr. N's request on June 26, 2014. Ms. G and CSSD representative James W. Pendergraft participated by telephone. Mr. N was called at the appointed time, but there was no answer.¹ The record closed July 7, 2014.² On the record presented, CSSD correctly calculated Mr. N's Modified Administrative Child Support and Medical Support Order, and it should be adopted.

II. Facts

Ms. G and Mr. N have one child, L. Ms. G requested CSSD modify the parties' Administrative Child Support and Medical Support Order dated March 11, 2009.³ CSSD sent Ms. G and Mr. N notice of the request for modification on January 14, 2014. In response to the

¹ "A current mailing address must be provided to the department with the request for appeal, and any change in mailing address after the request for appeal is filed must be reported to the department immediately. If the department mails a document by registered or certified mail, service is effective if the mailing is addressed to the latest address provided to the department." 15 AAC 05.010. The Notice of Telephonic Hearing was delivered using certified return receipt mail. Delivery of the certified notice was accepted June 7, 2014. Mr. N received notice and the hearing proceeded in his absence.

² As required by regulation, the record remained open for 10 days to provide Mr. N with an opportunity to show reasonable cause for his failure to participate. 15 AAC 05.030(j). The record closed without his further participation.

³ Exhibits 1, 2.

notice, Mr. N provided his earning information from December 2013 through mid-March 2014.⁴ Using this information, CSSD calculated Mr. N's total gross income for purposes of child support at \$75,556.24, which resulted in a \$957 monthly child support obligation effective February 1, 2014.⁵

The day of the hearing, CSSD filed a June 6, 2014 Order Modifying Child Support issued by the Superior Court in *G v. N*, 3AN-09-00000CI.⁶ The court order modified the 2009 support order, and modified ongoing support at \$932 per month, effective April 1, 2014.

III. Discussion

The person who filed the appeal, in this case, Mr. N, has the burden of proving by a preponderance of the evidence that CSSD's support order is incorrect.⁷ A parent is obligated both by statute and at common law to support his or her children.⁸ Child support determinations calculated under Civil Rule 90.3 from an obligor's actual income figures are presumed to be correct. The obligor has the burden of proving his or her earning capacity.⁹

At issue are two months of child support: February and March 2014. Mr. N filed his appeal in May, 2014. He argued that the amount of support was too high. Other than his statement on appeal, he presented no additional evidence. CSSD calculated his support obligation using actual income figures, so it is presumed to be correct. Mr. N failed to appear and present any evidence that would establish the calculated child support amount is incorrect. Thus, in the absence of persuasive evidence to the contrary, CSSD correctly calculated his Modified Administrative Child Support and Medical Support Order at \$957 per month, and that amount should be adopted.

IV. Conclusion

CSSD's March 20, 2014 Modified Administrative Child Support and Medical Support Order should be affirmed. There was no variance under Civil Rule 90.3(c) requested or granted in this appeal.

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⁴ Exhibit 5.

⁵ Exhibit 6 p. 6.

⁶ Exhibit 10.

⁷ 15 AAC 05.030(h).

⁸ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

⁹ *Kowalski v. Kowalski*, 806 P.2d 1368, 1372 (Alaska 1991).

V. Order

- CSSD’s March 20, 2014 Modified Administrative Child Support and Medical Support Order is affirmed;
- Mr. N’s child support is modified to \$957 per month, effective February 1, 2014;
- Ongoing support as of April 1, 2014 has been addressed by Superior Court.

DATED this 22nd day of July, 2014.

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 8th day of August, 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.]