

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

In the Matter of:)
)
K A. F) OAH No. 14-0927-CSS
) CSSD No. 001109165
_____)

DECISION AND ORDER

I. Introduction

K A. F appealed a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on April 9, 2014. The obligee child is J, 14 years of age. The custodian is D E. D.

The hearing was held on June 24, 2014. All of the parties participated by telephone, including Russell Crisp, Child Support Specialist, for CSSD. The hearing was recorded.

Based on the evidence and after careful consideration, Mr. F's child support obligation for J is modified to \$1,099 per month, effective March 1, 2014.

II. Facts

A. Procedural History

Mr. F's child support obligation for J was set at \$834 per month in 2008.¹ On January 31, 2014, Ms. D requested a modification review.² On February 11, 2014, CSSD issued a Notice of Petition for Modification of Administrative Support Order.³ On April 9, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order that increased Mr. F's child support to \$1,016 per month, effective March 1, 2014.⁴ Mr. F appealed on May 12, 2014.⁵

B. Material Facts

Mr. F is employed by the No Name. In 2013, his employer reported to the Alaska Department of Labor and Workforce Development (DOL) that Mr. F's earnings were \$79,934.04.⁶ During the first quarter of 2014, his earnings were reported to the DOL to be

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

\$18,536.52.⁷ Mr. F pays \$216.67 per month into a voluntary retirement fund in addition to the mandatory deduction listed on his paystubs.

After the hearing, Mr. F submitted his most recent paystubs that showed his income through June 27, 2014 totaled \$50,772.80.⁸ Since that date equals about one half of the year, CSSD doubled the income amount to arrive at an estimated total annual income figure for 2014 of \$101,545.60.⁹ When this figure is inserted into CSSD's online child support calculator,¹⁰ it results in a child support amount of \$1,099 per month.¹¹ This figure includes all of Mr. F's allowable deductions, including his voluntary retirement deduction.

Mr. F also pays medical insurance premiums for J. He requested that they be deducted from his income for the child support calculation, but he was informed his caseworker would make the appropriate adjustment after his child support amount was set.

III. Discussion

Child support orders may be modified upon a showing of "good cause and material change in circumstances."¹² 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. F's child support has been \$834 per month since 2008. Thus, a child support calculation of \$959.10 or higher would be sufficient to warrant modification in this case.¹³

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.¹⁴ In this case, the notice was issued on February 11, 2014, so any modification of Mr. F's child support obligation for J would be effective as of March 1, 2014.¹⁵

In a child support matter, the person who files the appeal has the burden of proving that CSSD's order was incorrect.¹⁶ Mr. F filed the appeal, so he must prove by a preponderance of

⁷ *Id.*
⁸ Exh. 9 at pg. 16.
⁹ Exh. 10.
¹⁰ <https://webapp.state.ak.us/cssd/guidelinecalc/form>.
¹¹ *Id.*
¹² AS 25.27.190(e).
¹³ \$834 x 1.15 = \$959.10.
¹⁴ 15 AAC 125.321(d).
¹⁵ *See* Exh. 4.
¹⁶ 15 AAC 05.030(h).

the evidence that the Modified Administrative Child Support and Medical Support Order dated April 9, 2014 is incorrect.¹⁷

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. CSSD estimated Mr. F's total annual income for 2014 at \$101,545.60, based on the half-year earnings he had received through June 27, 2014.¹⁸ The resulting child support amount of \$1,099 per month takes into consideration his mandatory deductions such as federal income taxes and mandatory retirement contributions, as well as a voluntary retirement contribution he makes every pay period. Based on the evidence provided, CSSD's calculation of Mr. F's modified child support obligation is correct.

IV. Conclusion

Mr. F met his burden of proving by a preponderance of the evidence that the Modified Administrative Child Support and Medical Support Order dated April 9, 2014 is incorrect. However, as a result of his appeal, Mr. F's child support is now correctly calculated somewhat higher than the amount he appealed. The calculated amount of \$1,099 per month should be adopted. There was no variance requested or granted under Civil Rule 90.3(c).

V. Child Support Order

- Mr. F's child support obligation for J is modified to \$1,099 per month, effective March 1, 2014;
- All other provisions of the Modified Administrative Child Support and Medical Support Order dated April 9, 2014, remain in full force and effect.

DATED this 30th day of July, 2014.

Signed

Kay L. Howard
Administrative Law Judge

¹⁷ 2 AAC 64.290(e).

¹⁸ This income figure is significantly higher than the total income of \$79,934.04 Mr. F received in 2013. *See* Exh. 7 at pg. 1. However, that year he earned only about \$40,000 in the first half of the year, which is \$10,000 less than he received during the same period in 2014.

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 18th day of August, 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.]