

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

In the Matter of:)

D L. S III)

OAH No. 14-0930-CSS

CSSD No. 001194213

DECISION AND ORDER

I. Introduction

The obligor, D L. S III, appeals an Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued on April 28, 2014. The obligee child is D, 1 year old. The custodial parent is U L. H.

The formal hearing was held on June 24, 2014, and a supplemental hearing was held on July 2, 2014. Mr. S participated in the first hearing by telephone, but he did not appear for the supplemental hearing. Ms. H could not be reached for the first hearing and thus did not participate.¹ Russell Crisp, Child Support Specialist, represented CSSD.

Based on all the evidence, Mr. S's child support for D is set at \$496 per month for September 2013 through December 2013; and \$479 per month, effective January 2014, and ongoing.

II. Facts

CSSD received an application for child support services from Ms. H's state of residence in September 2013.² CSSD initiated Mr. S's child support obligation and established his paternity of D on February 12, 2014.³ CSSD issued an administrative child support order on March 10, 2014.⁴ Mr. S requested an administrative review.⁵ On April 28, 2014, CSSD issued an Amended Administrative Child Support and Medical Support Order that set Mr. S's ongoing

¹ Mr. S did not answer a call placed to his telephone number at the time of the hearing. A message was left for him to contact the Office of Administrative Hearings (OAH), but he has not returned the call.

² Exh. 7 at pg. 11.

³ Exh. 2.

⁴ Exh. 3.

⁵ Exh. 5.

child support at \$550 per month, with arrears of \$4,480 from September 2013 through April 2014.⁶ Mr. S appealed on May 14, 2014, stating that he pays into a retirement account.⁷

Mr. S has worked for the No Name for several years. Information received by the Alaska Department of Labor and Workforce Development indicates that Mr. S received \$67,217.25 in 2013.⁸

After the hearing, Mr. S provided his year-end 2013 paystub and current paystubs showing his hourly wage. CSSD prepared revised calculations in the amount of \$496 per month for 2013 and \$479 per month for 2014.⁹ The calculations utilized Mr. S's actual 2013 and 2014 income and included his retirement contribution and union dues. In addition, the calculations incorporated a deduction for supporting a prior child in the home.

A supplemental hearing was calendared for July 2, 2014, but Mr. S did not appear. A notice was issued stating that CSSD's calculations would be adopted unless one or both of the parties filed an objection no later than August 15, 2014. Neither party filed a response.

III. Discussion

Mr. S filed an appeal and requested a formal hearing. He has the burden of proving by a preponderance of the evidence that CSSD's calculations are incorrect.¹⁰

A parent is obligated both by statute and at common law to support his or her children.¹¹ In cases established by CSSD, the agency collects support from the date the custodial parent requested child support services, or the date public assistance or foster care was initiated on behalf of the child.¹² CSSD received an application for services from Ms. H's home state in September 2013, so that is the month Mr. S's obligation to support his child through CSSD should begin.¹³ CSSD correctly began charging him with support as of September 2013.

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 calculated Mr. S's child support at \$496 per month for 2013 and

⁶ Exh. 6.

⁷ Exh. 7.

⁸ Exh. 9.

⁹ See Exhs. 12-13.

¹⁰ 15 AAC 05.030(h).

¹¹ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

¹² 15 AAC 125.105(a)(1)-(2).

¹³ See Exh. 4 at pg. 11

\$479 per month for 2014.¹⁴ These amounts are correct because they are based on his actual income, minus mandatory deductions, and they include deductions for union dues and retirement, in addition to a deduction for supporting a prior child in the home.

Neither party filed a response to the notice giving them until August 15, 2014 to object to CSSD's revised calculations. Thus, in the absence of any additional evidence, CSSD's revised calculations should be adopted.

IV. Conclusion

Mr. S met his burden of proving that the Amended Administrative Child Support and Medical Support Order issued on April 28, 2014 is incorrect, as required by 15 AAC 05.030(h). CSSD correctly revised his child support calculations at \$496 per month for September 2013 through December 2013; and \$479 per month for January 2014, and ongoing. Therefore, these calculations should be adopted. No variance under Civil Rule 90.3(c) has been requested or granted.

V. Child Support Order

- Mr. S is liable for child support for D in the amount of \$496 per month for September 2013 through December 2013; and \$479 per month for January 2014, and ongoing;
- All other provisions of the Amended Administrative Child and Medical Support Order dated April 28, 2014 remain in full force and effect.

DATED this 3rd day of September, 2014.

Signed

Kay L. Howard
Administrative Law Judge

¹⁴ Exhs. 12-13.

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 22nd day of September, 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.]