

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

In the Matter of:	)	
	)	
N E. S	)	OAH No. 14-0985-CSS
_____	)	CSSD No. 001139201

**DECISION AND ORDER**

**I. Introduction**

This case concerns the obligation of N E. S for the support of his daughter, G. The custodian of record is M A. B.

On July 8, 2008, the Child Support Services division issued an administrative support order setting support at \$488 per month.<sup>1</sup> On May 10, 2011 the division issued a modified order setting support at \$665 per month.<sup>2</sup> In response to a petition for modification, the division declined to change the amount of support, on the ground that the support obligation had not changed by at least 15%.<sup>3</sup> However, on June 5, 2014, the division issued a modified order adding a credit for extended visitation.<sup>4</sup> Ms. B filed an appeal and requested an administrative hearing.

The assigned administrative law judge conducted a telephonic hearing on July 7, 2014. Mr. S was not available at his telephone number of record and did not participate. Ms. B participated. Russell Crisp represented the division.

The record does not include evidence that Mr. S's income has changed by more than 15% since the prior order was issued. Accordingly, the modified support order dated June 5, 2014 is affirmed.

**II. Facts**

N E. S is employed by the City of Alaska as a heavy equipment operator.<sup>5</sup> In 2012 his total income was \$48,770, consisting of wages (\$47,523), corporate dividends (\$369), and his Alaska Permanent Fund dividend (\$878).<sup>6</sup> In 2013 his total income was

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<sup>1</sup> Exhibit 1, pp.1, 5.

<sup>2</sup> Exhibit 1.

<sup>3</sup> Exhibit 9, Exhibit 10.

<sup>4</sup> Exhibit 6. A credit for extended visitation applies when the obligor parent has visitation in excess of 27 days. See Civil Rule 90.3(a)(3).

<sup>5</sup> Exhibit 4, p. 15

<sup>6</sup> Exhibit 4, p. 10.

\$47,572, consisting of wages (\$46,509), corporate dividends (\$163), and his Alaska Permanent Fund dividend (\$900). Mr. S is paid about \$26.07 per hour and in 2014 will earn estimated wages of \$46,534.<sup>7</sup>

### **III. Discussion**

For one child, a parent's presumptive support obligation is 20% of that parent's adjusted annual income,<sup>8</sup> that is, total income after allowable deductions.<sup>9</sup> When the child support obligation changes by an amount greater than 15% of the existing order, a material change of circumstances is presumed and the existing order may be modified.<sup>10</sup> A support order that is at least three years old may be modified even if the obligor's income has not changed by 15% or more.<sup>11</sup>

In this case, Mr. S submitted his 2012-2013 tax returns, as well as copies of his 2014 paystubs through April 30. Based on the information contained in those documents, his income has not substantially changed from what it was when the prior order was issued in 2011. At the hearing in this matter, Ms. B asserted that Mr. S has received corporate dividends. The record was held open for the division to investigate that issue. The division subsequently filed a notice stating that "[a]ccording to information available, No Name paid out a total of \$110 per share in 2013."<sup>12</sup> However, the division did not state the source of this information or provide any evidence that Mr. S owns 100 shares of No Name stock. Absent any evidence to support the division's unsworn statement, and given that Mr. S's 2013 tax return shows no such dividend payment was received, there is no basis in the record for a finding that Mr. S's income in 2013 changed by more than 15% from what it was previously. A party may request an opportunity to reopen the record to provide additional evidence on this issue, or any other issue, by filing a proposal for action to that effect.

### **IV. Conclusion**

The child support obligation in this matter has been determined based on actual income information. The evidence in the record does not establish that Mr. S's

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<sup>7</sup> Exhibit 4, p. 11.

<sup>8</sup> 15 AAC 125.070(a); Civil Rule 90.3(a)(2)(A).

<sup>9</sup> 15 AAC 125.070(a); -.065; Civil Rule 90.3(a)(1).

<sup>10</sup> 15 AAC 125.321(a)(1).

<sup>11</sup> 15 AAC 125.321(b)(2)(C).

<sup>12</sup> Submission to Record, 7/8/2014.

presumptive support obligation has changed by 15% or more. The division had authority to provide a credit for extended visitation.

### **CHILD SUPPORT ORDER**

The Modified Administrative Child Support and Medical Support Order dated June 5, 2014 is **AFFIRMED**.

Modified ongoing child support remains at \$665 per month.

DATED: September 8, 2014.

*Signed* \_\_\_\_\_  
Andrew M. Hemenway  
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 8<sup>th</sup> day of October, 2014.

By: *Signed* \_\_\_\_\_  
Signature  
Andrew M. Hemenway  
Name  
Administrative Law Judge  
Title

[This document has been modified to conform to the technical standards for publication.]