

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

IN THE MATTER OF:)	
)	OAH No. 14-0986-CSS
K. L. B)	CSSD No. 001173221
_____)	

DECISION AND ORDER

I. Introduction

This is obligor K L. B's appeal of an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) dated May 2, 2014. That order found Ms. B owed arrears only in an amount totaling \$300 for the period from June 2011 through November 2011. The custodian of record in CSSD's file is X C. W. The obligee is D, age 13.

A formal hearing was held on July 3, 2014. Ms. B and the CSSD representative participated by telephone. There were unsuccessful attempts to contact Mr. W at the time of the hearing.¹ The hearing proceeded in his absence and the record closed at the hearing's conclusion.

Ms. B's child support for June 2011 through November 2011 should be suspended because Ms. B was the primary custodian of D during those months.

II. Facts

The obligee, D, received public assistance beginning in January 2011.² He continued to receive public assistance off and on over the years.³ On October 23, 2013, CSSD issued an Administrative Child Support and Medical Support Order identifying Ms. B as the obligor and Mr. W as the custodian of D.⁴ In this order, CSSD established Ms. B's monthly child support

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 to Mr. W to the last address provided to CSSD. The "green card" has not been returned, nor has any other mail addressed to Mr. W and sent by first class postage.

² Exhibit 1 p 11.

³ *Id.*

⁴ Exhibit 1.

obligation for one child at \$258 effective November 1, 2013 and ongoing.⁵ This order also determined Ms. B owed arrears totaling \$8,772 for the period from January 1, 2011 through October 31, 2013.⁶ Ms. B requested an administrative review contending that she, not Mr. W, was D's custodial parent.⁷

CSSD conducted its administrative review, and upon further consideration concluded that there was a court order issued on March 7, 2014 that named Ms. B the primary custodian and ordered Mr. W, as the obligor, to pay child support at \$301 per month, effective December 1, 2013.⁸ As a result, CSSD issued an Amended Administrative Child Support and Medical Support Order dated May 2, 2014 stating that this was an "arrears only" matter and that Ms. B owed only \$300 in arrears for the period from June 1, 2011 through November 30, 2013.⁹

Ms. B appealed the "arrears only" order, arguing that she owed no support, arrears or otherwise, because she had primary custody of D from June 1, 2011 through November 30, 2013. Ms. B testified, as did her mother, F Z, regarding where D lived during the relevant time period.

III. Discussion

In a child support hearing, the person who filed the appeal, in this case, Ms. B, has the burden of proving by a preponderance of the evidence that the Division's order was incorrect.¹⁰ Ms. B met her burden through the presentation of unchallenged, credible and corroborated sworn testimony from herself and her mother that at all times relevant, she had primary physical custody of D. D may have stayed with his grandmother at times, but the evidence established he was there at his mother's direction. CSSD concurs that support should be suspended because Ms. B was the primary custodian during the relevant time period.

IV. Conclusion and Order

- Ms. B is not liable for support from January 2011 through November, 2013 because she was the custodial parent for that time period.

⁵ *Id.*
⁶ *Id.*
⁷ Exhibit 2.
⁸ Exhibits 3, 5.
⁹ Exhibit 3.
¹⁰ 15 AAC 05-030(h).

- No other support is owing. *See B v. W*, 3 AN 13-00000CI (Child Support Order) Exhibit 5.

DATED this 21st day of July, 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 8th 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.]