

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

In the Matter of:	)	
	)	OAH No. 14-0989-CSS
G S. F	)	CSSD No. 001162797
_____	)	

**DECISION AND ORDER**

**I. Introduction**

The obligor, G S. F, appealed a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on April 19, 2014. That order added a child and modified his ongoing child support amount for the children O and Q-U. The other party to the case is S T. G.

The hearing was held on July 10, 2014. Neither party appeared. A telephone call was placed to Mr. F's number, and the person who answered stated that Mr. F was at work; neither of Ms. G's numbers was in service. Robert Lewis, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on July 21, 2014.

Based on the record as a whole and after careful consideration, CSSD's Modified Administrative Child Support and Medical Support Order dated April 19, 2014 is affirmed. Mr. F's child support is modified to \$421 per month for two children (\$312 for one child), effective April 1, 2014, and ongoing. Also, Mr. F is liable for arrears for Q-U in the amount of \$109 per month for January 2014 through March 2014.

**II. Facts**

*A. Procedural history*

Mr. F's support obligation for O was set at \$362 per month in July 2010.<sup>1</sup> The order was suspended for a period of time while the family was intact. On January 16, 2014, a public assistance cash grant was opened for the children, so CSSD reinstated Mr. F's child support obligation.<sup>2</sup> On March 12, 2014, CSSD also initiated a review in order to add Q-U to Mr. F's order for O, and issued a Notice of Petition for Modification of Administrative Support Order.<sup>3</sup>

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<sup>1</sup> Exh. 1.  
<sup>2</sup> Exh. 4.  
<sup>3</sup> Exh. 5.

Mr. F did not provide financial information. On April 19, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order that modified his child support to \$421 per month for two children and added arrears for just Q-U in the amount of \$109 per month for the months of January 2014 through March 2014.<sup>4</sup> Mr. F appealed on May 22, 2014.<sup>5</sup> Prior to the hearing, CSSD filed an affidavit of Mr. F's earnings history obtained from the Alaska Department of Labor and Workforce Development.<sup>6</sup>

*B. Formal hearing*

On June 19, 2014, the Office of Administrative Hearings (OAH) sent a notice of the date and time for the hearing by certified mail to each party's last-known address. Both notices were returned to the OAH by the U.S. Postal Service and marked "unclaimed."

Neither party appeared for the July 10<sup>th</sup> hearing. At the beginning of the proceeding, a call was placed to Mr. F's telephone number; the person who answered said he was at work. Neither of Ms. G's telephone numbers was in service.

Since Mr. F's notice was sent to his last-known address, and he has had an ongoing case with CSSD, the administrative law judge entered a finding of fact that the obligor had notice of the hearing. As a result, service on him was found to be effective and the hearing was conducted without his participation.

**III. Discussion**

*A. Failure to Appear*

Mr. F filed an appeal and requested a formal hearing, but he failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which states:

If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless the person, within 10 days after the date scheduled for hearing, shows reasonable cause for failure to appear.

Mr. F has not shown reasonable cause for his failure to appear, as required by the regulation. As of this date, he has not contacted the OAH to inquire about his hearing or appeal, so this decision is issued without any further participation from him.

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<sup>4</sup> Exh. 6.

<sup>5</sup> Exh. 8.

<sup>6</sup> Exh. 10.

### *B. Child Support Modification*

Child support orders may be modified upon a showing of “good cause and material change in circumstances.” 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. Adding a child to an order constitutes a “material change in circumstances.”

A modification is effective beginning the first of the month after the parties are served with notice that a modification has been requested. CSSD issued the notice in Mr. F’s case on March 12, 2014, so any modification would be effective on April 1, 2014.

Civil Rule 90.3(a)(1) provides that a parent’s child support amount is to be calculated based on his or her “total income from all sources.” CSSD calculated Mr. F’s modified child support at \$421 per month for two children (\$312 for one child), which was based on his previous wage of \$10 per hour.<sup>7</sup> When multiplied by 2,080 hours, the number of hours a full-time employee typically works in a year, it resulted in total estimated income of \$20,800. This figure yields the monthly support amounts listed above.<sup>8</sup> This modified support amount is effective as of April 1, 2014, and ongoing.

Mr. F filed an appeal of his child support modification, but he did not appear at the hearing to discuss his current circumstances or the modified child support amount. Thus, in the absence of sufficient evidence or testimony, Mr. F has not met his burden of proving that CSSD’s modification is incorrect.

### **IV. Conclusion**

Mr. F did not appear at the hearing or provide sufficient evidence of his current circumstances. As a result, he did not meet his burden of proving by a preponderance of the evidence that CSSD’s Modified Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h). Therefore, the modification order should be adopted. There was no variation requested or granted under Civil Rule 90.3(c).

### **V. Child Support Order**

- The Modified Administrative Child Support and Medical Support Order dated

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<sup>7</sup> Exh. 11 at pg. 1.

<sup>8</sup> Exh. 6 at pg. 7.

April 19, 2014 is affirmed;

- Mr. F's child support obligation for O and Q-U is modified to \$421 per month for two children (\$312 for one child), effective April 1, 2014, and ongoing;
- In addition, Mr. F is liable for arrears for Q-U in the amount of \$109 per month for January 2014 through March 2014.

DATED this 8<sup>th</sup> day of August, 2014.

*Signed* \_\_\_\_\_  
Kay L. Howard  
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 25<sup>th</sup> 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.]