

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

In the Matter of:)	
)	OAH No. 14-0990-CSS
U D. H)	CSSD No. 001173176
_____)	

DECISION AND ORDER

I. Introduction

The obligor, U D. H, appeals a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued on June 3, 2014. The children in this case are A, B, C, D, E and F. The custodial parent is O B. G.

The formal hearing was held on July 10, 2014, and a supplemental hearing was held on August 19, 2014. Neither party participated in the first hearing, but they both appeared for the supplemental hearing. James Pendergraft and Andrew Rawls, Child Support Specialists, represented CSSD.

Based on all the evidence, Mr. H's child support for A, B, C, D, E and F is modified to \$2,501 per month for six children, effective April 1, 2014, and ongoing.

II. Facts

A. Procedural History

Mr. H's support obligation for A, B, C, D, E and F was set in December 2012.¹ One of the parties requested a modification review in March 2014. On March 3, 2014, CSSD sent the parties a Notice of Petition for Modification of Administrative Support Order.² Mr. H provided one paystub dated March 28, 2014.³ On April 28, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order that increased Mr. H's child support to \$2,357 per month.⁴ CSSD later corrected the support amount to \$2,207 per month because its earlier calculation had a clerical error and did not allow Mr. H the correct retirement figure.⁵ He appealed on June 9, 2014, and filed a letter from his employer regarding his work schedule at the

¹ Exh. 1.
² Exh. 2.
³ Exh. 3.
⁴ Exh. 4.
⁵ Exh. 5.

North Slope.⁶ Prior to the hearing, CSSD filed an affidavit of Mr. H's earnings history that was obtained from the Alaska Department of Labor and Workforce Development.⁷

B. Material Facts

Mr. H and Ms. G have six children together, A, B, C, D, E and F. They are from Sudan and were in the process of divorcing when Mr. H's child support obligation was initially established.⁸

Mr. H has had relatively steady employment with No Name since 2012. That year he earned \$30,912.44 from the company, which increased to \$72,464.05 in 2013.⁹ The latest income information for Mr. H from the Alaska Department of Labor and Workforce Development indicates that he received \$47,917.92 in the first half of 2014.¹⁰ His employer wrote that he works full-time on a two or three week rotational schedule at the North Slope. While there, Mr. H works 11.5 hours per day and 7 days per week.¹¹

After the hearing, CSSD obtained the most recent information at the time from the Alaska Department of Labor and Workforce Development regarding Mr. H's 2014 income. CSSD averaged his income for the first two quarters of the year, then multiplied that figure times four quarters to estimate that he would earn \$95,835.84 for the calendar year.¹² When that figure is inserted into CSSD's online child support calculator, it results in a support amount of \$2,501 per month for his six children.¹³

III. Discussion

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.

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. H's case on

6 Exh. 6.
7 Exh. 8.
8 See *In the Matter of U H*, OAH No. 12-0299-CSS (Commissioner of Revenue 2012).
9 Exh. 8.
10 Exh. 12.
11 Exh. 6 at pg. 2.
12 Submission to Record at pg. 1.

March 3, 2014, so any modification would be effective on April 1, 2014. As the person who filed the appeal, Mr. H has the burden of proving by a preponderance of the evidence that CSSD's modification order is incorrect.¹⁴

Civil Rule 90.3(a)(1) provides that a parent's child support is to be calculated based on his or her "total income from all sources" minus mandatory deductions such as taxes and Social Security. After the hearing, CSSD obtained Mr. H's most recent income information, and from those figures, estimated he would earn \$95,835.84 for the calendar year.¹⁵ When that figure is inserted into CSSD's online child support calculator, it results in a support amount of \$2,501 per month for his six children.¹⁶

Mr. H objects to having his child support set at such a high amount. His primary argument is that he works two weeks on and two weeks off, thus apparently claiming that CSSD is calculating a child support amount for him even when he is not working on the North Slope.

Mr. H cannot prevail with this argument. If he is indeed working only half of the time, one could argue that there is nothing to prevent him from getting a part-time job during the rest portion of his work rotation. Of course, people who work on the North Slope are considered to be employed full-time, and their work rotations spent at home are most likely well deserved. CSSD does not usually impute additional income to someone who works on the Slope and does not expect the parent to find other work while he or she is at home. Rather, the child support obligation is calculated based on the person's annual income. This is the method that was used to calculate Mr. H's child support obligation, and it accurately represents his ability to pay support for his six children.

IV. Conclusion

While Mr. H met his burden of proving that the Modified Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h), the revision based on his annual income actually increased his support obligation. CSSD correctly revised his child support calculation to \$2,501 per month for A, B, C, D, E and F, and the calculation should be adopted. No variance under Civil Rule 90.3(c) was requested or granted.

¹³ Exh. 13.

¹⁴ 15 AAC 05.030(h).

¹⁵ Submission to Record at pg. 1.

¹⁶ Exh. 13.

V. Child Support Order

- Mr. H's child support for A, B, C, D, E and F is modified to \$2,501 per month, effective April 1, 2014, and ongoing;
- All other provisions of the Modified Administrative Child Support and Medical Support Order dated June 3, 2014 remain in full force and effect.

DATED this 27th day of March, 2015.

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 13th day of April, 2015.

By: *Signed*

Signature
Kay L. Howard

Name
Administrative Law Judge

Title

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