

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

In the Matter of:)	
)	OAH No. 14-1124-CSS
H L. N)	CSSD No. 001190426
<hr style="border-top: 1px solid black;"/>		

DECISION AND ORDER

I. Introduction

The obligor, H L. N, appeals an Amended Administrative Child and Medical Support Order that the Child Support Services Division (CSSD) issued on June 10, 2014. The obligee child is B, 1½ years of age. The custodian of record is B S. M.

The formal hearing was held on July 24, 2014. Mr. N could not be reached for the hearing and thus did not participate.¹ Ms. M appeared by telephone. James Pendergraft, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on all the evidence, CSSD’s Amended Administrative Child Support and Medical Support Order dated June 10, 2014 is affirmed.

II. Facts

A. Procedural History

Ms. M began receiving public assistance benefits on B’s behalf in June 2013.² CSSD initiated Mr. N’s child support obligation and issued an administrative child support order on March 27, 2014.³ He requested an administrative review and provided income information.⁴ CSSD issued an Amended Administrative Child Support and Medical Support Order on June 10, 2014 that set Mr. N’s ongoing child support at \$726 per month, with arrears of \$3,511 from August 2013 through June 2014.⁵ Mr. N appealed on June 26, 2014, primarily challenging the support amount for the first three months of 2014.⁶

On July 4, 2014, the Office of Administrative Hearings (OAH) sent each party a certified notice of the date and time for the hearing. Mr. N’s “green card” was signed on July 7, 2014 and returned to the OAH on July 9, 2014.

¹ Mr. N 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 Exhs. 4-6.

⁵ Exh. 7.

⁶ Exh. 8.

Before the hearing, an attempt was made to reach Mr. N by telephone for the hearing. There was no answer, so a voicemail message was left for him. As of the date of this decision, he has not contacted the OAH in response. Because Mr. N's notice was received and the green card was signed and returned, service on him of the notice was found to be effective and the hearing was conducted without his participation.⁷

B. Material Facts

Mr. N works on the North Slope. In 2013, he worked for N, Inc., for three quarters of the year and earned \$33,764.50.⁸ A child support amount calculated from this figure is \$477 per month.⁹

Mr. N also worked for No Name during a portion of the first quarter of 2014 and received \$7,123.50.¹⁰ He changed jobs in March 2014 and began working for No Name, Inc.¹¹ He earns \$23.50 per hour and in a two-week rotation, he works 80 hours of straight time and 80 hours of overtime.¹² From this information, CSSD determined that he earns \$4,700 per pay period, which equals \$47,000 for the remaining ten months from March through December 2014. Adding the \$7,123.50 he received from No Name in the beginning of the year, his total estimated income for 2014 is \$54,123.50.¹³ A child support obligation calculated from this income figure is \$726 per month for one child.¹⁴

III. Discussion

Mr. N filed an appeal and requested a formal hearing, but he did not participate in the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the administrative law judge to issue a child support decision even if the person requesting the hearing fails to appear. As the person who filed the appeal, Mr. N has the burden of proving by a preponderance of the evidence that CSSD's amended order is incorrect.¹⁵

A parent is obligated both by statute and at common law to support his or her children.¹⁶ 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.¹⁷ Ms. M began receiving public assistance on B's behalf beginning in June 2013, so that is the month Mr. N's

⁷ See 15 AAC 05.010(c).

⁸ Exh. 11.

⁹ Exh. 7 at pg. 9.

¹⁰ *Id.*

¹¹ *Id.*

¹² See Exh. 7 at pgs. 1-2.

¹³ *Id.*

¹⁴ Exh. 7 at pg. 10.

¹⁵ 15 AAC 05.030(h).

¹⁶ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

¹⁷ 15 AAC 125.105(a)(1)-(2).

obligation to support his child through CSSD should begin.¹⁸ However, Mr. N was living in the home in June and July 2013, so he was a custodial parent during those two months and does not owe child support for that period of time. Thus, his support obligation should begin as of August 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. N's child support at \$477 per month for 2013 and \$726 per month for 2014.¹⁹ The 2013 amount is correct because it was based on his actual income for the year. The 2014 figure is correct because it was based on CSSD's estimate of his actual income for the current year.

Mr. N requested that his child support for the first few months of 2014 remain at the 2013 amount and that only his No Name income be used for the ongoing child support calculation. Granting these requests would not be appropriate because Alaska child support law states that support is to be calculated based on the best estimate of the parent's *annual* income.²⁰ Since the establishment process looks at both past and future expected income, the obligor's income from both No Name and No Name must be included in the estimate of his 2014 income.

Mr. N did not appear and participate in the hearing. Thus, in the absence of any additional evidence, Mr. N did not meet his burden of proving by a preponderance of the evidence that CSSD calculated his child support incorrectly.

IV. Conclusion

Mr. N did not meet his burden of proving that the Amended Administrative Child and Medical Support Order issued on June 10, 2014 is incorrect, as required by 15 AAC 05.030(h). CSSD correctly calculated his child support obligation at \$477 per month for August 2013 through December 2013; and \$726 per month for January 2014 through August 2014, and ongoing. Therefore, the amended order should be affirmed. No variance under Civil Rule 90.3(c) has been requested or granted.

V. Child Support Order

- The Amended Administrative Child Support and Medical Support Order dated June 10, 2014 is affirmed;

¹⁸ See Exh. 4 at pg. 11

¹⁹ Exh. 7 at pgs. 9-10.

²⁰ Civil Rule 90.3(a).

- Mr. N is liable for child support for B in the amount of \$477 per month for August 2013 through December 2013; and \$726 per month for January 2014 through August 2014, and ongoing.

DATED this 25th 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 12th 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.]