

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

In the Matter of:)
)
 B J. C) OAH No. 14-1376-CSS
) CSSD No. 001167265
_____)

DECISION AND ORDER

I. Introduction

The obligor B J. C appealed the Decision on Request for Modification Review issued by the Child Support Services Division (CSSD) on July 21, 2014. The custodian of record is D M, and the obligee child is Z, who is approximately 3 years old.

Child Support Specialist James Pendergraft represented CSSD. Mr. Pendergraft and Ms. M participated by telephone. Mr. C was called at the time of hearing but did not answer.¹

Mr. C failed to establish the division denied his request in error. Accordingly, CSSD's decision to deny Mr. Brigg's request for modification review is affirmed.

II. Facts

Mr. C requested CSSD modify his ongoing monthly support obligation set at \$329 in June 2012.² CSSD received the request on June 9, 2014.³ The next day the request was noticed.⁴ On July 21, 2014, having received no financial information from Mr. C, CSSD denied his request for modification.⁵

On August 7, 2014, CSSD received Mr. C's appeal. Mr. C wrote in support of his appeal that he did provide financial information as requested, and that the amount of support established in 2012 is incorrect because it failed to take into account support paid for a child of a prior relationship.⁶

¹ As required by regulation, the record remained open for 10 days to provide Mr. C with an opportunity to show reasonable cause for his failure to participate. 15 AAC 05.030(j).

² Exhibits 1 & 2.

³ Exhibit 2.

⁴ Exhibit 3.

⁵ Exhibit 5.

⁶ Exhibit 6.

Mr. C supplied three pay stubs dated May 15, 2014; June 2, 2014; and June 18, 2014.⁷ He also supplied his 2012 and 2013 Federal tax returns.⁸ These documents have a date stamp indicating that they were faxed on June 27, 2014. CSSD's internal records show they were imaged on August 1, 2014.⁹ Mr. Pendergraft believed the documents were not received by CSSD until after it denied the request for modification because of the date it was imaged.

III. Discussion

When an obligor parent requests that CSSD conduct a modification review of an ongoing child support order, he or she must provide the financial information necessary to determine the parent's income, and other information necessary to recalculate child support.¹⁰ If the parent does not provide sufficient information for CSSD to conduct its modification review, CSSD may decline to perform a review or cease its review.¹¹ In this case, CSSD denied Mr. C's request for modification because he did not provide CSSD with any information showing a substantial change of circumstances. Mr. C appealed, contending that he did provide information supporting a substantial change of information.

The person appealing a CSSD decision granting or denying modification (in this case, Mr. C) has the burden of proving that it is more likely than not that CSSD's decision was incorrect.¹² In this case, Mr. C did not testify at hearing. So while it is likely that the financial information was timely submitted, without Mr. C's sworn testimony to confirm, the record falls just short of proving that *more likely* than not the financial information was in CSSD's possession when it denied Mr. C's request for a modification review. Accordingly, Mr. C has failed to satisfy his burden of proof, and CSSD's Decision on Request for Modification Review dated July 21, 2014 should be affirmed.

IV. Conclusion

Mr. C did not participate at his hearing. Without his participation he was unable to prove that it is more likely than not that he provided the information requested in a timely manner.

⁷ Exhibit 4 at 1.
⁸ Exhibit 4.
⁹ Pendergraft Testimony
¹⁰ 15 AAC 125.316(e).
¹¹ *Id.*
¹² 15 AAC 05.030(h).

V. Child Support Order

- CSSD's order dated July 21, 2014, denying Mr. C's request for modification, should be affirmed.

DATED this 6th day of October, 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 24th day of October, 2014.

By: Signed
Signature
Lawrence A. Pederson
Name
Administrative Law Judge
Title

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