

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

In the Matter of:)	
)	OAH No. 14-1475-CSS
F D. W)	CSSD No. 001194495
_____)	

DECISION AND ORDER

I. Introduction

This matter is a Uniform Interstate Family Support Act case initiated by the State of California. The obligor is F D. W. The custodian of record is T T-H, and the obligee child is A, who is 17 years old.

A telephonic hearing was held on September 17, 2014. The Child Support Services Division (CSSD) was represented by Child Support Specialist Robert Lewis. Mr. W and Ms. T-H were called at the time set for the hearing. The obligor's telephone was not accepting calls.¹ A message was left on the custodian's voicemail. The hearing proceeded and the record closed without further input from Mr. W or Ms. T-H.

The hearing process allows for the development of a more complete record than was previously available to CSSD. Using new information, Mr. W's child support obligation should be set at \$334 per month for December 2013, and \$241 per month beginning on January 1, 2014 and ongoing.

II. Facts

A petition pursuant to the Uniform Interstate Family Support Act was received by CSSD on December 27, 2013.² Paternity was established by default.³ An Administrative Child Support and Medical Support Order was issued on April 24, 2014, setting Mr. W's child support obligation at \$346 per month for one child effective May 2014, and identifying arrears in the

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

² Exhibit 1.

³ Exhibit 3.

amount of \$1,730 from December 1, 2013 through April 30, 2014.⁴ Mr. W asked CSSD for an administrative review.⁵

As a result of its administrative review, CSSD issued an Amended Administrative Child Support and Medical Support Order. This order was issued on June 5, 2014, setting Mr. W's child support obligation at \$272 per month for one child effective July 1, 2014, and identifying arrears in the amount of \$1,966 from December 1, 2013 through June 30, 2014.⁶

CSSD used Mr. W's actual wages as reported to the Alaska Department of Labor (DOL) to calculate support owing in December 2013. To calculate Mr. W's child support for one child effective January 2014 and ongoing, CSSD totaled Mr. W's first quarter DOL earnings, 2014 unemployment benefits, and a wage of \$11 per hour multiplied by 1213 hours.⁷ This calculation reveals Mr. W's anticipated 2014 gross income to total \$18,510.88.⁸ After allowable deductions, Mr. W's child support for one child was calculated at \$272 per month effective January 2014.⁹

Mr. W appealed the amended order and requested a formal hearing. By the time the formal hearing was held, CSSD was able to obtain Mr. W's reported earnings for the first 26 weeks of the year (first and second quarter earnings). In the first two quarters of 2014, Mr. W earned \$7,201. When this amount is added to his anticipated 2014 earnings, \$7,975, and unemployment benefits, \$1,913, Mr. W's anticipated 2014 gross income will total \$16,267.32.¹⁰ After allowable deductions, Mr. W's monthly child support, effective January 2014 and ongoing, is \$241 for one child.¹¹

III. Discussion

Child support is calculated as a percentage of the obligor parent's income from all sources.¹² When calculating ongoing child support, determining an obligor's annual income for purposes of future child support is "necessarily... speculative because the relevant income figure

⁴ Exhibit 4.

⁵ Exhibit 5.

⁶ Exhibit 6.

⁷ Mr. W reported that he was earning \$11 per hour and working 25 hours per week. Exhibit 10.

⁸ *Id.* at 9 (\$3,362.24 + \$1,802 + (1,123 hours x \$11).

⁹ *See Id.*

¹⁰ \$7,975 = 26 weeks x (\$11 per hour x 25 hours per week).

¹¹ Attachment A.

¹² Alaska Rule Civil Procedure 90.3(a)(2).

is expected future income.”¹³ However, child support determinations calculated under Civil Rule 90.3 from an obligor’s actual income figures are presumed to be correct. Due to the passage of time, CSSD now has available to it Mr. W’s actual reported earnings for the first six months of 2013.¹⁴ Mr. W’s child support should be calculated using his actual income figures. In 2014, his expected annual income is \$16,267.32. Using CSSD’s online child support calculator, his monthly child support for one child, effective January 1, 2014 and ongoing, is \$241.¹⁵

When calculating arrears, the regulations provide that “total income from all sources is the actual annual income that the parent earned or received each calendar year for which arrears are sought to be established. . . .”¹⁶ Therefore, Mr. W’s child support obligation for 2013 will be based on his actual income for that that year, \$23,577.06.¹⁷ His monthly child support obligation effective December 1, 2013 – December 31, 2013 is \$334 per month.

When establishing child support and calculating arrears, the Department of Revenue’s regulations provide specific instruction. The first step is to calculate the support obligation under Civil Rule 90.3(a) for the first year for which support is being established, 2013. Next, it must be determined whether a material change in circumstances occurred justifying a modification of support for each subsequent year. A material change is presumed if there is a 15% or more increase or decrease in the amount of support owing. If there is a material change, then the support amount will be modified.¹⁸

The 2013 monthly support obligation of \$334, less 15%, is \$283.90. Mr. W’s child support for one child is \$241 per month effective January 1, 2014 an ongoing. This is more than a 15% decrease in child support and, for 2014, Mr. W’s child support obligation should be reduced to \$241 per month effective January 1, 2014 and ongoing.

IV. Conclusion

Mr. W has met his burden of proof. He has established by a preponderance of the evidence that CSSD’s June 5, 2014 Amended Administrative Child Support and Medical Support Order overstates his 2014 income. When calculated based on Civil Rule 90.3(a), Mr.

¹³ See Civil Rule 90.3, Commentary III.E.

¹⁴ Exhibit 8.

¹⁵ Attachment A.

¹⁶ 15 AAC

¹⁷ Exhibit 6 at 10.

¹⁸ 15 AAC 125.105(e); 15 AAC 125.321.

W's monthly child support should be \$334 effective December 2013 and \$241 effective January 2014 and ongoing.

V. Child Support Order

- Mr. W's child support obligation is set at \$334 per month for one child, effective December 1, 2013;
- Mr. W's child support obligation is set at \$241 per month for one child, effective January 1, 2014 and ongoing;
- All other provisions of the June 5, 2014 Amended Administrative Child and Medical Support Order remain in effect.

DATED this 8th 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 27th day of October, 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.]