

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

In the Matter of:)	
)	OAH No. 14-1496-CSS
C L. J)	CSSD No. 001054111
_____)	

DECISION AND ORDER ON MOTION TO DISMISS

I. Introduction

The obligor, C L. J, requested a default review. CSSD reviewed Mr. J’s case and denied his request for a default review because his two support orders were based on actual income. The obligee children in this case, A, B, and C, are all emancipated. The other party is E J.

The hearing was held on September 23, 2014. Mr. J appeared by telephone. James Pendergraft, Child Support Specialist, represented CSSD. Ms. J was contacted at the appointed time but the telephone number was no longer in working order.¹ The hearing was recorded.

CSSD moved to dismiss Mr. J’s appeal contending that, as a matter of law, Mr. J’s prior support orders were based upon actual income. CSSD’s Motion to Dismiss is granted because Mr. J is not entitled to a default review, as discussed below.

II. Facts

CSSD has issued two orders regarding Mr. J’s child support obligation. The first, a Notice and Findings of Financial Responsibility, was dated April 26, 1995 and established Mr. J’s support obligation at \$900 per month. The second, a Modified Administrative Child Support and Medical Support Order dated May 4, 2008 reduced Mr. J’s support obligation to \$247 per month. Mr. J requested a default review seeking relief from the arrears that have accrued under these two orders.

On August 5, 2014, CSSD issued its Administrative Review Decision denying the request. CSSD reviewed Mr. J’s records and concluded that his child support was calculated from actual income, not a default income amount.

¹ Any change in mailing address after the request for appeal is filed must be reported to the department immediately. If the department mails a document by registered or certified mail, service is effective if the mailing is addressed to the latest address provided to the department. 15 AAC 05.010. The file contains no indication that the notice of hearing sent by certified mail was returned. Therefore, the hearing proceeded in Ms. J’s absence.

Mr. J agrees that CSSD calculated his child support obligation using his actual income for each order. At the hearing, Mr. J explained that he was not contesting the accuracy of the calculations as much as he was the arrears that accrued as a result of the orders, and the loss of his commercial driver's license as a result of the arrears.

III. Discussion

CSSD filed a Motion to Dismiss Mr. J's challenge to CSSD's August 5, 2014 Administrative Review Decision and deny his Request for Relief of a Default Administrative Child Support Order. CSSD has the burden of proving that, as a matter of law, its denial of Mr. J's request is correct.

Under Alaska law, an obligor parent may request that CSSD vacate and reissue a child support order previously calculated from a default income amount, but not from the person's actual income and ability to pay.² A default income amount is one based on the former AFDC needs standards; gender-based average annual wage statistics or other group wage statistics; or the federal or state minimum wage in effect at the time.³

A calculation is *not* based on a default income amount if it is based on the obligor's actual income information; an estimated or projected income based on the obligor's actual but incomplete information; or imputed potential income based on a finding of voluntary unemployment or underemployment.⁴

Mr. J agrees that CSSD used his actual income information for both orders. Therefore, the child support calculations are not based on a default income amount, so Mr. J's request for a default review was correctly denied by CSSD.

IV. Conclusion

CSSD met its burden of proving that, as a matter of law, the child support calculations in the Notice and Findings of Financial responsibility dated April 26, 1995 and the Modified Administrative Child Support and Medical Support Order dated May 4, 2009 are not based on a default income amount. Mr. J is not entitled to a default review.

V. Child Support Order

- CSSD's Motion to Dismiss is granted.

² AS 25.27.195(b).

³ 15 AAC 125.121(j)(1).

⁴ 15 AAC 125.121(j)(2).

- CSSD’s Administrative Review Decision dated August 5, 2014 denying Mr. J’s request for Relief of a Default Administrative Review is affirmed.

DATED this 24th day of September, 2014.

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 14th day of October, 2014.

By: *Signed* _____
Signature
Christopher Kennedy _____
Name
Administrative Law Judge _____
Title

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