

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

IN THE MATTER OF:)	
)	OAH No. 14-1507-CSS
U L. X)	CSSD No. 001190913
_____)	

DECISION AND ORDER

I. Introduction

The obligor, U L. X, appealed a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued on April 30, 2014. This order added the child K and increased Ms. X’s monthly support obligation to \$337 per month for two children as of November 2013. The custodian of record is B D. L. The obligee children are K and S. Ms. X appeared by telephone. The custodian was unavailable for the hearing.¹ Robert Lewis, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, Ms. X is liable for support in the amount of \$337 per month for two children effective November 2013 and ongoing. However, ongoing support is suspended as of November 1, 2013 because Ms. X has established by a preponderance of the evidence that she has been the primary custodian of the children at some point prior to November 2013, and remains their primary custodian. In the event Ms. X becomes liable for ongoing support again in the future, CSSD may begin charging her \$337 per month immediately, subject to future modification.

II. Facts

Ms. X and Mr. L have two children, K and S. Ms. X has an existing order to pay support for S in the amount of \$249 effective May 2013.²

By notice dated March 28, 2014, CSSD initiated an “add-a-kid” modification to add K to the order for S.³ On April 30, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order adding K and increasing Ms. X’s ongoing child support.⁴ CSSD calculated the child support using a primary custody calculation.

¹ A telephone call was placed to Mr. L’s contact number. It was not a working number.
² Exh. 1.
³ Exh. 3.
⁴ Exh. 4.

On August 26, 2014, Ms. X appealed the April 30, 2014 order increasing her child support because she has custody of the children.⁵

III. Discussion

Ms. X filed this appeal and requested a formal hearing. As the person who requested the hearing, she has the burden of proving by a preponderance of the evidence that CSSD's modification order is incorrect.⁶

Child support orders may be modified upon a showing of "good cause and material change in circumstances."⁷ Adding other children to a child support order is a material change in circumstance.⁸ In this case, CSSD has modified Ms. X's child support for the purpose of adding K to her previous order for S.

CSSD did not have actual income information for Ms. X, so it calculated her modified support amount using the minimum wage and the permanent fund dividend. This calculation resulted in a \$337 monthly child support payment for two children.

Ms. X did not appeal the amount of child support calculated by CSSD; rather, Ms. X believes she should not be required to pay child support because she has primary custody of the children. CSSD agrees that Ms. X has been the primary custodian of the children since at least November 2013 and asks that her support obligation be suspended effective November 1, 2013.

CSSD's April 30, 2014 Modified Administrative Child Support and Medical Support order should be affirmed, but ongoing support should be suspended effective November 1, 2013 because Ms. X has had primary custody of both children on or before that date. Should the custodial arrangement change and Ms. X become liable for ongoing support again in the future, CSSD shall base the amount of support owing on a monthly child support obligation in the amount of \$337 per month immediately, subject to future modification.

IV. Conclusion

Ms. X does not challenge the amount of supported ordered by CSSD's April 30, 2014 Modified Administrative Child and Medical Support Order. Rather, she contends she should not pay support because she is the primary custodian of the children. She is correct and her support

⁵ Exh. 6.
⁶ 15 AAC 05.030(h).
⁷ AS 25.27.190(e).
⁸ See 15 AAC 125.321(b)(2)(B).

should be suspended effective November 1, 2013 until she is no longer the primary custodian of the children

V. Child Support Order

- CSSD’s Modified Administrative Child Support and Medical Support Order dated April 30, 2014 remains in full force and effect.
- Support owing under this order is suspended while Ms. X lives in the same home as her children. Should Ms. X no longer be the primary custodian of the children and she become liable for ongoing support again in the future, CSSD may begin charging her \$337 per month immediately, subject to future modification.

DATED this 3rd 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 20th 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.]