

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

In the Matter of)	
)	
D D. U)	OAH No. 14-1612-CSS
_____)	Agency No. 001158596

DECISION AND ORDER

I. Introduction

The obligor, D D. U, appealed a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on August 29, 2014. That order modified his ongoing child support amount for H, 6 years of age. The other party to the case is P R. K.

The hearing was held on January 14, 2015 and June 4, 2015. Mr. U could not be reached, nor would his telephone accept a message, so he did not participate in either hearing. Ms. K participated by telephone on both occasions. Joe West, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record as a whole and after careful consideration, Mr. U's child support is modified to \$410 per month, effective August 1, 2014, and ongoing.

II. Facts

Mr. U's support obligation for H was previously set at \$303 per month.¹ CSSD initiated the modification review on July 11, 2014 by issuing a Notice of Petition for Modification of Administrative Support Order.² Mr. U did not provide financial information. On August 29, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order that modified his child support to \$588 per month, effective August 1, 2014.³ Mr. U appealed on September 8, 2014, claiming he does not earn the income that CSSD attributed to him, and that he pays support for other children.⁴

On September 25, 2014, the Office of Administrative Hearings (OAH) sent both parties a notice of the date and time for the hearing by certified mail to each person's last-known address. Mr. U signed his green card, which was returned to the OAH on September 29, 2014.

¹ Exh. 1.
² Exh. 2.
³ Exh. 4.
⁴ Exh. 4.

At the beginning of each hearing, a call was placed to Mr. U's telephone number of record. There was no answer, and no opportunity to leave a voicemail message for him. Since Mr. U signed for his notice of the date and time for the hearing, service on him was found to be effective and the hearing was conducted without his participation. Ms. K appeared for both hearings.

III. Discussion

A. Failure to Appear

Mr. U filed an appeal and requested a formal hearing, but he failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which states:

If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless the person, within 10 days after the date scheduled for hearing, shows reasonable cause for failure to appear.

Mr. U has not shown reasonable cause for his failure to appear, as required by the regulation. As of this date, he has not contacted the OAH to inquire about his hearing or appeal, so this decision is issued without any further participation from him.

B. Child Support Modification

Child support orders may be modified upon a showing of "good cause and material change in circumstances." If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes "material change in circumstances" has been established and the order may be modified.

A modification is effective beginning the first of the month after the parties are served with notice that a modification has been requested. CSSD issued the notice in Mr. U's case on July 11, 2014, so any modification would be effective on August 1, 2014.

Civil Rule 90.3(a)(1) provides that a parent's child support amount is to be calculated based on his or her "total income from all sources." After the second hearing, CSSD obtained Mr. U's 2014 income information from the Alaska Department of Labor and Workforce Development, which indicates that he received income of \$45,785.51, plus the PFD of \$1,884, for total income of \$47,669.51.⁵ This is the information that CSSD used to calculate Mr. U's child support obligation for H.

⁵ Exh. 15 at pg. 1.

Mr. U has two older children for whom he pays support. He is subject to a court order of \$564 per month for his oldest child, which became effective August 1, 2014.⁶ He is also under an administrative order issued by this office of \$611 per month for his second oldest child.⁷ CSSD incorporated these orders into Mr. U's calculation of support for H, his youngest child. The result is a child support amount of \$410 per month.⁸ This modified support amount is effective as of August 1, 2014, and ongoing.

Mr. U filed an appeal of his child support modification, but he did not appear at the hearing to discuss his current circumstances or address any of the issues he raised in his appeal. Thus, in the absence of sufficient evidence or testimony, Mr. U has not met his burden of proving that CSSD's revised calculation is incorrect.

IV. Conclusion

Mr. U did not appear at the hearing or provide sufficient evidence of his current income or financial circumstances. As a result, he did not meet his burden of proving by a preponderance of the evidence that CSSD's revised calculation is incorrect, as required by 15 AAC 05.030(h). Therefore, CSSD's calculation should be adopted. There was no variation requested or granted under Civil Rule 90.3(c).

V. Child Support Order

- Mr. U's child support obligation for H is modified to \$410 per month for one child, effective August 1, 2014, and ongoing;
- All other provisions of the Modified Administrative Child Support and Medical Support Order dated August 29, 2014 remain in full force and effect.

Dated: June 29, 2015

Signed _____
Kay L. Howard
Administrative Law Judge

⁶ Exh. 13.
⁷ Exh. 14.
⁸ Exh. 15.

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 within 30 days after the date of this decision.

DATED this 14th day of July, 2015.

By: Signed
Signature
Jeffrey A. Friedman
Name
Administrative Law Judge
Title

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