

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

In the Matter of:)	
)	OAH No. 14-1616-CSS
M T. U)	CSSD No. 001182090
_____)	

DECISION AND ORDER

I. Introduction

M T. U filed an appeal of a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued on July 31, 2014. The obligee child is N, 5 years of age. The custodial parent is D D. K, fka L.

The formal hearing was held on October 22, 2014. Both parties appeared by telephone, as did James Pendergraft, Child Support Specialist, who 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 \$833 per month, effective July 1, 2014, and ongoing.

II. Facts

A. Procedural History

Mr. U's child support for N was set at \$691 per month in September 2012.¹ On June 13, 2014, Ms. K requested a modification review and CSSD notified both parties of the petition on June 10, 2014.² Mr. U did not provide income information, so on July 31, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order that modified his child support to \$846 per month, effective July 2014.³ He filed an appeal on September 12, 2014, and provided income information.⁴ Prior to the hearing, CSSD filed a summary of Mr. U's wage data as reported to the Alaska Department of Labor and Workforce Development (DOL).⁵

1 Exh. 1.
2 Exhs. 2-3.
3 Exh. 4.
4 Exh. 5.
5 Exh. 6.

B. Material Facts

Mr. U is retired from the military and he is also employed full-time by his Native corporation. He receives \$1410 per month in military retirement and he earns \$21.01 per hour at his work.

CSSD prepared a child support calculation utilizing Mr. U's income information. On an annual basis, his military retirement equals \$16,920,⁶ and his hourly wage equals \$43,700.80.⁷ When the PFD of \$1884 is added to these figures, Mr. U's total taxable gross income equals \$62,504.80.⁸ This figure, minus mandatory deductions such as taxes and Social Security, yields a child support figure of \$833 per month.⁹ This is only \$13 per month less than the amount calculated for the modification review, but it is nonetheless correct and should be adopted.

III. Discussion

Child support orders may be modified upon a showing of "good cause and material change in circumstances."¹⁰ A modification is effective beginning the first of the next month after CSSD issues a notice to the parties that a modification has been requested.¹¹ In this case, the notice was issued on June 10, 2014, so a modification would be effective as of July 1, 2014.¹²

As the person who filed the appeal, Mr. U has the burden of proving by a preponderance of the evidence that CSSD's Modified Administrative Child Support and Medical Support Order is incorrect.¹³

A. Total Income from all Sources

Civil Rule 90.3(a)(1) provides that an obligor's child support amount is to be calculated based on his or her "total income from all sources," minus mandatory deductions such as taxes and Social Security. CSSD correctly calculated Mr. U's modified child support obligation for N

⁶ \$1410 x 12 = \$16,920.

⁷ \$21.01 per hr. x 40 hours per week x 52 weeks = \$43,700.80.

⁸ Exh. 8 at pg. 1. CSSD stated it did not include a Native dividend in Mr. U's income because his corporation has not issued a dividend payout since 00/00/2013. See Submission to Record at pg. 1.

⁹ *Id.*

¹⁰ AS 25.27.190(e).

¹¹ 15 AAC 125.321(d).

¹² Exh. 3.

¹³ 15 AAC 05.030(h) and 2 AAC 64.290(e).

at \$833 per month based on the agency's best estimate of his total 2014 income and deductions.¹⁴

IV. Conclusion

Mr. U met his burden of proving by a preponderance of the evidence that the Modified Administrative Child Support and Medical Support Order is incorrect. His child support has now been correctly determined to be \$833 per month, effective July 1, 2014, and ongoing. This amount is correct and should be adopted. No variation under Civil Rule 90.3(c) was requested or granted.

V. Child Support Order

- Mr. U's child support obligation for N is modified to \$833 per month, effective July 1, 2014, and ongoing;
- All other provisions of the Modified Administrative Child Support and Medical Support Order dated July 31, 2014 remain in full force and effect.

DATED this 12th day of January, 2015.

Signed _____

Kay L. Howard

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 30th day of January, 2015.

By: *Signed* _____

Signature

Kay L. Howard

Name

Administrative Law Judge

Title

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

¹⁴ Exh. 10 at pg. 1.