

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

In the Matter of	)	
	)	OAH No. 15-0074-CSS
F B	)	Agency No. 001067162
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**DECISION AND ORDER**

**I. Introduction**

F G. B appealed an Amended Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in her case on July 17, 2014. The obligee child is W, 14. The custodian of record is X T. Q.

The formal hearing was held on February 19, February 27 and March 24 of 2015. Ms. B initially appeared by telephone, but could not be reached for the additional hearings. Mr. Q could not be reached and did not participate in the first hearing, but he appeared telephonically for the second two hearings. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, Ms. B's child support remains at \$50 per month from October 2013 through September 2014; and is modified to \$242 per month, effective October 2014, and ongoing.

**II. Facts**

*A. Procedural History*

Ms. B's child support was set at \$50 per month in May 2002.<sup>1</sup> Mr. Q requested a modification review on September 20, 2013.<sup>2</sup> On September 25, 2013, CSSD issued a Notice of Petition for Modification Review.<sup>3</sup> Ms. B did not provide income information, but her employers provided income information.<sup>4</sup> On February 13, 2014, CSSD issued a Modified Administrative Child Support and Medical Support Order, which it later amended on July 17, 2014. The amended order changed the child support calculation from two children to one child. However, the amended order still listed two children – W and U – on the case.<sup>5</sup> Ms. B appealed

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<sup>1</sup> Exh. 1.  
<sup>2</sup> Exh. 2.  
<sup>3</sup> Exh. 3.  
<sup>4</sup> Exh. 4.  
<sup>5</sup> Exhs. 5-7.

on January 2, 2015, stating that there should only be one child on this case, not two children.<sup>6</sup> On February 4, 2015, CSSD filed a Motion to Dismiss, arguing that Ms. B's appeal was untimely and that U had already been removed from Ms. B's child support case. CSSD's motion was denied at the hearing and evidence was taken on the monthly amount of Ms. B's support obligation.

*B. Material Facts*

Mr. Q has custody of W, the parties' 15-year-old daughter. There is no dispute that Mr. Q is not the father of U, the other child listed on the amended order, and that Ms. B is not being charged with support for U in this case.

Ms. B lives in Anchorage. In 2012, she went to the village of No Name, a village of less than 500 residents near the mouth of the No Name River.<sup>7</sup> Ms. B spent nearly two years in the village, primarily caring for her mother-in law, who had Alzheimer's disease. Apparently, Ms. B did not have her mail forwarded to the village, so she was unaware of the impending modification.

Ms. B returned to Anchorage in January 2014, but she was drinking at that time and did not seek employment. Ms. B said she got sober on July 28, 2014 and started working soon thereafter. Records from the Alaska Department of Labor and Workforce Development (DOL) show that she worked for Facility Z, during the third quarter of 2014, and for Facility Y, during the fourth quarter of 2014.<sup>8</sup> Ms. B received \$827.96 from Facility Z and \$3,603.60 from the Facility Y.<sup>9</sup> She was terminated from the Facility Y following a disagreement with her supervisor. Ms. B said she later tried to apologize to the manager, but they were not able to resolve the disagreement.

At the hearing, Ms. B said she was having health issues and had been in and out of the hospital recently. She said she was having pain and swelling in the upper left portion of her chest, but she did not yet know what her diagnosis might be.

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<sup>6</sup> Exh. 8.

<sup>7</sup> <http://commerce.state.ak.us/cra/DCRAExternal/community/Details/41bf65a8-2e69-4eba-b06a-509c25d4f9f9>.

<sup>8</sup> Exh. 9.

<sup>9</sup> *Id.*

### III. Discussion

Child support orders may be modified upon a showing of “good cause and material change in circumstances.”<sup>10</sup> 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. Ms. B’s child support was set at \$50 per month in May 2002, so a calculation at least \$7.50 higher or lower than \$50 is needed to warrant modification in this case.<sup>11</sup>

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.<sup>12</sup> In this case, the notice is dated September 24, 2013, so any modification of Ms. B’s child support obligation would be effective beginning with the month of October 2013.<sup>13</sup>

As the person who filed the appeal, Ms. B has the burden of proving by a preponderance of the evidence that the Modified Administrative Child Support and Medical Support Order was issued in error.<sup>14</sup>

Civil Rule 90.3(a)(1) provides that an obligor’s child support is to be calculated based on his or her “total income from all sources,” minus mandatory deductions such as taxes and Social Security. In this modification, CSSD calculated Ms. B’s child support at \$254 per month, based on full-time wages of \$16,120, which CSSD estimated from the minimum wage of \$7.75 per hour.<sup>15</sup> At the hearing, however, the agency representative indicated that a more accurate method of calculating Ms. B’s child support would be to annualize her wages from the fourth quarter of 2014, as that was her actual quarterly income at the time. CSSD’s request is reasonable. Ms. B earned \$3,603.60 during that quarter, so when annualized, that amount equals \$14,414.40.<sup>16</sup> Adding the 2014 PFD of \$1,884 results in total annual income of \$16,298.40.<sup>17</sup> This amount, when inserted into CSSD’s child support calculator, yields a child support amount of \$242 per month for one child.<sup>18</sup> This amount is effective beginning the month of October

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<sup>10</sup> AS 25.27.190(e).  
<sup>11</sup> \$50 x 15% = \$7.50.  
<sup>12</sup> 15 AAC 125.321(d).  
<sup>13</sup> Exh. 3.  
<sup>14</sup> 15 AAC 05.030(h).  
<sup>15</sup> Exh. 7 at pg. 6.  
<sup>16</sup> \$3,603.60 x 4 = \$14,414.40.  
<sup>17</sup> Attachment A.  
<sup>18</sup> *Id.*

2014, when Ms. B started earning the income on which this calculation is based. At the time the modification action commenced, Ms. B was staying in the small village of No Name and did not have any income. She returned to Anchorage in January 2014, but as Ms. B admitted during the hearing, she was still drinking at that time and was not capable of working and earning any wages. Her child support prior to October 2014 should remain at \$50 per month.

#### **IV. Conclusion**

Ms. B met her burden of proving that the Amended Modified Administrative Child Support and Medical Support Order dated July 17, 2014 is incorrect. Ms. B's annualized income from the fourth quarter of 2014 yields a child support amount of \$242 per month, effective beginning in October 2014, when the fourth quarter commenced. Her child support should remain at \$50 per month for the time period prior to October 2014. There was no variance under Civil Rule 90.3(c) requested or applied in this case.

#### **V. Child Support Order**

- Ms. B's child support for W is modified to \$242 per month, effective beginning in October 2014, and ongoing;
- Ms. B's child support shall remain at \$50 per month up until October 2014;
- All other provisions of the Amended Modified Administrative Child Support and Medical Support Order dated July 17, 2014 remain in full force and effect.

Dated: June 23, 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 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.]