

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

In the Matter of)	
)	
X L)	OAH No. 15-0415-CSS
<hr style="width:45%; margin-left:0"/>)	Agency No. 001169080

DECISION AND ORDER

I. Introduction

The obligor, X L, has appealed an Administrative Review Decision that the Child Support Services Division (CSSD) issued in his case on March 20, 2015. CSSD’s decision denied his request for a default review. The obligee children in this case are M and N. The other party is T M. K.

The hearing was held on May 5, 2015. Mr. L and James Pendergraft, CSSD Child Support Specialist, appeared by telephone. A telephone call was placed to Ms. K at the appointed time but the call went unanswered. The hearing was recorded.

Based on the record as a whole and after careful consideration, CSSD’s Administrative Review Decision is affirmed. Mr. L is not entitled to a default review, as discussed below.

II. Facts

CSSD issued an Administrative Child and Medical Support Order dated October 12, 2010 that set Mr. L’s ongoing child support at \$1,120 per month for two children, with arrears of \$4,480 beginning in July 2010.¹ Mr. L did not appeal. On August 8, 2011, the Superior Court issued an interim order for Mr. L to pay support for M and N in the amount of \$559 per month effective May 2011.² In December 2011, the court issued its final support order setting support for M and N at \$587 per month.³

On February 11, 2015, Mr. L requested a Default Review of CSSD’s 2010 support order.⁴ CSSD had calculated Mr. L’s child support obligation using an extrapolation of his first and second quarter earnings as reported to the Alaska Department of Labor, unemployment, and the 2010 Permanent Fund Dividend. Mr. L does not dispute the income information used by

¹ Exh. 1.
² Exh. 2.
³ Exh. 3.
⁴ Exhs. 4, 5.

CSSD; rather, Mr. L argues he was unable to work the last two quarters of 2010 because of severe depression so his actual earnings were half of what CSSD used for purposes of the child support calculation.⁵

III. Discussion

As the person who filed the appeal, Mr. L has the burden of proving by a preponderance of the evidence that CSSD's Administrative Review Decision denying his request to vacate a default order is incorrect.⁶

Under Alaska law, an obligor parent may request that CSSD vacate and reissue a child support order previously calculated from a default income amount, not the person's actual income and ability to pay.⁷ A default income amount is one that was 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.⁸ A calculation is *not* based on a default income amount if it was 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.⁹

CSSD calculated Mr. L's child support obligation using an extrapolation of his first and second quarter earnings as reported to the Alaska Department of Labor, unemployment, and the 2010 Permanent Fund Dividend. Under 15 AAC 125.121(j)(1), this calculation method is, by definition, not based on a default income amount, so Mr. L is not entitled to have the October 2010 Administrative Child Support and Medical Support Order vacated and to have his child support recalculated based on his actual income for 2010.

IV. Conclusion

Mr. L did not meet his burden of proving that the March 20, 2015 Administrative Review Decision was incorrect. CSSD correctly denied Mr. L's request for relief because the October 12, 2010 Administrative Child Support and Medical Support Order was based on an extrapolation of his actual income, which included employer reported earnings.

⁵ Exhs. 2 – 7; L Testimony.

⁶ 15 AAC 05.030(h).

⁷ AS 25.27.195(b).

⁸ 15 AAC 125.121(j)(1).

⁹ 15 AAC 125.121(j)(2).

V. Child Support Order

CSSD's March 20, 2015 Administrative Review Decision is affirmed.

Dated: May 15, 2015

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 within 30 days after the date of this decision.

DATED this 3rd day of June, 2015.

By: Signed

Signature
Rebecca L. Pauli

Name
Administrative Law Judge

Title

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