

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

In the Matter of)	
)	
K L. X)	OAH No. 15-0521-CSS
<hr style="width:45%; margin-left:0"/>)	Agency No. 001113618

DECISION AND ORDER

I. Introduction

On September 18, 2002, the Child Support Services Division (CSSD) established Mr. X's support for the obligee child B. On February 20, 2015, Mr. X requested to have his support obligation modified. The request was denied on April 27, 2015 because there is a pending default review. The decision of the division to deny Mr. X's petition for a modification review is affirmed.

II. Facts

Mr. X and T Q, the custodian, have one child B. CSSD established Mr. X's support for B on September 18, 2002 effective August 2000. The amount of support is \$191 per month. The 2002 order does not appear to have been modified since it was issued.

Mr. X's support obligation is also undergoing a "default review." That review has not been completed and is not part of this proceeding.¹ The default review is an exception to the general rule prohibiting retroactive modification of child support order. Alaska Statute AS 25.27.195(b) and Alaska Regulation 15 AAC 125.121 give CSSD limited authority to vacate administrative child support order and retroactively adjust the monthly support amounts due when that support amount was based on a default income figure rather than actual income. A default income figure is an amount arrived at in the absence of any specific information about an obligor's income and earning ability during the relevant time frames.²

While he was undergoing a default review, Mr. X made a verbal request to have his child support modified. It is unknown if this request was made during an inquiry about his pending default review. Regardless, the division denied his request on April 17, 2015.³

¹ The Default Review will have separate appeal rights.

² 15 AAC 125.121(j).

³ Exh. 4.

III. Discussion

Mr. X has an active default review ongoing with CSSD. A modification of child support is only appropriate when there has been a material change in circumstance. When determining whether there has been a material change in circumstances several factors are considered, including the amount of change from the prior child support amount.

Although Mr. X’s child support obligation is currently \$191 per month, Mr. X, through the default review process, has challenged the accuracy of that number negating the ability to conduct a modification review. It is important to note that affirming CSSD’s decision does not work against Mr. X as the time covered by the modification will be included in the default review.

IV. Conclusion

The decision of CSSD to deny Mr. X’s Petition for Modification is affirmed. However, CSSD should endeavor to complete the default review as expeditiously as possible.

Dated: September 1, 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 16th day of September, 2015.

By: Signed _____
Signature
Christopher Kennedy _____
Name
Administrative Law Judge _____
Title

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