

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

In the Matter of	)	
	)	
N F. N	)	OAH No. 15-1188-CSS
_____	)	Agency No. 001168445

**DECISION AND ORDER**

**I. Introduction**

N N appealed a Modified Administrative Child Support and Medical Support Order issued on August 14, 2015. Mr. N is the obligor parent. The custodial parent is O U. There are two children in this child support case, K and S.

A hearing was held on September 21, 2015. Mr. N represented himself. Child Support Services Division (CSSD) was represented by Child Support Specialist Joseph West. Ms. U did not appear.

Based on the evidence presented, CSSD's Modified Administrative Child Support and Medical Support Order is AFFIRMED.

**II. Facts**

In 2012, CSSD established a child support obligation of \$343 per month for two children.<sup>1</sup> On June 4, 2015, CSSD mailed a Notice of Petition for Modification of Administrative Support Order.<sup>2</sup> A Modified Administrative Child Support and Medical Order was issued on August 11, 2015.<sup>3</sup> This order set Mr. N's child support obligation at \$763 per month for two children.<sup>4</sup>

The new order was based on wages reported to the Department of Labor by Mr. N's employer. According to the reported wages, he earned a total of \$39,500.26 in the last two quarters of 2014 and the first two quarters of 2015.<sup>5</sup> With the addition of a PFD check, Mr. N's gross annual income was calculated at \$41,384.26.

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<sup>1</sup> Exhibit 1.  
<sup>2</sup> Exhibit 2. The notice is dated June 3, but the certificate of service shows that it was mailed the following day.  
<sup>3</sup> Exhibit 3.  
<sup>4</sup> Exhibit 3, page 6.  
<sup>5</sup> Exhibit 5.

### III. Discussion

A parent is obligated both by statute and at common law to support his or her children.<sup>6</sup> 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."<sup>7</sup> CSSD uses the best information available to determine a parent's income.<sup>8</sup> When ongoing child support is modified, the new amount is effective the first day of the month following the date the request for modification was served on the non-requesting parent.<sup>9</sup> The person appealing CSSD's decision has the burden of demonstrating that the decision is incorrect.<sup>10</sup>

Mr. N noted that CSSD has been taking money from his paycheck, and a recent paycheck ended up with a net pay of zero dollars.<sup>11</sup> CSSD is allowed to order income withholding of both the current child support obligation and unpaid child support from previous months.<sup>12</sup> The amount withheld may not exceed 40% of after tax income without good cause.<sup>13</sup> Mr. N may wish to speak with his employer, his CSSD case worker, or both to see if a mistake has been made in withholding income.

Mr. N also noted that he does not always receive overtime work, and that his pay is much lower in the winter. His pay stub for the pay period ending July 25, 2015 shows year to date gross wages of \$25,682. This is an average of \$3,668.86 a month, or \$44,026 per year. His pay stub for the period ending August 22, 2015 shows year to date gross wages of \$28,780. This equates to annual earnings of approximately \$43,000 a year. However, it is possible that his year to date earnings overstate his expected income. Mr. N's tax transcripts for 2013 and 2014 match the amounts shown on the Department of Labor report. Thus, it was reasonable for CSSD to rely on the lower income amount calculated from the Department of Labor report.<sup>14</sup> Mr. N may need to save some of his overtime wages in high income months to pay for his child support in low income months, but overall, he should have sufficient income to meet his support obligation.

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<sup>6</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987); AS 25.20.030.

<sup>7</sup> See 15 AAC 125.010 (adopting Civil Rule 90.3 by reference).

<sup>8</sup> 15 AAC 125.050.

<sup>9</sup> 15 AAC 125.321(d).

<sup>10</sup> 15 AAC 05.030(h).

<sup>11</sup> N testimony.

<sup>12</sup> 15 AAC 125.540(a).

<sup>13</sup> 15 AAC 125.540(c).

<sup>14</sup> Had CSSD used his paystubs to calculate the support obligation, Mr. N's obligation would have been slightly higher.

A parent's child support obligation is based on his or her expected annual income.<sup>15</sup> The obligation calculated from this income may be varied only in exceptional circumstances.<sup>16</sup> While Mr. N does have other expenses in addition to child support, he has not shown that those expenses are unusually high as to constitute exceptional circumstances.

#### **IV. Conclusion**

CSSD correctly estimated Mr. N's expected annual income. His child support obligation should be set at \$565 per month for one child, and \$763 per month for two children, effective July 1, 2015. This calculation was made pursuant to the guidelines in Civil Rule 90.3.

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

1. N F. N is liable for child support in the amount of \$763 per month for two children effective July 1, 2015 and ongoing.
2. All other terms of the Modified Administrative Child Support and Medical Support Order dated August 11, 2015 remain in full force and effect.

Dated: September 28, 2015

Signed  
Jeffrey A. Friedman  
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 14<sup>th</sup> day of October, 2015.

By: Signed  
Signature  
Andrew M. Lebo  
Name  
Administrative Law Judge  
Title

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

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<sup>15</sup> Civil Rule 90.3(a).

<sup>16</sup> Civil Rule 90.3(c)(1).