

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

In the Matter of	)	
	)	
D T	)	OAH No. 15-1451-CSS
_____	)	Agency No. 001149995

**DECISION AND ORDER**

**I. Introduction**

The obligor D T appeals a Modified Administrative Child Support and Medical Support Order issued on April 24, 2015 by the Child Support Services Division (Division or CSSD). This order increased Mr. T's monthly support obligation due to the addition of one child to his child support case. The custodial parent is E D. G. Mr. T argues that he was living with his children so his support should not be increased. This decision concludes that Mr. T did not establish that the April 24, 2015 Order adding F, age six, to the existing order for B, age eight, was in error. The April 24, 2015 Order is affirmed.

**II. Facts**

The facts recited below are found either in the Division's pre-hearing brief, post-hearing submission, or the testimony of Ms. G. Although Mr. T had notice, he did not participate in the hearing.<sup>1</sup> The record remained open for 10 days as required by regulation.<sup>2</sup>

Mr. T and Ms. G are the parents of B and F. In 2008, CSSD established child support for B in the amount of \$112 per month.<sup>3</sup> Ms. G withdrew from services. F was born in 2009.

On March 5, 2015, Ms. G applied for services seeking to add F to B's support order.<sup>4</sup> CSSD provided notice to the parties on March 25, 2015.<sup>5</sup> Neither parent provided financial information in a timely manner.

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<sup>1</sup> A current mailing address must be provided to the department with the request for appeal, and any change in mailing address after the request for appeal is filed must be reported to the department immediately. If the department mails a document by registered or certified mail, service is effective if the mailing is addressed to the latest address provided to the department. 15 AAC 05.010. The notice of hearing sent by certified mail was returned as unclaimed. The file contains no indication that the notice of assignment sent by first class mail was returned. Therefore, the hearing proceeded in his absence.

<sup>2</sup> 15 AAC 05.030(j).

<sup>3</sup> Exh. 1.

On April 24, 2015, CSSD issued a Modified Administrative Child Support and Medical Support Order adding F and setting support in the amount of \$433 per month for two children effective April 2015 forward.<sup>6</sup> Mr. T appealed on November 16, 2015. In support of his appeal, he wrote that he was in the house until January 2015 and that the children lived with his parents from May 2015 through October 2015.

Ms. G agrees with the statements in Mr. T's appeal. She testified that she has custody of the children.<sup>7</sup> Ms. G explained at hearing that the children went to their paternal grandparents at her direction and that she provided support to them while living with their grandparents.

### **III. Discussion**

This action is both an establishment and modification action. It is an establishment action in the sense that it establishes support for F, and a modification action because the addition of F to the existing support order for B is a modification of B's order.

Mr. T's appeal does not challenge amount of income used by CSSD to calculate his support obligation.<sup>8</sup> Rather, he appears to be contending that he should not be obligated to pay child support when he was living in the home or when the children were at his parents'. Because he filed the appeal, Mr. T has the burden of proving that CSSD's order is incorrect.<sup>9</sup>

A modification is effective beginning the first of the month after the parties are served with notice that a modification has been requested.<sup>10</sup> CSSD issued the notice in Mr. T's case on March 25, 2015, so the modification is effective as of April 1, 2015.<sup>11</sup> Ms. G applied for services for F in March 2015. CSSD's Order dated April 24, 2015 establishes arrears for F in the amount of \$112 per month effective March 2015. CSSD's order modifies the support owing for two children to \$433 per month effective April 2015 forward. CSSD's April 24, 2015 Order was effective after Mr. T moved out of the house.

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<sup>4</sup> Exh. 2.

<sup>5</sup> Exh. 3.

<sup>6</sup> Exh. 5.

<sup>7</sup> There is no court awarded custody order in place.

<sup>8</sup> Originally, it appeared CSSD may have overstated Mr. T's income. However, this was explained in CSSD's post-hearing submission. Income is not at issue.

<sup>9</sup> 15 AAC 05.030(h).

<sup>10</sup> 15 AAC 125.321(d).

<sup>11</sup> Exh. 4.

As for time spent with Mr. T's parents, the unchallenged evidence establishes that the two children were visiting at Ms. G's direction and that she continued to support the children while visiting their grandparents. Mr. T has failed to establish that CSSD's April 24, 2015 Modified Administrative Child Support and Medical Support Order is in error.

**IV. Conclusion**

Mr. T did not take advantage of the opportunity to submit evidence in support of his appeal that CSSD's April 24, 2015 Order was incorrect. Therefore, CSSD's April 24, 2015 Modified Administrative Child Support and Medical Support Order should be affirmed.

**V. Order**

CSSD's April 24, 2015 Modified Administrative Child Support and Medical Support Order is AFFIRMED.

Dated: January 27, 2016

*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 11<sup>th</sup> day of February, 2016.

By: *Signed* \_\_\_\_\_  
Signature  
Rebecca L. Pauli \_\_\_\_\_  
Name  
Administrative Law Judge \_\_\_\_\_  
Title

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