

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

|                   |   |                     |
|-------------------|---|---------------------|
| In the Matter of: | ) |                     |
|                   | ) | OAH No. 16-0220-CSS |
| S A. T            | ) | CSSD No. 001130172  |
| _____             | ) |                     |

**DECISION AND ORDER**

**I. Introduction**

S A. T appeals an Amended Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on March 1, 2016.

The hearing was held on April 6, 2016. Mr. T appeared by telephone. Custodial parent T M. X declined to participate. Joseph West, Child Support Specialist, represented CSSD. The hearing was recorded. The record remained open for additional evidence and argument until April 22, 2016.

Based on the evidence and after careful consideration, Mr. T's monthly child support obligation is adjusted to \$282 for two children, \$209 for one child, effective March 1, 2016.

**II. Facts**

*A. Procedural Background*

Mr. T and Ms. X are the biological parents of two children: E, who turned 18 in February 2016, and R, 17. The children live with Ms. X. It is not clear whether E remains subject to Mr. T's support obligation after turning 18. This decision addresses Mr. T's obligation for two children; however, the one child obligation is also noted in case E is no longer eligible for support.

In 2010, Mr. T's child support obligation for E and R was set at \$50, the minimum monthly amount allowed under Alaska law, due to Mr. T's incarceration.<sup>1</sup> On September 21, 2015, CSSD received a verbal request from Ms. X to review the support order.<sup>2</sup> On September 23, 2015, CSSD sent the parties a Notice of Petition for Modification of Administrative Support Order.<sup>3</sup> It did not receive income information from either party.

On October 23, 2015, CSSD issued a Modified Administrative Child Support and Medical Support Order, which was effective October 1, 2015.<sup>4</sup> CSSD calculated Mr. T's

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<sup>1</sup> Ex. 1.  
<sup>2</sup> CSSD Pre-Hearing Brief, p. 1; *see also* Ex. 2 (Notice of Petition for Modification based on request).  
<sup>3</sup> Ex. 2.  
<sup>4</sup> Ex. 3.

modified support obligation based on an imputed minimum wage of \$7.25 per hour, multiplied by 2,080 hours, the number of hours a full-time employee would work in a year.<sup>5</sup> The resulting annual income, \$15,080.00, plus his \$2,072 Alaska PFD, totaled \$17,152. Based on this income, the order increased Mr. T's monthly child support obligation to \$327 for two children, \$242 for one child once Mr. T was no longer legally required to provide support for E.<sup>6</sup>

Mr. T moved out of Alaska in June 2015. He currently lives in Idaho, but also recently lived in Washington.<sup>7</sup> He did not receive the September 2015 Notice of Petition or the October 2015 Modified Administrative Child Support and Medical Support Order. He was unaware that his support obligation had been modified until February 2016, when he learned that CSSD was withholding income from his worker's compensation benefits in order to pay his arrears balance.<sup>8</sup>

Beginning on February 23, 2016, Mr. T and CSSD exchanged a number of emails regarding the support modification.<sup>9</sup> As a result of that communication, CSSD discovered that it had incorrectly entered Mr. T's address of record into its system, so it had not in fact mailed the 2015 Notice of Petition, or the Modified Administrative Child Support and Medical Support Order, to his address of record. It also discovered a typographical error in one section of the modified support order.<sup>10</sup> CSSD acknowledged the error in an email dated February 25, 2016, and it mailed notice of the modification to Mr. T on that day.<sup>11</sup> On February 29, 2016, CSSD issued a Notice of Correction, and on March 1, 2016, it issued an Amended Modified Administrative Child Support and Medical Support Order restating Mr. T's support obligation of \$327 for two children, \$242 for one child, effective October 1, 2015.<sup>12</sup> Mr. T appealed.<sup>13</sup>

Mr. T raised a number of challenges to CSSD's action. He argued that he did not receive proper notice of the modification proceedings, that CSSD had not adequately justified initiating the review, and that CSSD had failed to obtain and disclose Ms. X's income information, as it

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<sup>5</sup> See 15 AAC 125.050(d)(2).

<sup>6</sup> See Ex. 3, p.2.

<sup>7</sup> Testimony of S T.

<sup>8</sup> As of February 23, 2016, CSSD calculated his arrears at \$6,673.63. Ex. 4, pp. 3-4. This decision does not and cannot resolve any issues related to Mr. T's arrears. This appeal addresses only the issue of Mr. T's ongoing child support obligation, from the effective date of modification and forward.

<sup>9</sup> Ex. 4; see also Ex. 13 (emails between Mr. T and CSSD, dated 2/23/16 to 3/21/16).

<sup>10</sup> See Ex. 3, p.1, 6.

<sup>11</sup> Ex. 6, p.2; Ex. 13, p.5 (email from A. Sizemore, CSSD, to S. T, dated 2/25/16).

<sup>12</sup> Ex. 5, pp. 1, 3-8.

<sup>13</sup> Ex. 6.

was required to do.<sup>14</sup> He also challenged CSSD’s modified support calculation. He indicated that he was not able to work due to medical disability, specifically, a shoulder injury and recent surgery.<sup>15</sup> He requested a variance of his support obligation based on his medical disability or, alternatively, by the financial hardship caused by CSSD’s withholding to pay his arrears.

Prior to the hearing, CSSD submitted information from the Alaska Department of Labor showing that Facility X reported the following wages for Mr. T: \$692.37 paid in 2015; \$4947.18 in 2014; and \$1889.86 in 2013.<sup>16</sup> Mr. T submitted Schedule C from his 2015 tax return, showing gross receipts from his lawn and garden business of \$1606, but a net loss after expenses of \$1007.<sup>17</sup> He also provided other evidence of 2015 income, including his \$2072 Alaska PFD,<sup>18</sup> \$1620 in unemployment income,<sup>19</sup> and \$1292.46 in wages from Facility Y in Idaho.<sup>20</sup> After the hearing, he submitted receipts for his 2015 worker’s compensation income, which totaled \$3833.40.<sup>21</sup> He declined to provide a complete 2015 tax return.

Mr. T also submitted medical records describing his disability. These included: (1) a November 11, 2015 doctor’s report, which diagnosed a left shoulder labrum tear that occurred on August 27, 2015<sup>22</sup>; (2) a December 9, 2015 letter from K J, M.D., indicating that Mr. T “may not work in any capacity at this time”<sup>23</sup>; (3) a March 22, 2106 report from Dr. J, indicating that Mr. T had surgery on his left shoulder on January 12, 2016, that he may now return to work with specified lifting and use restrictions, and that he was expected to return to work “with full use and duty” in 6 weeks<sup>24</sup>; (4) a March 21, 2016 physical therapy progress summary<sup>25</sup>; and (5) an October 7, 2014 disability work status report rating Mr. T as “partially disabled” due to recent surgery and describing his expected recovery time.<sup>26</sup>

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<sup>14</sup> See Ex. 13 (emails between S. T and CSSD, dated 2/23/16 to 3/21/16); Ex. 14 (emails from S. T to CSSD re custodian income, dated 4/4/16 to 4/7/16).

<sup>15</sup> Ex. 4; Ex. 13, pp. 7-8.

<sup>16</sup> Ex. 7.

<sup>17</sup> Ex. 12, pp.1-2.

<sup>18</sup> Ex. 12, p.3.

<sup>19</sup> Ex. 12, p.4.

<sup>20</sup> Ex. 12, p.5.

<sup>21</sup> Ex. 10, pp. 1-6.

<sup>22</sup> Ex. 6, p.3; *see also* Ex. 10, p.9 (same report).

<sup>23</sup> Ex. 10, p.7.

<sup>24</sup> Ex. 10, p.8.

<sup>25</sup> Ex. 12, p.6.

<sup>26</sup> Ex. 12, p.7.

After the hearing, CSSD submitted revised child support calculations. It proposed a 2015 support obligation based on Mr. T's actual 2015 income.<sup>27</sup> For his 2016 obligation, it provided two proposed alternatives: one based on an annualized calculation of Mr. T's current worker's compensation income, and one based on his receipt of worker's compensation income for six months, followed by six months of income from half-time work at his former wage of \$13 per hour.<sup>28</sup> Mr. T objected to CSSD's proposed calculations as unrealistic, but he did not explain what he believes would be a more realistic 2016 income expectation.<sup>29</sup>

*B. Material Facts*<sup>30</sup>

Mr. T has worked at a variety of jobs. His job history includes landscaping and lawn work, janitorial services, and cooking or dishwashing at restaurants. Most recently, he worked for Facility Y, where he earned \$13 per hour, 35 hours per week. However, his work there was short term, since he was injured on the job in August 2015 and then terminated in September. He has not worked since that time. He receives worker's compensation benefits as a result of the injury.<sup>31</sup>

Mr. T had surgery on his left shoulder in January 2016.<sup>32</sup> Dr. J described the procedure as an "arthroscopic decompression without rotator cuff repair."<sup>33</sup> In December 2015, Dr. J reported that Mr. T was not able to work in any capacity, and the doctor could not estimate the date of his expected return to work status.<sup>34</sup> On March 22, 2016, Dr. J indicated that Mr. T could return to work with a 10 pound lifting limit, and avoiding overhead use, or pushing and pulling with the left arm. He estimated that Mr. T's return to work "with full use and duty" will occur in 6 weeks, or roughly early May 2016.<sup>35</sup>

Mr. T has experienced other physical problems that limited his ability to work even before his 2015 shoulder injury. He indicated that he had surgery on his left wrist in October 2014, and he was off work for six months while he recovered. An October 7, 2014 Disability Work Status report confirms that Mr. T was considered "partially disabled" at that time. The

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<sup>27</sup> Ex. 11, p.1 (this calculation inadvertently omitted 2015 income from Facility X).

<sup>28</sup> Ex. 11, pp. 2-3.

<sup>29</sup> Ex. 14 (email from S. T, dated 4/14/16).

<sup>30</sup> Unless otherwise specified, material facts are based on the testimony of S T.

<sup>31</sup> Ex. 10, pp. 1-6.

<sup>32</sup> There is conflicting evidence regarding the date of Mr. T's left shoulder surgery. *See* Ex. 6, p.1 (August 2015); Testimony of S. T. Dr. J's March 22, 2016 report refers to surgery on January 12, 2016; this is accepted as the most reliable evidence on this issue. Ex. 10, p.8.

<sup>33</sup> Ex. 10, p. 8.

<sup>34</sup> Ex. 10, p.7.

<sup>35</sup> Ex. 10, p. 8.

report refers to an upcoming surgery, after which Mr. T would be in a cast and essentially nonweight-bearing for 6-10 weeks, with gradually increasing weight limits thereafter.<sup>36</sup> The report also indicates that Mr. T expected to have a similar surgery on his right wrist, with similar restrictions.

Mr. T is married. His wife works and owns the house where they live. She pays the mortgage. Mr. T did not disclose her income. He helps pay for household expenses, which he estimated on a monthly basis at: \$50 for cell phone; \$100 for food; \$100 for internet; \$100 for gas; \$100 for maintenance of his wife's car; \$50 for entertainment; and \$50 for clothing. His recent medical bills have been paid by the worker's compensation program, except for \$160 incurred when he had a sinus infection. He estimated his outstanding student loan debt at \$75,000.

### **III. Discussion**

#### *A. Preliminary Issues*

##### 1. Initiation of Modification Review

Mr. T questioned whether CSSD properly initiated the modification review in this case. The record indicates that CSSD opened the review based on a verbal request from the custodial parent on September 21, 2015. Child support orders may be reviewed at the request of a parent who is subject to the support order.<sup>37</sup> CSSD also may initiate a modification review at its own discretion under specified circumstances.<sup>38</sup> The September 2015 Notice of Petition indicates that one of the parties requested the modification review. CSSD's record of Ms. X's verbal request sufficiently justifies its action in this case.

##### 2. Notice

Mr. T also argued that CSSD failed to provide proper notice of the modification review. There is merit to this argument. Under Alaska law, CSSD satisfies its notice obligation in modification actions when it sends notice by first class mail to a party's last known address on file with the agency.<sup>39</sup> This places a duty on an obligor to keep CSSD apprised of his or her current mailing address. Notice is not defective if it was properly mailed but not actually received.

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<sup>36</sup> Ex. 12, p.7 (10/7/14 Disability Work Status Report from K. B, PA-C).

<sup>37</sup> 15 AAC 125.316(a).

<sup>38</sup> 15 AAC 125.316(b)(2)(F).

<sup>39</sup> 15 AAC 125.810(a).

In this case, it appears that Mr. T did not keep his mailing information with CSSD current.<sup>40</sup> Nevertheless, CSSD acknowledged that it had incorrectly entered his address into its computer system.<sup>41</sup> As a result, the September 2015 Notice of Petition and the October 2015 Modified Administrative Child Support Order were not, in fact, sent by first class mail to Mr. T's address of record.

It is not at all clear, or even likely, that Mr. T would have received these documents had they been sent to his address of record in September and October 2015. It is not necessary to speculate about this, however, since the notice was defective as a matter of law. The defect was not remedied until Mr. T received actual notice of the modification review and the modified child support order. He had this notice by February 25, 2016, when CSSD acknowledged the mailing error and mailed him the modified support order.<sup>42</sup> This means that the effective date of Mr. T's modified support order should be March 1, 2016.<sup>43</sup>

#### *B. Child Support Modification Issues*

##### 1. Modification

A parent is obligated both by statute and at common law to support his or her children.<sup>44</sup> Alaska Civil Rule 90.3(a) provides the formula used to calculate child support awards in cases where one parent has primary physical custody. The Commentary to Civil Rule 90.3 explains that the rule is designed to approximate the amount a non-custodial parent would have spent on the children if the family was intact. It operates on the principal that, as the income available to both parents increases, the amount available to support the children also will increase.<sup>45</sup>

A child support order may be modified upon a showing of “good cause and material change in circumstances.”<sup>46</sup> If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes that “material change in circumstances” has been established and the order may be modified. Mr. T's child support has

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<sup>40</sup> Ex. 13, p.8 (CSSD 2/23/16 email, noting Mr. T's address of record in Anchorage).

<sup>41</sup> Ex. 6, p.2; Ex. 13, p. 5 (2/25/16 email from A. Sizemore, CSSD, to S. T).

<sup>42</sup> Ex. 6, p.2; Ex. 13, p.5 (email from A. Sizemore, CSSD, to S. T, dated 2/25/16).

<sup>43</sup> 15 AAC 125.321(d).

<sup>44</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987); AS 25.20.030.

<sup>45</sup> Civil Rule 90.3, Commentary, II.

<sup>46</sup> AS 25.27.190(e).

been set at \$50 per month since 2010. A revised child support calculation that is at least \$7.50 higher, or \$57.50 or more, would be sufficient to warrant modification in this case.<sup>47</sup>

In a child support matter, the person who files an appeal bears the burden of proof.<sup>48</sup> Mr. T filed this appeal, so he must prove by a preponderance of the evidence that the March 1, 2016 Amended Modified Administrative Child Support and Medical Support Order is incorrect.<sup>49</sup> He met his burden to show that his child support order should be adjusted.

Civil Rule 90.3(a)(1) bases an obligor's child support determination on his or her "total income from all sources," minus mandatory deductions such as taxes and Social Security.<sup>50</sup> The obligor parent has the burden of proving his or her earning capacity.<sup>51</sup> An obligor who claims he or she cannot work or pay child support because of a disability or similar impairment must provide sufficient proof of the medical condition.<sup>52</sup>

After the hearing, it became possible to calculate Mr. T's actual 2015 income based on the evidence he submitted. This includes worker's compensation income of \$3833.40, unemployment income of \$1620, Alaska PFD of \$2072, Facility X wages of \$692.37, and Facility Y wages of \$1292.46, for a total \$9510.23 for the year. Mr. T's claimed loss on his lawn care business was excluded, since he did not submit a complete 2015 tax return and it was not possible to adequately evaluate this claim.

Since Mr. T's modified obligation is effective March 1, 2016, it is also appropriate to evaluate his expected 2016 income.<sup>53</sup> This is because, under Civil Rule 90.3, a parent's ongoing child support obligation should be based on the amount the parent can be expected to earn during the period the support is being paid. By its nature, this determination is a somewhat uncertain endeavor, since the relevant calculation is expected future income.<sup>54</sup> If it becomes apparent that the projected income calculation is significantly off-target, Mr. T may move to modify his obligation at a later time.<sup>55</sup>

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<sup>47</sup> \$50 x 15% = \$7.50

<sup>48</sup> 15 AAC 05.030(h).

<sup>49</sup> 2 AAC 64.290(e).

<sup>50</sup> Civil Rule 90.3(a); *see also Kowalski v. Kowalski*, 806 P.2d 1368, 1370 (Alaska 1991).

<sup>51</sup> *Kowalski*, 806 P.2d at 1372.

<sup>52</sup> *Id.* at 1371.

<sup>53</sup> 15 AAC 125.050(c).

<sup>54</sup> Civil Rule 90.3, Commentary III.E.

<sup>55</sup> *See Kowalski v. Kowalski*, 806 P.2d 1368, 1372 (Alaska 1991). Mr. T requested a delay in determining his expected 2016 income because of the uncertainty involved. Civil Rule 90.3 requires a different approach, however.

Regarding his expected future income, Mr. T's view appears to be that he is unemployable, and he cannot be expected to receive 2016 income that should apply to the Civil Rule 90.3 child support formula. However, there is no evidence that would justify such a finding. Mr. T established that physical problems over the last two years resulted in temporary disabilities, which affected his ability to work and earn wage income. From the evidence in the record, his current disability is temporary, however, and Mr. T's related unemployment also should be temporary. In addition, Mr. T received worker's compensation in lieu of wage income during the period in which he was unable to work. That income is properly included in his support calculation.<sup>56</sup> From his 2015 worker's compensation payment receipts, it appears Mr. T receives \$696.80 twice a month.<sup>57</sup> These payments will end once he is physically capable of returning to work. Dr. J reported that Mr. T is likely to be released for full work duty in May. Based on this information, it is reasonable to assume that Mr. T will receive worker's compensation income only through April 2016. This income totals \$5574.40.<sup>58</sup>

By June 1, 2016, Mr. T's temporary disability should be resolved, and it is reasonable to anticipate that he could be working and earning income again. The challenge is in assessing his expected future wage income as he transitions back to work. Mr. T credibly testified that his age and history of joint problems make it increasingly difficult for him to continue doing the kind of manual labor jobs he did as a younger person. This is understandable. It is not clear, however, whether Mr. T could be expected to perform something like his prior landscaping and lawn care work, but on a part-time basis. This would allow him to earn a higher hourly wage, and work fewer hours per week. If that is not possible, there is no evidence explaining why Mr. T could not opt for a less physically demanding job, which may not pay as well, but at which he could work more hours every week.

If Mr. T began working on June 1 and earned a minimum wage of \$7.25 per hour, 40 hours per week, he would earn \$8410.75 through the end of the year.<sup>59</sup> Alternatively, if he returned to higher-paying lawn and landscaping work starting June 1, on a half-time basis to accommodate his physical constraints, he would earn \$7540 through the end of the year.<sup>60</sup> In

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<sup>56</sup> Mr. T's worker's compensation payments are income under the Rule 90.3 formula, even if some of that income is withheld to pay child support arrears.

<sup>57</sup> Ex. 10, pp. 1-6.

<sup>58</sup>  $\$696.80 \times 4 = 5574.40$ .

<sup>59</sup>  $\$7.25/\text{hr} \times 40 \text{ hr}/\text{wk} \times 29 \text{ weeks} = \$8410$ .

<sup>60</sup>  $\$13/\text{hr} \times 20 \text{ hr}/\text{wk} \times 29 \text{ weeks} = \$7540$ .



light of the uncertainties involved in this case, it is reasonable to adopt the lesser of these two calculations. When added to his worker's compensation income, and after allowable deductions, this income results in a child support obligation of \$282 per month for two children, or \$209 per month for one child.<sup>61</sup>

This calculation compares well with the support obligation that would result from a minimum wage job, working slightly less than 40 hours per week, for 50 weeks a year. It is also reasonable when compared to a calculation based on Mr. T's 2015 actual income. The year 2015 involved significant disruptions for Mr. T, including his orthopedic injuries, two or three different jobs and moves between states. These facts make it likely that Mr. T's 2015 wage income understates what he can be expected to earn in 2016.

## 2. Custodial Parent Income Information

Prior to the hearing, Mr. T requested that CSSD obtain and disclose Ms. X's income information, arguing that he and the custodian should be held to the same set of disclosure expectations.<sup>62</sup> Mr. T suggested at the hearing that Ms. X's income may be as much as \$65,000, and she is in a better financial position to provide for the children's needs than he is. Ms. X did not respond to the Notice of Petition, and she did not participate at the hearing, so the record does not include information about her financial circumstances.

Under Civil Rule 90.3, the contribution of one parent does not affect the obligation of the other parent. The law presumes that the custodial parent is meeting his or her support obligation by contributing at least the same percentage of income to support the children as the noncustodial parent. For this reason, even if Ms. X earns \$65,000 per year, this information alone would not change the calculation of Mr. T's support obligation under Rule 90.3(a).

A custodial parent's income becomes relevant where an obligor has established "good cause upon proof by clear and convincing evidence that manifest injustice would result if the support award were not varied."<sup>63</sup> Even in those unusual circumstances, it is first necessary to determine the amount of support that an obligor normally would be required to pay.<sup>64</sup>

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<sup>61</sup> Ex. A, attached (print-out from CSSD calculator at <https://webapp.state.ak.us/cssd/guidelinecalc/form>).

<sup>62</sup> Civil Rule 90.3(e)(2) provides an informal method by which either parent can send the other parent a written request for income information, in order for the parties to assess whether a modification is warranted. That method is not at issue here.

<sup>63</sup> Civil Rule 90.3(c)(1); *see also* 15 AAC 125.075.

<sup>64</sup> Civil Rule 90.3(c)(1).

At the hearing, Mr. T was informed that Ms. X's income could become relevant, but only if he made a credible case that unusual circumstances exist which justify a variance under Civil Rule 90.3(c). In that situation, Rule 90.3(c) would require the administrative law judge to look at all relevant information, including the custodial parent's income. The undersigned informed Mr. T that his request would be addressed after he presented his case for a hardship variance. As discussed below, Mr. T did not meet his burden on this issue.

### *C. Unusual Circumstances*

Mr. T argued that he should receive a hardship variance of his support obligation based on his medical disability. He also argued that CSSD's withholding of his worker's compensation income had caused significant financial hardship, which should justify a variance.

A parent may obtain a reduction in the support amount calculated under Rule 90.3(a), but only if he shows that "good cause" exists for the reduction. To establish "good cause," the claimant must prove by clear and convincing evidence that "manifest injustice" would result if the support award were not varied.<sup>65</sup>

Mr. T established that recent temporary disability has affected his ability to earn income. However, he has received worker's compensation income, which moderates the financial impact from his injury. More important for purposes of the hardship analysis, however, is that Mr. T declined to provide a complete picture of his household's financial situation. This makes it impossible to fully evaluate his claim of hardship. His wife covers his housing expenses along with other expenses, such as automobile or transportation costs. She earns an undisclosed income. Mr. T mentioned a large outstanding student loan debt. In general, however, Mr. T's duty to support his children would take priority over such debt.

Mr. T's estimated average monthly expenses are roughly \$550. Even at his reduced income in 2015, his average gross monthly income was \$792.52.<sup>66</sup> His expected average gross monthly income in 2016 is notably higher at \$1092.86. These numbers do not suggest that Mr. T's modified child support obligation is either unmanageable or manifestly unjust.

Mr. T's primary argument for a variance is based on the financial hardship caused by CSSD's withholding of up to 40% of his recurring worker's compensation payments to pay his arrears.<sup>67</sup> There is a separate process for addressing this concern, which cannot be resolved in

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<sup>65</sup> Civil Rule 90.3(c).

<sup>66</sup>  $\$9510.23 / 12 = \$792.52$ .

<sup>67</sup> Ex. 4, pp. 3-4.

this appeal. Department of Revenue regulations provide a mechanism through which an obligor can request a modification of income withholding based on hardship.<sup>68</sup> This process is not at issue in this appeal, however.

The financial hardship Mr. T described is more closely associated with CSSD's withholding order than with his modified child support obligation. The fact of his arrears balance, and CSSD's efforts to collect on that balance, do not support a finding of unusual circumstances as contemplated by Civil Rule 90.3(c).

#### **IV. Conclusion**

Based on the evidence in the record and after careful consideration, Mr. T showed that notice of his child support modification was not effected until February 25, 2016. He also met his burden to show that the modified support calculation in the March 1, 2016 Amended Modified Administrative Child Support and Medical Support Order should be adjusted. His modified support obligation should be based on his expected 2016 wage income of \$7540, plus worker's compensation income of \$5574.40. Based on this income, his ongoing child support is properly set at \$282 per month for two children, \$209 for one child, effective March 1, 2016. Mr. T did not show clear and convincing evidence that manifest injustice will result if his child support obligation is not varied. Accordingly, his request for a variance is denied, as is the request to require CSSD to obtain and disclose Ms. X's income information.

The support obligation in this order was calculated under Civil Rule 90.3(a). No hardship variance was granted.

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

- Mr. T's modified child support obligation is adjusted to \$282 per month for two children, \$209 per month for one child, effective March 1, 2016;
- All other provisions of the Division's Amended Modified Administrative Child Support and Medical Support Order, dated March 1, 2016, remain in full force and effect.

DATED this 3rd day of May, 2016.

*Signed*  
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Kathryn A. Swiderski  
Administrative Law Judge

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<sup>68</sup> 15 AAC 125.550.

## 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 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 17th day of May, 2016.

By: Signed  
Signature  
Kathryn A. Swiderski  
Name  
Administrative Law Judge  
Title

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