

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

In the Matter of)	
)	
D B. B)	OAH No. 17-0630-CSS
<hr style="width:45%; margin-left:0"/>)	Agency No. 001143471/001146419

DECISION

I. Introduction

The obligor, D B. B, requested a hearing to contest a modification of her ongoing child support obligation. A hearing was scheduled and Ms. B received notice of the hearing. Ms. B failed to appear at the hearing, and failed to show good cause for that failure. Because Ms. B has the burden of proof, her failure to appear is fatal to her appeal. The Division’s order is therefore affirmed.

II. Facts

D B and M C are the parents of N (age 14), K (age 13), D (age 8), and H (age 6). In March 2008, the Child Support Services Division (CSSD) issued an Administrative Child Support and Medical Support Order, setting Ms. B’s ongoing child support obligation for N and K at \$295 per month.¹

The order apparently went unchanged until this year, when CSSD was notified that Mr. C was receiving tribal assistance on behalf of N and K as well as the parties’ two younger children, D and H, both of whom were born after the 2008 Order.² Based on this information, CSSD initiated a modification to add D and H to the parties’ existing child support order.³ In May 2017, CSSD served the parties with a Modified Administrative Child Support and Medical Support Order, setting Ms. B’s ongoing support amount for the four children at \$365 per month.⁴

¹ Ex. 1.
² CSSD Prehearing Brief; Ex. 2.
³ Ex. 2.
⁴ Ex. 5.

Ms. B timely filed an administrative appeal, alleging in her written request that the children have lived with her for most of the last three years, and also saying that she and Mr. C have a verbal agreement to share custody and not owe child support.⁵

Ms. B's appeal was referred to the Office of Administrative Hearings (OAH), and a hearing was scheduled for July 6, 2017. On June 13, 2017, OAH sent both parties a notice of the date and time for the hearing by certified mail to each person's last-known address. Both parties' "green cards" were returned to OAH.

At the beginning of the July 6 hearing, a call was placed to Ms. B's telephone number of record. She did not answer. After several more unsuccessful attempts to reach Ms. B, I left a voice mail message advising her that she needed to contact OAH about her appeal, and cautioning that failure to do so could lead to dismissal of the appeal. A call was also placed to Mr. C's telephone number of record, but it was not a working number. Because the sole stated basis for Ms. B's appeal appeared to concern allegations about the children's living situation, and neither parent was available to provide any evidence on that issue, the hearing was adjourned without any evidence being taken. As of the date of this Decision, Ms. B has not contacted OAH.

III. Discussion

Ms. B filed an appeal and requested a formal hearing, but she failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which states:

If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless the person, within 10 days after the date scheduled for hearing, shows reasonable cause for failure to appear.

Ms. B has not shown reasonable cause for her failure to appear, as required by the regulation. As of this date, she has not contacted OAH to inquire about her hearing or appeal.

Child support orders may be modified upon a showing of "good cause and material change in circumstances." Case parties having an additional child or children is a material change in circumstances, particularly if public assistance benefits are being paid on behalf of those children.

⁵ Ex. 6.

In a child support matter, the person who files the appeal has the burden of proving that CSSD's order is incorrect.⁶ Ms. B filed an appeal of modification, but she did not appear at the hearing to discuss her current circumstances or otherwise address the issues in her appeal. Having failed to present any evidence in support of her appeal, Ms. B has not met her burden of proving that CSSD's modification is in error.

IV. Conclusion

In abandoning her appeal, Ms. B failed to meet her burden of proving that the modified order is in error. The Modified Administrative Child Support and Medical Support Order dated May 4, 2017 is therefore upheld.

Dated: July 26, 2017

Signed
Cheryl Mandala
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 9th day of August, 2017.

By: Signed
Signature
Cheryl Mandala
Name
Administrative Law Judge
Title

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

⁶ 15 AAC 05.030(h).