

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

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|------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| K L. N |) | OAH No. 17-0719-CSS |
| <hr/> |) | Agency No. 001194191 |

DECISION AND ORDER

I. Introduction

K N appeals a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division increasing his child support obligation for his son H from \$544 to \$848 a month.

The division’s calculations were based on Mr. N’s most recent four quarters of earnings reported to the Alaska Department of Labor and Workforce Development. However, Mr. N testified that he recently changed jobs, and his earnings have changed. The division recalculated Mr. N’s obligation based on his current employment and earnings.

Because the division’s revised calculations reflect Mr. N’s likely earnings going forward, Mr. N’s ongoing child support obligation should be set at \$716 a month.

III. Facts

K N and E Q have one child, H. Ms. Q has primary custody.¹ In 2013, Mr. N was ordered to pay \$544 a month in child support for H.² In March 2017, Mr. N changed jobs and began working at the No Name mine for Business A.³ Ms. Q requested a review of the child support order. On March 20, 2017, the division notified both parties that it had begun a review of the existing child support order. Neither parent provided income information in response to this notice.

Based on information obtained from the Department of Labor and Workforce Development, the division concluded that Mr. N had earnings of \$60,085 from the second quarter of 2016 through the first quarter of 2017. Adding a permanent fund dividend, subtracting mandatory deductions and a medical debit, the division calculated Mr. N’s child support obligation at \$848 a month for one child.

¹ Testimony of Q.
² Exhibit 1.
³ Testimony of N.

Mr. N appealed. A telephonic hearing was held on August 2, 2017. Mr. N represented himself. Child Support Specialist Kimberly Sledgister presented the division's case. Ms. Q also participated. Following the hearing, the division submitted revised calculations based on Mr. N's testimony at the hearing and verifications of health insurance coverage submitted by Mr. N and Ms. Q. The record closed on August 18, 2017.

At the hearing, Mr. N testified about his work schedule and income from his current job. Both parents testified about health insurance coverage for H, and about their respective household expenses. The record was held open for additional information from both parents about the cost of providing health insurance coverage for H, new support calculations from the division, and any response to the new calculations. The record closed on August 18, 2017.

III. Discussion

Alaska Rule of Civil Procedure Rule 90.3 governs the calculation of child support. Civil Rule 90.3 sets child support as a percentage of the obligor parent's adjusted annual income. For one child, the obligation is 20 percent of adjusted income.⁴ This percentage applies to the income which will be earned when then support is to be paid, so the relevant income figure is expected future income rather than past income.⁵

On his appeal form, Mr. N argued that his current job pays less than his old job.⁶ Because Mr. N has recently changed jobs, his current earnings from the Business A job are a more reliable indicator of his future income than his earnings history. For this reason, his child support obligation should be based on his current earnings, rather than the last four quarters of earnings reported to the Alaska Department of Labor and Workforce Development.

Mr. N provided two recent paystubs from Business A. At the hearing, he testified that he works two weeks on, two weeks off. Using the information about the Business A job that Mr. N provided at the hearing, the division recalculated his income and deductions, and concluded that his monthly child support payment should be \$716.

The division also considered verification submitted by each parent of health insurance coverage provided for H. The division calculated that Mr. N is entitled to a monthly medical credit of \$76.80 a month for the coverage he provides for H. However, the cost of the coverage

⁴ Alaska Rule of Civil Procedure 90.3(a)(1) and (2).

⁵ Commentary to Alaska Rule of Civil Procedure III.E.

⁶ Exhibit 5 at 1.

Ms. Q is providing for H has increased, and she is now entitled to a monthly medical debit of \$77.50. These two amounts effectively cancel each other out, and the division's revised calculations do not provide for a credit or a debit.

Because the division's revised calculations consider Mr. N's likely earnings when the child support is to be paid based on his current employment with Business A, Mr. N's ongoing child support obligation for H should be set at \$716 a month.

IV. Conclusion

Mr. N's ongoing child support obligation for H is \$716 a month, based on his actual current income.

A modification is effective beginning the month after the parties are served with notice that a modification has been requested.⁷ The division provided notice of the petition for modification in this case in March 2017, so this modification is effective as of April 1, 2017.⁸ The child support amount in this order was calculated using the primary custody formula in Civil Rule 90.3(a).

V. Child Support Order

1. Mr. N's child support obligation for H is \$716 a month, effective April 1, 2017 and ongoing.

2. All other provisions of the division's Modified Child Support and Medical Support Order issued on May 25, 2017 remain in effect.

Dated: August 21, 2017.

Signed

Kathryn L. Kurtz
Administrative Law Judge

⁷ 15 AAC 321(d).

⁸ Exhibit 3.

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 6th day of September, 2017.

By: Signed
Signature
Kathryn L. Kurtz
Name
Administrative Law Judge
Title

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