

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

In the Matter of)	
)	
B D)	OAH No. 17-1217-CSS
_____)	Agency No. 001143639

DECISION AND ORDER

I. Introduction

B D appeals an Amended Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued on November 6, 2017. The modification increased Mr. D’s child support obligation for his children, Y and Z, to \$1,118 per month for two children (\$828 for one child), effective August 1, 2017.¹ Y turned 18 and emancipated in August 2017, and the order became a one-child order after that month. The custodian of record is B G.

During the hearing process, Mr. D provided additional income information, and CSSD agreed the child support order should be adjusted. Both parties agreed that Mr. D’s support amount should be set at \$970 per month for two children (\$719 for one child), effective August 1, 2017 and ongoing. Their agreement is supported by the evidence in the record and is therefore adopted.

II. Facts and Proceedings

Mr. D and Ms. G have two children, Y, who turned 18 in August 2017, and Z, who is currently 14.² Ms. G exercises primary custody.

Mr. D works for the No Name corporation. He earns \$27.05 per hour and works a full-time schedule, 40 hours per week. This results in annual gross income of \$56,264.³ Mr. D occasionally has opportunities to work limited overtime hours, but such work is sporadic and not guaranteed. Due to his employer’s change in its leave accounting system, Mr. D received a one-time payout of vacation leave in early 2017 totaling \$5,624.07; however, that income was unusual and will not recur in future years. Mr. D received the 2017 PFD of \$1,100.

CSSD last revised Mr. D’s child support obligation in August 2006, when it set his ongoing amount at \$597 per month for two children (\$442 for one child).⁴ CSSD received Ms. G’s request for a modification review in July 2017, and it sent both parents notice of the petition the same

¹ Exhibit 4; CSSD pre-hearing brief, p. 1.
² Exhibit 1 (Y born August 1999); Exhibit 4 (Z born May 2003).
³ \$27.05/hour x 40 hours/week x 52 weeks/year = \$56,264.
⁴ Exhibit 1.

month.⁵ Mr. D provided his income information.⁶

When it issued the amended modified support order, CSSD calculated Mr. D's expected income at \$62,796.57, based on Department of Labor data for the third and fourth quarters of 2016 and the first and second quarters of 2017.⁷ It included his PFD, but it did not include a deduction for Mr. D's contributions to his retirement account. After adjusting for other deductions such as federal income taxes and Social Security/Medicare, this income resulted in a \$1,118 monthly support obligation for two children (\$828 per month for one child).

CSSD issued the Amended Modified Administrative Child Support and Medical Support Order on November 6, 2017.⁸ Mr. D appealed.⁹ The hearing took place on December 14, 2017. Mr. D appeared in person, represented himself and testified on his own behalf. Ms. G could not be reached at her telephone number of record and did not participate. Child Support Specialist Kimberly Sledgister appeared in person and represented CSSD. All submitted documents were admitted to the record, which closed at the conclusion of the hearing.

III. Discussion

Child support orders may be modified upon a showing of "good cause and material change in circumstances."¹⁰ If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes a "material change in circumstances" has been established and the order should be modified. Mr. D's former obligation was \$597 per month for two children, so a change of \$89.55 or more per month will satisfy this standard.¹¹

A modification is effective beginning the month after the parties are served with notice that a modification has been requested.¹² In this case, CSSD provided each parent with notice of the petition to modify in July 2017. Therefore, the modification is effective as of August 1, 2017.

Civil Rule 90.3(a) provides that a noncustodial parent's child support amount is to be calculated based on his or her "total income from all sources," minus specified deductions. In determining total income from all sources, the relevant time period is the period for which the support is being paid.¹³

⁵ Exhibit 2; CSSD pre-hearing brief, p. 1.

⁶ Exhibit 3.

⁷ Exhibit 4; CSSD hearing representative explanation.

⁸ Exhibit 4.

⁹ Exhibit 6.

¹⁰ AS 25.27.190(e).

¹¹ \$597 x 15% = \$89.55.

¹² 15 AAC 125.321(d).

¹³ 15 AAC 125.050(a); Civil Rule 90.3, Commentary III.E.

The evidence in the record supports the parties' determination that Mr. D's support obligation should be based on total income of \$57,364. This includes the 2017 PFD and Mr. D's expected wages based on his full-time work schedule (40 hours per week x 52 weeks) at \$27.05 per hour. Mr. D also provided information showing that he contributes 4% of his gross income to a 401(k) retirement plan, which CSSD agreed entitles him to a monthly retirement deduction of \$187.55. After other deductions for matters such as federal income taxes, Social Security and Medicare, Mr. D's income results in a primary custody calculation of \$970 per month for two children (\$719 per month for one child).¹⁴ The modified support order should be adjusted to reflect this calculation.

V. Conclusion

Through the evidence presented in the hearing process, Mr. D showed that the amended modified support order should be adjusted. CSSD agreed. Under Civil Rule 90.3(a), his expected income and allowable deductions result in an ongoing support amount of \$970 per month for two children, \$719 per month for one child, before application of the medical credit. No variance under Civil Rule 90.3(c) was requested or granted.

IV. Child Support Order

- Mr. D is liable for child support for Y and Z in the amount of \$970 per month for two children, \$719 per month for one child, effective August 1, 2017 and ongoing;
- All other provisions of the Amended Modified Administrative Child Support and Medical Support Order dated November 6, 2017, remain in full force and effect.

DATED: December 15, 2017.

By: Signed
Kathryn Swiderski
Administrative Law Judge

¹⁴ Attachment A (from CSSD online calculator at <https://webapp.state.ak.us/cssd/guidelinecalc/form>).

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 29th day of December, 2017.

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

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