

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

D. A. P.,	)	
	)	
Appellant,	)	
v.	)	
	)	
CHILD SUPPORT SERVICES DIVISION,	)	
	)	OAH No. 04-0104-CSS
Respondent.	)	CSSD NO. 001126549
		DOR NO. 040674

**DECISION AND ORDER**

**I. Introduction**

This matter involves the Obligor D. A. P.'s appeal of an Amended Administrative Child and Medical Support Order the Child Support Services Division (CSSD) issued on August 17, 2004. The Obligee child in this case is O., DOB 00/00/03.

The formal hearing was held on January 6, 2005.<sup>1</sup> Mr. P. did not appear; the Custodian, J. M. D., appeared in person. Andrew Rawls, Child Support Specialist, represented CSSD. The record closed on January 18, 2005.

Kay L. Howard, Administrative Law Judge for the Alaska Office of Administrative Hearings, was appointed to hear this appeal by the Chief Administrative Law Judge, Terry L. Thurbon. Having reviewed the record in this case and after due deliberation, I have concluded that Mr. P.'s appeal should be granted. Mr. P.'s child support should be calculated using the full credit for prior children for both 2003 and 2004.

**I. Facts**

**A. History**

On May 25, 2004, CSSD served an Administrative Child and Medical Support Order on Mr. P.<sup>2</sup> He requested an administrative review.<sup>3</sup> On August 17, 2004, CSSD issued an Amended Administrative Child and Medical Support Order that set ongoing child support at

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<sup>1</sup> The hearing was held under Alaska Statute 25.27.170.

<sup>2</sup> Exh. 5.

<sup>3</sup> Exh. 6.

\$304 per month, with arrears of \$2940 for the period from November 2003 through August 2004.<sup>4</sup> Mr. P. filed an appeal on September 24, 2004.<sup>5</sup>

Mr. P. did not appear at the formal hearing. He stated on his appeal form that CSSD did not give him the correct credit for supporting a prior child. He also said he formerly had been working part time but now has a new job.<sup>6</sup>

Ms. D. attended the hearing and presented testimony that Mr. P. usually works at two jobs, and the last she knew, he was working for UPS and the South Central Foundation in Anchorage. Ms. D. claimed Mr. P. quit his job at the South Central Foundation when the child support case was initiated.

Ms. D. added that she is a working single parent with three children in the home. She stated she receives child support for her other two children only at PFD time in the fall.

CSSD filed Mr. P.'s current Alaska Department of Labor wage report. It shows Mr. P. has had multiple employers every year since 2002, and his total income was reported to be \$21,593.51 in 2003 and \$16,509.86 through the first three quarters of 2004.<sup>7</sup>

CSSD asserted the 2003 support calculation used the correct amount for the prior child credit, \$320 per month.<sup>8</sup> However, CSSD said the prior credit in Mr. P.'s 2004 support calculation should have been \$307 per month, but it was incorrectly set at \$67 per month.<sup>9</sup> CSSD filed a revised calculation for 2004 using Mr. P.'s most recent annual income as reported by the Alaska Department of Labor.<sup>10</sup> CSSD used the prior child deduction of \$307 per month in the calculation, which resulted in a child support amount of \$254 per month.<sup>11</sup> CSSD stated both the 2003 and 2004 child support calculations were now correct.

## **B. Findings**

Based on the evidence in the record and after due consideration, I hereby find:

1. Mr. P. received and signed for his certified notice of the date and time of the formal hearing but did not appear for the hearing;

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<sup>4</sup> Exh. 10.

<sup>5</sup> Exh. 11.

<sup>6</sup> Exh. 11.

<sup>7</sup> Exh. 13.

<sup>8</sup> Exh. 10 at pg. 11.

<sup>9</sup> Exh. 10 at pg. 12.

<sup>10</sup> Exh. 14.

<sup>11</sup> Exh. 12.

2. Mr. P. is entitled to a credit for paying support for a prior child in the amount of \$320 per month in 2003 and \$307 per month in 2004;

3. CSSD's Amended Administrative Child Support and Medical Support Order correctly calculated Mr. P.'s child support at \$254 per month for 2003;

4. CSSD's revised calculation submitted at the hearing correctly calculated Mr. P.'s child support at \$254 per month for 2004.

### **III. Discussion**

Mr. P. did not appear at the formal hearing. He signed for the certified notice of hearing, which was returned to the Office of Administrative Hearings on November 8, 2004.<sup>12</sup> Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a decision if the person requesting the hearing fails to appear.

#### **A. Obligor's Income**

A parent is obligated both by statute and at common law to support his or her children.<sup>13</sup> Civil Rule 90.3(a)(1) provides that an Obligor's child support amount is to be calculated based on his or her "total income from all sources."

CSSD used Mr. P.'s 2003 income in the child support calculations for both 2003 and 2004 because Mr. P.'s wages for the fourth quarter of 2004 had not yet been reported at the time of the hearing.

Ms. D. testified Mr. P. quit a job at South Central Foundation when the child support obligation was initiated. This case started in November 2003 when Ms. D. filed an application for child support services with CSSD. However, Mr. P.'s Alaska Department of Labor wage report shows he still worked for the South Central Foundation as late as the third quarter of 2004, the last quarter for which information is available.<sup>14</sup> In fact, Mr. P.'s earnings of \$16,509.86 through the third quarter of 2004 were higher than his earnings of \$13,561.21 through the third quarter of 2003.<sup>15</sup> Thus, as of the third quarter of 2004, Mr. P.'s income was on par with his 2003 income, and Ms. D.'s testimony that Mr. P. quit a job would not change the child support calculations.

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<sup>12</sup> OAH file.

<sup>13</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>14</sup> Exh. 13.

**B. Prior Child Credit**

Civil Rule 90.3(a)(1) provides that a parent who pays support for a prior child pursuant to a court or administrative order is entitled to have the prior child support amount included as a deduction in the support calculation for the child at issue.

Mr. P. claimed, and CSSD agreed, that Mr. P. is entitled to the prior child deduction in his support calculations for O. CSSD obtained current annual income figures for Mr. P. and correctly used those figures in the 2003 child support calculation. CSSD corrected its calculation for 2004, so Mr. P.'s child support obligation is now correctly calculated at \$254 per month for both 2003 and 2004.

**IV. Conclusion**

Mr. P. met his burden of proving CSSD's 2004 child support calculation was incorrect. CSSD revised the 2004 calculation, so the support amounts for both 2003 and 2004 are correct and should be adopted.

Accordingly, I issue the following child support order:

**V. Child Support Order**

1. Mr. P. is liable for child support of \$254 per month for the period from November 2003 through March 2005.

2. Mr. P. is liable for ongoing child support in the amount of \$254 per month, effective April 2005 and ongoing.

DATED this 30th day of March, 2005.

By: Signed  
Kay L. Howard  
Administrative Law Judge

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<sup>15</sup> Exh. 13.

**Adoption**

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. I, Terry L. Thurbon, Chief Administrative Law Judge, on behalf of the Commissioner of Revenue, order that this decision and order concerning the child support obligation of D. A. P. be adopted as of this date and entered in his file as the final administrative determination in this appeal.

Under AS 25.27.062 and AS 25.27.250 the Obligor's income and property are subject to an order to withhold. Without further notice, a withholding order may be served on any person, political subdivision, department of the State or other entity.

Reconsideration of this decision may be obtained by filing a written motion for reconsideration within 10 days after the adoption of this decision, pursuant to 15 AAC 05.035(a). The motion must state specific grounds for relief, and, if mailed, be addressed: Commissioner's Office Appeals (Reconsideration), Alaska Department of Revenue, P.O. Box 110400, Juneau, Alaska 99811-0400.

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 of the date of this decision.

DATED this 30th day of March, 2005.

By: Signed \_\_\_\_\_  
Terry L. Thurbon  
Chief Administrative Law Judge

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