

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

IN THE MATTER OF	)	
	)	Case No. OAH-04-0221-CSS
C. W.	)	Previous Case No. 040827
	)	CSSD Case No. 001123961
_____	)	

**ORDER GRANTING SUMMARY ADJUDICATION**

**I. Introduction**

The obligor, C. W., appeals a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division on October 28, 2004. The order adds the child E. W. (xx/xx/2004) to an existing order for an older child, D. W. (xx/xx/00). The custodian is S. F. The Child Support Services Division has moved for summary adjudication without a hearing. Administrative Law Judge Dale Whitney grants the motion.

**II. Facts**

The support order for D. exists because he is on a Medicaid grant. Ms. F. has withdrawn from CSSD services. Apparently recognizing that Mr. W. has been in the family home with D., the division has not been collecting support for D. However, it has kept the support order intact, in case the family unexpectedly separates in the future.

When E. joined D. on the Medicaid grant, the division took this action to add E. to the support order. The modified order establishes a new amount of support that Mr. W. would have to pay if the family were not intact, and this amount is naturally higher because it now is for two children. The agency states, however, that it does not plan to actually begin collecting support at this point. The modification reflects the fact that, with two kids Mr. W. would have to pay more support if he were not in the home in supporting his children. The modification does not change the current status of the case, with CSSD suspending collection of support because Mr. W. is actually in the home supporting and caring for his children.

**III. Discussion**

Mr. W.' appeal statement reads as follows:

I have always provided for my children in the way of clothes, pampers, toys, food, winter gear. I have been doing this since day one for my kids. I spend about \$350.00 to \$400.00 every month you can call S. F. to find out. I love my children and while I am in

jail my mother has been taking care of her grandchildren's needs. I take an active roll in my children's life. I spend a lot of time with my kids, they know that I am dad!

The division does not disagree with Mr. W. When a child is receiving public assistance, in this case Medicaid, the division routinely maintains a child support order, and sets an amount the obligor would have to pay if the division were collecting support. But the division does not collect support when the parent is in the home supporting and caring for the child. The modification action in this case is simply a kind of housekeeping exercise, with the division updating its files to reflect that E., who was just born last year, is now on the grant with D. The agency agrees that under the current circumstances it should not be collecting support from Mr. W.

#### **IV. Conclusion**

Because there is no disagreement in this case, there is nothing that could be resolved at a hearing. The motion of the Child Support Services Division for summary adjudication should be granted. The modified order should be affirmed, but CSSD should not collect support for times in which Mr. W. is living in the family home caring for his children.

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

IT IS HEREBY ORDERED that the Motion for Summary Adjudication filed by the Child Support Services Division on December 23, 2004 be GRANTED.

IT IS FURTHER ORDERED that the Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division on October 28, 2004 be AFFIRMED. The division shall not collect support from Mr. W. for time periods that he is living in the family home and caring for the children in this case.

DATED this 21<sup>st</sup> day of March, 2005.

By: *Signed* \_\_\_\_\_  
DALE WHITNEY  
Administrative Law Judge

### **Adoption**

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. I, Terry Thurbon, Chief Administrative Law Judge, on behalf of the Commissioner of Revenue, order that this decision and order relating to the child support obligation of C. W. be adopted 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 withholding. 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 date of this decision, pursuant to 15 AAC 05.035(a). The motion must state specific grounds for relief, and, if mailed, should be addressed to: 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 21<sup>st</sup> 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.]