

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

In the matter of:	)	
	)	OAH No. 06-0526-CSS
C. L. Y.	)	CSSD No. 001042748
_____	)	

**DECISION AND ORDER**

**I. Introduction**

C. Y. appealed a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on June 22, 2006, increasing the monthly support amount from \$50 to \$592. The obligee children are J. Y., born 00/00/93, and E. Y., born 00/00/95. The custodial parent is M. L. W.

The Alaska Office of Administrative Hearings (OAH) attempted to give notice to both parents of a formal hearing to be held August 21, 2006, using Certified Mail sent 21 days in advance. Mr. Y.'s notice was sent to the exact address he listed in his Request for Appeal but was returned as unclaimed. Ms. W. received her notice.

Andrew J. Rawls, Child Support Specialist, appeared for CSSD at the appointed time for the hearing. Ms. W. participated by telephone. Mr. Y. did not contact OAH in advance of the hearing, nor did he appear at the hearing. The Administrative Law Judge called the telephone number he gave in his Request for Appeal but failed to reach him. A message was left.

The administrative law judge convened the hearing and proceeded without Mr. Y. Under 15 AAC 05.030(j), "[i]f 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." Mr. Y. did not attempt to make the required showing within ten days after the scheduled hearing, and therefore the administrative law judge will proceed with the decision.

The evidence taken at the hearing indicates that CSSD's June 22 order should be affirmed.

## **II. Facts**

### **A. History**

Mr. Y.'s child support obligation for J. and E. was established at \$50 per month in April 1999. On May 15, 2006, at CSSD's invitation, Ms. W. filed a request that the support amount be reviewed.<sup>1</sup> CSSD notified Mr. Y. of the review request two days later, requesting income information within 30 days.<sup>2</sup> Mr. Y. did not provide the information, and on June 22, 2006, CSSD issued its modified order using Mr. Y.'s income from wages and unemployment benefits as reported to the Alaska Department of Labor and Workforce Development.<sup>3</sup> CSSD calculated a gross income of \$31,145.15 per year and child support of \$592 for the two children. There were no deductions for prior children in the home.<sup>4</sup>

Mr. Y. filed an appeal form on July 24, 2006, arguing (1) that his income is not as high as calculated because he works only ten months out of the year and (2) that he might be entitled to a reduction so he can support his "other kids."<sup>5</sup>

### **B. Material Facts**

The only evidence of Mr. Y.'s income in the record is the Department of Labor information.<sup>6</sup> To calculate an annual income, CSSD used four consecutive quarters (the last three quarters of 2005 and the first of 2006) and included unemployment benefits that were paid when Mr. Y. was unemployed. The wages, unemployment benefits, and PFD for this 12-month period add up to \$31,145.15.<sup>7</sup>

Evidence taken and the hearing showed that Ms. W. has primary physical custody of the children. Mr. Y. currently lives in a home with two older children who are not his biological children and whom he has not adopted, and with a two-year-old who is his own child.

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1 Exh. 1.

2 Exh. 2.

3 Exh. 3.

4 Exh. 4.

5 Exh. 5.

6 Exh. 6 and 7.

7 This calculation uses unemployment benefits recorded in Exh. 7. The tally of unemployment benefits in Exh. 6 is apparently incomplete.

### **III. Discussion**

Mr. Y.'s annual income has been calculated correctly from the best available evidence. The Department of Labor figures used already take into account the periods of unemployment Mr. Y. refers to in his appeal request.

Mr. Y. is entitled to no deduction for the other children in his home, because the one child in the home who is Mr. Y.'s child is from a relationship subsequent to the one that led to J. and E. Alaska Civil Rule 90.3 does not allow a deduction for children from subsequent relationships. While there are older children in Mr. Y.'s home, the older children are not his and do not affect a child support calculation.

Mr. Y. has presented no evidence to support a variation from the standard child support calculation based on unusual circumstances.

### **IV. Conclusion**

CSSD's calculation of Mr. Y.'s child support amount is correct. The modification ordered on June 22, 2006 was appropriate.

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

- The Modified Administrative Child Support and Medical Support Order dated June 22, 2006 is affirmed.

DATED this 8<sup>TH</sup> day of September, 2006.

By: Signed \_\_\_\_\_  
Christopher Kennedy  
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 26<sup>th</sup> day of September, 2006.

By: Signed \_\_\_\_\_  
Signature  
Christopher Kennedy \_\_\_\_\_  
Name  
Administrative Law Judge \_\_\_\_\_  
Title

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