

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

IN THE MATTER OF)	OAH No. 07-0002-CSS
M. A. M., SR.)	CSSD No. 0011229650
)	
_____)	

CHILD SUPPORT DECISION AND ORDER

I. Introduction

On January 22, 2007, a formal hearing was held to consider the child support obligation of M. A. M., Sr. (Obligor) for the support of his child, M. (Obligee).¹ Mr. M. participated. The Custodian, L. H., did not participate.² Andrew Rawls, Child Support Services Specialist, represented the Child Support Service Division (Division). The hearing was audio-recorded. The record closed on January 27, 2007.

This case is Mr. M.'s appeal of the Division's modification of his child support order for M.. Having reviewed the record in this case and after due deliberation, I concluded that Mr. M.'s modified ongoing child support should be set at \$929 per month effective September 1, 2006.

II. Facts

A. History

Mr. M.'s monthly child support obligation was \$1,309 per month. The Division reviewed this child support order at Mr. M.'s request. The Division issued a Notice of Petition for Modification on August 22, 2006.

Mr. M. provided his income information as ordered. The Division issued a Modification of Administrative Support Order on November 22, 2006. The Division determined that Mr. M.'s ongoing monthly child support should be decreased to \$1,034 per month. The Division based its

¹ Ms. H. did not appear or provide a phone number for the hearing as instructed in the notice sent to her. At the time of the hearing the person who answered Ms. H.'s phone at her phone number of record did not have a contact number for Ms. H..

² The hearing was held under Alaska Statute 25.27.190.

calculation of Mr. M.'s ongoing monthly child support on his 2005 1040 IRS Form.³ Mr. M. requested a formal hearing.

B. Findings

Based on the evidence in the record, I conclude that it is more likely than not that the Division's latest calculations at Ex. 8 are correct. I also conclude that it is more likely than not that the income that the Division used to calculate Mr. M.'s modified child support is the best estimate of his present income.

III. Discussion

Prior to the Hearing, the Division provided new calculations correcting some errors in the earlier calculation. These calculations result in a monthly ongoing child support of \$955 for M..⁴ These calculations, however, still included a one-time distribution from a life insurance policy as income. After the hearing, as requested, the Division provided new calculations, which do not include this one-time distribution from a life insurance policy as income for the purpose of calculating ongoing modified child support. These latest calculations at exhibit 8 result in a monthly ongoing child support of \$929 for M..⁵

Civil Rule 90.3 allows a child support amount to be modified if the party requesting the change shows that a material change of circumstances has occurred.⁶ The rule states that a material change of circumstances "will be presumed" if the modified support amount would alter the outstanding support order by 15 percent.⁷ Monthly child support of \$929 would be more than a 15 percent decrease from the current order of \$1,309 per month.

Generally, a new monthly child support amount in a modification action should be effective the month after the parties are served with the petition. This modification should be effective September 1, 2006, because the petition was served in August of 2006.⁸

³ Ex. 4.

⁴ Ex. 7, page 1.

⁵ Ex. 8.

⁶ Alaska Civil Rule 90.3(h)(1).

⁷ Alaska Civil Rule 90.3, Commentary X.

⁸ Alaska Regulation 15 AAC 125.321.

IV. Conclusion

I conclude that the Division's Modification of Administrative Support Order issued on November 22, 2006 should be adjusted. Mr. M.'s modified ongoing child support obligation for M. will be \$929 per month, effective September 1, 2006.

V. Child Support Order

1. Mr. M.'s modified ongoing child support obligation for M. is set at \$929 per month, effective September 1, 2006.
2. The Division should give the parties the appropriate debit or credit for their out-of-pocket expenses for providing health insurance coverage for M..

DATED this 10th day of August, 2007.

By: *Signed* _____

Mark T. Handley

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 Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 4th day of September, 2007.

By: Signed _____
Jerry Burnett
Director, Administrative Services

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