

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

IN THE MATTER OF)
)
 F. B., JR.) Case No. OAH-07-0131-CSS
) CSSD Case No. 001049959
_____)

DECISION & ORDER

I. Introduction

The obligor, F. B., Jr., appeals a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on January 31, 2007. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on April 9, 2007. Mr. B. appeared by telephone. The custodian, M. A., did not appear. Andrew Rawls represented CSSD. The children are V. B. (DOB 00/00/94) and F. B. (DOB 00/00/96). The administrative law judge issues a support order adopting revised support in the amount of \$300 per month for two children.

II. Facts

Mr. B. did not work in 2006 because of various injuries and illnesses. His current support obligation is \$50 per month for the two children in this case. He also has a support obligation of \$50 per month for an older child of a previous relationship that he currently pays. Mr. B. began working in January 2007, and he earns \$6.00 per hour. He has left Alaska and is no longer eligible for permanent fund dividends. In addition to his wages, Mr. B. also receives CIRI dividends. In 2006 he received four quarterly dividends of \$700 plus a Christmas bonus of \$300, for an annual total of \$3,100.00. In the first quarter of 2007 the CIRI dividend was \$811.00.

Mr. B. works in an automotive shop. He is contemplating enrolling in a two-year course in automotive mechanics at the University of Oklahoma. Mr. B. has not yet been accepted into this program, but he has obtained a required industry sponsor and has been told his chances are good. If Mr. B. did enroll in this course, he would be a student full-time starting in September, 2007.

III. Discussion

There are no legal issues in dispute in this case. Because this is a primary custody situation, support is calculated according to the formula in Civil Rule 90.3(a). Support is calculated as a percentage of total income from all sources, minus deductions for certain

expenses such as tax, retirement plans, and support paid for older children of previous relationships. The amount of support is twenty percent of this adjusted income for one child, and an additional seven percent for the second child.

CSSD set support at \$372 per month based on Alaska minimum wage and PFD income because it was not aware that Mr. B. had left Alaska and it had no information available. The modified order also did not provide a credit for support paid to Mr. B.'s older child. CSSD agrees that, based on Mr. B.'s testimony, support should be set based on Mr. B.'s actual wages of \$6.00 per hour, or \$12,480 per year. CSSD also agrees that Mr. B. is entitled to a credit for support he pays to his older child.

CSSD calculated Mr. B.'s CIRI dividend income by multiplying the \$811 dividend for the first quarter of 2007 times four, resulting in annual dividend income of \$3244. This calculation does not include a CIRI Christmas bonus. Mr. B. argues that the total of the dividends paid for 2006 is a more accurate measure of the total amount of dividends likely to be paid this year. Mr. B.'s argument is reasonable. Dividends paid over all of 2006 are a better indicator of 2007 dividends than one 2007 quarterly dividend standing alone. In 2006 CIRI paid total dividends, including a Christmas bonus, of \$3100.

Mr. B.'s total gross income from all sources should be calculated by adding \$3100 of CIRI dividends to annual wages of \$12,480, for a total pre-tax annual income of \$15,580.00. Use of CSSD's online child support calculator,¹ with appropriate deductions for tax and support paid to the older child, indicate adjusted annual income of \$13,312.24 with a monthly child support amount of \$300 for two children. A printout of these calculations is attached as Exhibit A.

Mr. B. testified that he is hoping to enroll in school in September, and that he will be a full-time student for two years. Because he has yet to be accepted into the program, this information should not be considered at this time in calculating support. However, in the future a modification to account for Mr. B.'s education may be appropriate. While the children in this case are teenagers, there is still enough time that they may benefit from Mr. B.'s education before they turn 18. If Mr. B. actually begins the program and then requests a modification, a reduction in support of at least some amount should be considered at that time.

¹ <https://webapp.state.ak.us/cssd/guidelinecalc.jsp>.

IV. Conclusion

Based on adjusted annual income of \$13,312.24, Mr. B.'s child support obligation for two children should be set at \$300 per month.

V. Order

IT IS HEREBY ORDERED that Mr. B.'s child support obligation be set at \$300 per month for two children, effective January 1, 2007.

DATED this 18th day of April, 2007.

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. 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 7th day of May, 2007.

By: Signed
DALE WHITNEY
Administrative Law Judge

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