

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

IN THE MATTER OF: )

M. R. S. )

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) OAH No. 07-0156-CSS

) CSSD No. 001120917

**DECISION AND ORDER**

**I. Introduction**

This case involves the Obligor M. R. S.'s appeal of a Modified Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on December 15, 2006.

The formal hearing was held on April 16, 2007. Mr. S. did not appear; the Custodian, E. S. S., did not participate. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on April 26, 2007.

Kay L. Howard, Administrative Law Judge, Alaska Office of Administrative Hearings (OAH), conducted the hearing. Based on the record as a whole and after due deliberation, it is concluded that CSSD correctly calculated Mr. S.'s child support obligation and modified his child support order.

**II. Facts**

**A. History**

Mr. S.'s support order previously was set at \$50 per month for T. and C.<sup>1</sup> On October 25, 2006, CSSD sent the parties a Notice of Petition for Modification of Administrative Support Order so as to add the child D. to the order.<sup>2</sup> Mr. S. did not respond to the request for income information. On December 15, 2006, CSSD issued a Modified Administrative Child Support and Medical Support Order that set Mr. S.'s modified ongoing child support at \$232 per month for three children, effective November 1, 2006.<sup>3</sup> Mr. S. filed an appeal on March 20, 2007.<sup>4</sup>

Mr. S. did not participate in the hearing. CSSD stated there is one mistake in the Modified Administrative Child Support and Medical Support Order, which is that Mr. S. is not

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<sup>1</sup> Pre-hearing Brief at pg. 1.

<sup>2</sup> Exh. 1.

<sup>3</sup> Exh. 2.

<sup>4</sup> Exh. 5.

liable for support for D. for the month of March 2006 because the child was not born until 06/00/06. CSSD requested that the order reflect that one change.

### **B. Findings**

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

1. Mr. S. did not meet his burden of proving by a preponderance of the evidence that CSSD's Modified Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h);
2. A certified notice of the date and time for the hearing was sent to Mr. S., which he received and signed for, as indicated on the green card in the OAH file;
3. Mr. S. did not provide a telephone number to be called for the hearing, nor did he appear in person to provide evidence regarding his appeal;
4. CSSD correctly added D. to Mr. S.'s child support order and set ongoing modified child support at \$232 per month for three children, effective November 1, 2006;
5. Mr. S. does not owe child support for D. for the month for May 2006 because the child was not born until 06/00/06.

### **III. Discussion**

Mr. S. filed an appeal and requested a formal hearing, but he failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a child support decision if the requesting party fails to appear.

A parent is obligated both by statute and at common law to support his or her children.<sup>5</sup> Child support orders may be modified upon a showing of "good cause and material change in circumstances."<sup>6</sup> If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes "material change in circumstances" has been established. A modification is effective beginning the month after the parties are served with notice that a modification has been requested.<sup>7</sup>

Mr. S. did not provide his income information, as requested by CSSD for the modification. He then appealed CSSD's Modified Administrative Child Support and Medical Support Order, but he did not appear at the hearing to present any evidence regarding his appeal.

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<sup>5</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>6</sup> AS 25.27.190(e).

<sup>7</sup> 15 AAC 125.321(d).

CSSD therefore correctly set his child support obligation at the amount of \$232 per month for three children.

In the absence of any evidence other than Mr. S.'s appeal form, I conclude that with the exception of the one mistake regarding arrears charges for the month of May 2006, CSSD's Modified Administrative Child Support and Medical Support Order should be affirmed.

**IV. Conclusion**

CSSD modified Mr. S.'s child support order by adding the child D. and setting the ongoing obligation at \$232 per month for three children. Mr. S. did not provide contact information, nor did he appear at the hearing to provide any evidence. As a result, Mr. S. did not meet his burden of proving by a preponderance of the evidence that CSSD's Modified Administrative Child Support and Medical Support Order was incorrect. Therefore, CSSD's order should be affirmed, with the one correction as discussed herein.

**V. Child Support Order**

- CSSD's December 15, 2006, Modified Administrative Child Support and Medical Support Order is affirmed, with one exception: Mr. S. is not liable for support for D. for the month of May 2006 because the child was not born until 06/00/06.

DATED this 15th day of May, 2007.

By: Signed  
Kay L. Howard  
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 4th day of June, 2007.

By: Signed  
Signature  
Christopher Kennedy  
Name  
Deputy Chief Administrative Law Judge  
Title

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