

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

IN THE MATTER OF)

D. P.)

) Case No. OAH-07-0204-CSS
) CSSD Case No. 00139470

DECISION & ORDER

I. Introduction

The obligor, D. P., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on March 13, 2007. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on May 8, 2007. Mr. P. appeared in person in Juneau. The custodian, C. H., did not appear. Andrew Rawls represented CSSD. The child is N. P. (DOB 00/00/04). The administrative law judge issues a support order adopting revised calculations proposed by CSSD.

II. Facts

In the Amended Order, CSSD set Mr. P.'s support obligation at \$50 per month for 2005, \$281 per month for 2006, and \$234 per month for 2007 and ongoing. There is no dispute that Mr. P. did not work in 2005 because he was incarcerated, and that \$50 per month is the correct amount of monthly support for that year. For 2006, CSSD based its calculation on reported Department of Labor information showing that Mr. P. earned wages of \$18,553.74 in 2006, plus a permanent fund dividend.¹ For 2007, the calculation was based on annual wages of \$14,872.00, plus a PFD.²

Mr. P. did not receive a permanent fund dividend in any of the years in question. He is currently incarcerated in a halfway house, and for that reason he will not be eligible for a PFD this year or in 2008. Mr. P. pays \$127 per month in support of an older child from a previous relationship pursuant to a support order from Washington State. This obligation was not accounted for in the Amended Order.

In the months of August and September of 2006, Mr. P. made direct payments of \$200 to the custodian for the support of N..

III. Discussion

According to Civil Rule 90.3(a), support should be set according to a formula based on the obligor's total income from all sources, minus appropriate deductions. Credit for direct payments made before an order has been established should be granted if the payments were for the support of the child.

¹ Exhibit 10, page 10.

² Exhibit 10, page 11.

CSSD agrees with Mr. P. that his support calculation should not have been based on an income figure that included PFD income. CSSD also agrees that Mr. P. is entitled to a deduction for support paid to his older child, and a credit for the \$400 in direct payments that he has made.

CSSD has recalculated Mr. P.'s support obligation without PFD income, with a deduction for the other support obligation, and with credit for the direct payments.³ These calculations result in monthly support of \$50 for 2005, \$240 for 2006, and \$240 for 2007 and ongoing. At the hearing, Mr. P. noted that in his current situation it is difficult to meet his monthly obligation, but he agreed that the income amounts and calculations were correct. As there do not appear to be unusual circumstances warranting an exception under Civil Rule 90.3(c) to the standard method of calculating support, CSSD recommends that Mr. P. contact his caseworker to discuss a temporary adjustment to his withholding amount.

IV. Conclusion

The revised support amounts proposed by CSSD in Exhibit 12 are correctly based on Mr. P.'s actual income with appropriate deductions and credits and should be adopted.

V. Order

IT IS HEREBY ORDERED that Mr. P.'s support obligation for one child be set at the following monthly amounts:

July 2005 – December 2005:	\$50
January 2006 – December 2006:	\$240
January 2007 – ongoing:	\$240

Mr. P. is entitled to credit in the amount of \$400 for two payments of \$200 each made in August and September of 2006.

DATED this 15th day of May, 2007.

By: Signed
DALE WHITNEY
Administrative Law Judge

³ Exhibit 12.
OAH No. 07-0204-CSS

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 31st day of May, 2007.

By: Signed _____
DALE WHITNEY
Administrative Law Judge

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