

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

IN THE MATTER OF:)

J. F. F.)

) OAH No. 07-0226-CSS

) CSSD No. 001126791

**DECISION AND ORDER
GRANTING MOTION TO DISMISS**

On April 27, 2007, CSSD filed a Motion to Dismiss this appeal. Oral argument on the motion was held on May 23, 2007. Mr. F. appeared in person; the Custodian, J. D. N., participated by telephone. David Peltier, Child Support Specialist, represented CSSD.

Mr. F.'s child support in this case was set at \$232 per month on June 29, 2005.¹ Mr. F. requested a modification review on November 13, 2006, which was denied by CSSD on February 13, 2007.² On April 24, 2007, Mr. F. filed an appeal of the denial, after which CSSD filed the Motion to Dismiss on the basis that his appeal is untimely. At oral argument, CSSD thought it would be able to consider Mr. F.'s appeal a petition for modification review, but in a post-hearing brief, the agency withdrew its consent to that course of action. Instead, CSSD reasserted that Mr. F.'s appeal is 40 days late and should be denied.

CSSD's motion should be granted. On April 24, 2007, Mr. F. appealed an order that CSSD issued on February 13, 2007. His appeal is 40 days past the thirty (30) days allowed by regulation for an appeal to be filed.³ Mr. F.'s appeal of the denial of modification is therefore untimely and should be dismissed.

More importantly, it should be noted that even if the deadline were to be relaxed in this case, and his modification were to go forward, it would not benefit Mr. F. in the least. Both CSSD and the administrative law judge stressed to Mr. F. that if he chooses to request modification in his child support cases again in the future, which he is, of course, entitled to do, he should submit the petition for modification to CSSD in all of his cases at one time, and specifically request of CSSD that all of his cases be processed at the same time. Only then will there be continuity in the treatment of these child support matters, and only then will his several

¹ Exh. 1.

² Exhs. 2-5.

³ Under Department of Revenue regulations, when CSSD issues a Notice of Denial of Modification Review, the parties have 30 days to file an appeal. 15 AAC 05.010(b)(6).

cases have any chance of being set using the same income information, and the correct deduction for prior children in each succeeding case.

THEREFORE IT IS ORDERED:

- CSSD's April 27, 2007, Motion to Dismiss is granted; Mr. F.'s April 24, 2007, appeal is dismissed; and his child support remains as previously set on June 29, 2005.

DATED this 26th day of June, 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 13th day of July, 2007.

By: Signed
Signature
Kay L. Howard
Name
Administrative Law Judge
Title

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