

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

IN THE MATTER OF:)

C. S. W.)

) OAH No. 07-0297-CSS

) CSSD No. 001141721

DECISION AND ORDER

I. Introduction

This case involves the Obligor C. S. W.'s appeal of an Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in her case on April 9, 2007. The Obligee child is T., DOB 00/00/99.

The formal hearing was held on June 14, 2007. Ms. W. did not appear; the Custodian of record, A. D. W., did not participate. David Peltier, Child Support Specialist, represented CSSD. The hearing was tape-recorded. The record closed on June 25, 2007.

Kay L. Howard, Administrative Law Judge, Alaska Office of Administrative Hearings, conducted the hearing. Based on the record as a whole and after due deliberation, CSSD's Amended Administrative Child Support and Medical Support Order is affirmed because the child support calculations in the order are correct.

II. Facts

A. History

The obligee T. is Ms. W.'s child from a relationship prior to her marriage to Mr. W.; Mr. W. is T.'s stepfather. Also, the parties have two children born of their marriage, but support for those children is not at issue in this appeal.

Mr. W. began receiving public assistance benefits on T.'s behalf in March 2006.¹ On June 23, 2006, CSSD served an Administrative Child and Medical Support Order on Ms. W.² Following an administrative review, CSSD issued an Amended Administrative Child and Medical Support Order on April 9, 2007, that set Ms. W.'s ongoing child support at \$159 per month, with arrears of \$795 for the period from March 2006 through July 2006.³ Ms. W. filed

¹ Exh. 6 at pg. 1.

² Exh. 1. CSSD issued a corrected order on March 8, 2007. Exh. 4.

³ Exh. 5.

an appeal on April 24, 2007. It states the child support order conflicts with the parties' divorce order.⁴

B. Findings

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

1. Ms. W. did not meet her burden of proving by a preponderance of the evidence that CSSD's Amended Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h);

2. Notice of the date and time for the hearing was sent by certified mail to Ms. W. at her last-known address, and it was signed for on June 4, 2007;

3. Ms. W. did not appear for the hearing;

4. CSSD correctly calculated Ms. W.'s 2006 and ongoing child support at \$159 per month, based on her Alaska Department of Labor and Workforce Development data, unemployment benefits and the Permanent Fund dividend.⁵

III. Discussion

Ms. W. filed an appeal of a child support order and she received the notice of the date and time set for the hearing. However, she 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 person requesting the hearing fails to appear.

A parent is obligated both by statute and at common law to support his or her children.⁶ Civil Rule 90.3(a)(1) provides that an Obligor's child support amount is to be calculated based on his or her "total income from all sources." CSSD calculated Ms. W.'s child support at \$159 per month, based on the income information the agency had for her. Pursuant to Civil Rule 90.3(c), this is a correct measure of Ms. W.'s child support obligation.

Neither party appeared for the formal hearing. CSSD asserted that its child support order should be affirmed because the W.s' divorce decree does not mention T. or address child support for the child. CSSD explained that T. is not a child of the parties' marriage; rather, he is Ms.

⁴ Exh. 7.

⁵ Exh. 6 at pg. 2.

⁶ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

W.'s child from a previous relationship and Mr. W. is his stepfather. The divorce decree addresses custody and support only for N. and D.⁷

IV. Conclusion

Ms. W. did not meet her burden of proving CSSD's Amended Administrative Child Support and Medical Support Order is incorrect. Based on her most recent income information, Ms. W.'s child support should be calculated at \$159 per month. Accordingly, CSSD's Amended Administrative Child Support and Medical Support Order should be affirmed.

V. Child Support Order

- CSSD's April 9, 2007, Amended Administrative Child Support and Medical Support Order is affirmed.

DATED this 17th day of August, 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 11th day of September, 2007.

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

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

⁷ See Exh. 8 at pg. 9.