

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

IN THE MATTER OF )  
 )  
 W. O. ) Case No. OAH-07-0602-CSS  
 ) CSSD Case No. 001121326

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**DECISION & ORDER**

**I. Introduction**

The obligor, W. O., appeals a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on August 31, 2007. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on October 24, 2007. The custodian of record, M. D., appeared by telephone. Andrew Rawls represented CSSD by telephone. Mr. O. did not appear or show cause for his failure to appear.<sup>1</sup> The child is R. O. (DOB 00/00/98). The administrative law judge issues a support order adopting revised calculations proposed by CSSD.

**II. Facts**

This case arises from a request for modification from the custodian. The previous support amount had been set at \$111.00 per month for one child. CSSD based its support calculation on income information for Mr. O. that it had obtained from the Department of Labor for the last two quarters of 2006 and the first two quarters of 2007, plus a permanent fund dividend. These figures resulted in a child support obligation of \$182 per month for one child.<sup>2</sup> Mr. O.'s appeal, in its entirety, reads as follows:

I am no longer employed. I am a seasonal worker and the season has ended. 9-28-07 was my last day of work. I am soon going to be drawing unemployment and won't be able to keep up on my payments. I can't afford \$182.00 a month. I am looking for more work but it might be a while as there are not many jobs available where I live.

At the hearing, Ms. D. testified that she had reason to believe that Mr. O. had just recently found employment.

CSSD stated that it obtained more recent information from the Department of Labor that includes the third quarter of 2006. Mr. O.'s wages for the last quarter of 2006 and the first three quarters of 2007 total \$10,791.11. Mr. O. also received \$288.00 in unemployment insurance benefits. Combined with a permanent fund dividend, this level of income results in a child

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<sup>1</sup> Mr. O. signed a certified mail receipt for the Notice of Hearing on October 11, 2007. He did not call the OAH to provide a contact phone number. The administrative law judge called the number listed for Mr. O. in the record and left a voicemail message at that number. This decision is based on the record in accordance with 15 AAC 05.030(j).

support calculation of \$218 per month for one child.<sup>3</sup> CSSD requested that support be set at the revised amount.

### **III. Discussion**

At a formal hearing, the person requesting the hearing has the burden of proving that CSSD's decision was in error.<sup>4</sup> Child support in a primary custody situation is calculated based on the obligor's total income from all sources.<sup>5</sup> CSSD's most recent calculation appears to be based on the best evidence available of Mr. O.'s earning potential. With no evidence showing error in CSSD's methodology, the calculations should be adopted, but revised to reflect the most recent information available.

### **IV. Conclusion**

Mr. O. has not met his burden of demonstrating that CSSD's decision was in error. Support should be set at \$218 per month in accordance with CSSD's most recent calculations.

### **V. Order**

IT IS HEREBY ORDERED that Mr. O.'s support obligation be set at \$218 per month for one child, effective August 1, 2007.

DATED this 31st day of December, 2007.

By: Signed \_\_\_\_\_  
DALE WHITNEY  
Administrative Law Judge

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<sup>2</sup> Exhibit 4.

<sup>3</sup> Exhibit 6.

<sup>4</sup> 15 AAC 05.030(h).

<sup>5</sup> Civil Rule 90.3(a).

## 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 notices, 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 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 25th day of January, 2008.

By: Signed (Terry L. Thurbon) for  
Signature  
Dale Whitney  
Name  
Administrative Law Judge  
Title

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