

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

IN THE MATTER OF: )

C. A. H. )

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) OAH No. 07-0604-CSS

) CSSD No. 001144208

**CORRECTED DECISION AND ORDER**

**I. Introduction**

This case involves the Obligor C. A. H.'s appeal of an Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on May 16, 2007. The Obligee child is K., DOB 00/00/05.

The formal hearing was held on October 28, 2007. Mr. H. did not appear<sup>1</sup>; the Custodian, J. A. C., participated in person. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was tape-recorded. The record closed on November 8, 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, Mr. H.'s appeal is granted and his ongoing child support should be set at CSSD's revised calculation of \$455 per month, effective November 1, 2007. The arrears should be set at \$745 per month for the period from August 1, 2006, through October 31, 2007.

**II. Facts**

**A. History**

Ms. C. applied for child support services in August 2006.<sup>2</sup> On February 19, 2007, CSSD served an Administrative Child and Medical Support Order on Mr. H.<sup>3</sup> He requested an administrative review and provided income information.<sup>4</sup> On May 16, 2007, CSSD issued an Amended Administrative Child and Medical Support Order that set Mr. H.'s ongoing child support at \$880 per month, with arrears of \$8500 for the period from August 2006 through May

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<sup>1</sup> On November 6, 2007, Mr. H. submitted a letter stating he had missed the hearing because he did not receive his certified mail until October 31, 2007. He indicated he would be leaving the state permanently on November 2, 2007, but he did not request a supplemental hearing.

<sup>2</sup> Exh. 2 at pg. 5.

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

<sup>4</sup> Exhs. 4 & 6.

2007.<sup>5</sup> Mr. H. filed an appeal on October 4, 2007, that states he pays support for two other children.<sup>6</sup>

### **B. Findings**

Notice of the date and time for the hearing was sent by certified mail to Mr. H. at his last-known address on October 10, 2007, and he signed for it on October 31, 2007. Mr. H. did not appear for the hearing; he submitted a letter on November 6, 2007, that says he did not receive his certified mail in time for the hearing, but also he did not request a supplemental hearing;

Mr. H. is a member of the military. He is an E-5 with ten years of service.<sup>7</sup> Mr. H. was recently transferred from Alaska to Missouri, which, for child support purposes, took affect approximately November 1, 2007.<sup>8</sup> He pays support for two prior children in the total amount of \$596 per month.<sup>9</sup>

In 2006, Mr. H. received base pay of \$28,825.20; a BAH (Basic Allowance for Housing) allowance of \$19,008.00; a BAS (Basic Allowance for Subsistence) allowance of \$3,267.12; and a COLA benefit of \$5,621.<sup>10</sup> These figures yield total gross income of \$56,721.12, which results in a child support calculation of \$745 per month, including the deduction for paying support for a prior child.<sup>11</sup> For most of 2007, these figures remained essentially unchanged.

Upon Mr. H.'s transfer to Missouri, which was effective November 1, 2007, his base pay remained essentially the same, but his housing allowance was reduced significantly, to \$591 per month, and his COLA allowance was eliminated.<sup>12</sup> These figures yield total gross income of \$39,275.56, which results in a child support calculation of \$455 per month.<sup>13</sup>

### **III. Discussion**

Mr. H. filed an appeal of a child support order, but he failed to appear for the hearing. He submitted a letter stating he had not received the certified notice in time for the hearing, but he

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<sup>5</sup> Exh. 7.

<sup>6</sup> Mr. H. stated he filed an appeal in July 2007 but did not hear anything back, so he submitted the second one on October 4<sup>th</sup>. CSSD apparently treated it as timely.

<sup>7</sup> Exh. 6b at pg. 1.

<sup>8</sup> See Request and Authorization for Permanent Change of Station, dated Sept. 18, 2007, attached to Mr. H.'s letter received on November 6, 2007.

<sup>9</sup> Exh. 6a.

<sup>10</sup> Exh. 10 at pg. 2.

<sup>11</sup> Exh. 10 at pg. 1.

<sup>12</sup> Exh. 11 at pg. 2.

<sup>13</sup> Exh. 11 at pg. 1.

also did not request a supplemental 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.<sup>14</sup> 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."

Civil Rule 90.3 specifically provides that a military parent's total income from all sources includes "Armed Service Members base pay plus the Obligor's allowances for quarters, rations, COLA and specialty pay."<sup>15</sup> The base pay figure is put into the calculation in the taxable income column.<sup>16</sup> The other benefits go into the nontaxable income column.<sup>17</sup> CSSD's online child support calculator program performs the computation.<sup>18</sup>

Mr. H. did not appear for the formal hearing. CSSD was directed to prepare revised calculations to reflect Mr. H.'s child support payments on behalf of prior children and his transfer to Missouri, which reduced his non-pay benefits. CSSD filed the revised calculations after the hearing and they are set forth as findings in the previous section of this decision. These calculations are correct in that they are based on the most accurate information about Mr. H.'s income and benefits for the period of time at issue.

#### **IV. Conclusion**

Mr. H. met his 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). Accordingly, CSSD's revised child support calculations as discussed herein should be adopted.

#### **V. Child Support Order**

- Mr. H. is liable for child support in the amount of \$745 per month for the period from August 2006 through October 2007;

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<sup>14</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>15</sup> Civil Rule 90.3, Commentary III.A.29.

<sup>16</sup> See page 1 of both Exhs. 10 and 11.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

- Mr. H. is liable for ongoing child support in the amount of \$455 per month, effective November 1, 2007.

DATED this 28<sup>th</sup> day of December, 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 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 3<sup>rd</sup> day of January, 2008.

By: Signed  
Signature  
Jerry Burnett  
Name  
Director, Admin Services  
Title

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