

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

IN THE MATTER OF)	
)	
K. H.)	Case No. OAH-07-0608-CSS
_____)	CSSD Case No. 001120582

DECISION & ORDER

I. Introduction

The obligor, K. H., appeals a Modified Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on September 8, 2007. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on October 31, 2007. Mr. H. appeared by telephone. The custodian of record, K. R., did not appear. David Peltier represented CSSD. The child is J. H. (DOB 00/00/03). Support is set at \$360 per month in accordance with revised calculations proposed by CSSD.

II. Facts

This case arises out of the custodian's request for modification of the support amount, which had been set at \$163 in April, 2004. CSSD increased the support amount to \$690 based on statistical data. This calculation was made without a deduction for the support Mr. H. pays for two older children of a previous relationship.

Mr. H. is a self-employed mechanic. After Mr. H. submitted financial information from his business, CSSD added up personal draws Mr. H. had taken from the business for a ten-month period and found them to total \$2,369.47 per month, or \$28,433.64 per year. Using this amount plus PFD income as a gross annual income figure, CSSD calculated Mr. H.'s support obligation to be \$360.00 per month for one child.¹

Before the hearing, and before CSSD recalculated support at \$360 per month, Ms. R. submitted a letter in which she stated her belief that \$743 per month was an excessive amount of support and more than Mr. H. was reasonably capable of paying.² Ms. R. suggested that \$350 per month would be a fair and reasonable amount.

¹ Exhibit 6.

² It is unclear how Ms. R. arrived at the amount of \$743; this could have been the amount of \$690 plus a small amount that Mr. H. would have owed as arrears after the modified order came out.

III. Discussion

The issues Mr. H. raises are factual. There is no dispute that support should be calculated according to the formula of Civil Rule 90(3)(a), and that CSSD had applied the correct rule, but with incorrect figures. Before the hearing, CSSD conceded that actual income figures should be used to calculate support, and that it had erred by not giving Mr. H. credit for the support he pays to his two older children. Thus, the principal issues in the case were resolved before the hearing.

There was considerable discussion at the hearing regarding the best method for projecting Mr. H.'s likely tax obligation for 2007 and ongoing. The issue is complicated by the fact that Mr. H. is self-employed. It will not be possible to ascertain precisely how much tax Mr. H. will pay for 2007 until his tax return for the year is complete, but after analyzing the matter in several different ways Mr. H. and CSSD agreed that the most practical method of calculating support is reliance on CSSD's standard tax tables, which CSSD used when calculating Mr. H.'s support obligation to be \$360 per month as shown in Exhibit 6. Besides complying with Civil Rule 90.3, this figure is within ten dollars of the amount Ms. R. estimates to be a fair and reasonable amount of support.

IV. Conclusion

Mr. H. was correct to assert that CSSD had based its original support calculation on incorrect income figures and without giving credit for support Mr. H. pays to his older children. CSSD has corrected these errors in its most recent calculation. Support should be set accordingly at \$360 per month for one child.

V. Order

IT IS HEREBY ORDERED that the Modified Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division on September 8, 2007 is amended as follows:

--Mr. H.'s support obligation to J. is set at \$360 per month for one child.
All other provisions of the modified order shall remain in effect.

DATED this 4th day of January, 2008.

By: Signed _____
DALE WHITNEY
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 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.]