

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

IN THE MATTER OF:)

S. D.)

OAH No. 07-0704-CSS
CSSD No. 001108339

DECISION AND ORDER

The Obligor, S. D. C., requested a modification review of an existing child support order, issued June 15, 2005, setting the support amount at \$159 per month. Mr. C. requested the review because he was not working and was receiving Supplemental Security Income (SSI).¹ CSSD issued a Notice of Petition for Modification of Administrative Support Order on September 18, 2007. The Child Support Services Division (CSSD) issued a Notice of Denial of Modification Review on November 30, 2007. The Obligee child is J. B. M., DOB 00/00/2000.

At Mr. C.'s request a hearing was held on January 8, 2007, before Rebecca L. Pauli, Administrative Law Judge, Alaska Office of Administrative Hearings. Mr. C. appeared by telephone; the custodian, T. M. did not participate. Andrew Rawls, Child Support Specialist, appeared for CSSD. The hearing was recorded. The record remained open until January 24, 2008, so Mr. C. could obtain documents from the Social Security Administration (SSA) verifying that he is receiving SSI.

Mr. C. provided a letter from the SSA verifying that he is receiving monthly SSI payments in the amount of \$637.² Based on this information, if SSI payments are considered income for purposes of Civil Rule 90.3, CSSD determined that Mr. C. had an annual adjusted gross income in the amount of \$7,044³ which resulted in a monthly child support payment of \$117. However, the commentary to Civil Rule 90.3 at Part III. A provides that means based sources of income such as SSI should not be considered as income. Therefore, for purposes of child support calculations, Mr. C. has no income; however this does not mean that he does not have an obligation to support his child.

¹ The SSI program makes payments to people with low (or no) income who are age 65 or older, blind, or have a disability. See Title XVI of the Social Security Act.

² Exhibit 9.

³ Monthly Non-taxable SSI in the amount of \$637 x 12 months = \$7,644. \$7,644 - \$600 Annual deduction for cost of child support for a prior child = \$7,044. Exhibit 10.

A parent is obligated both by statute and at common law to support his or her children.⁴ They are not relieved of this obligation simply because they have no income. Civil Rule 90.3(b)(3) requires that the minimum child support amount that may be ordered by law is \$50 per month.⁵ Accordingly, Mr. C.'s monthly child support obligation should be \$50 effective November 1, 2007.

Child Support Order

- Mr. C. is liable for modified ongoing child support in the amount of \$50 per month, effective November 1, 2007.
- All other provisions of the Modified Administrative Child Support and Medical Support Order of June 15, 2005, remain in effect.

DATED this 6th day of February, 2008.

By: Signed
Rebecca L. Pauli
Administrative Law Judge

⁴ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

⁵ This amount may be reduced where the custody arrangement warrant's reduction. Civil Rule 90.3(c)(3) referencing Civil Rule 90.3(a)(3) and paragraph (b). Mr. C. has not presented evidence that the custody arrangement would warrant reduction.

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 25th day of February, 2008.

By: Signed
Signature
Rebecca L. Pauli
Name
Administrative Law Judge
Title

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