

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

IN THE MATTER OF:)

M. R. K.)

) OAH No. 07-0716-CSS
) CSSD Nos. 001148331 and
) 001148332

DECISION AND ORDER

I. Introduction

Obligor M. R. K. appealed an Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (“CSSD”) issued in her cases¹ on December 11, 2007. The five children now in her custody are J. K. (DOB 00/00/92), N. W. K. (DOB 00/00/94), R. K. (00/00/96), D. K. (00/00/96), and B. K. (DOB00/00/98).

The formal hearing was held on January 14, 2008. James T. Stanley, Administrative Law Judge, Office of Administrative Hearings, conducted the hearing. Ms. K. did not appear. David Peltier, Child Support Specialist, appeared and represented CSSD. The hearing was recorded. The record closed on January 24, 2008.

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

Ms. K.’s five children were placed in federal foster care in May 2006. Beginning in June 2007, and continuing through October 2007, the five children were in the custody of a third party. CSSD suspended collection of child support from Ms. K. beginning June 1, 2007 because it did not have an application for service after June 1, 2007 from the third party custodian. Beginning in November 2007, Ms. K. regained physical custody of her five children.

CSSD issued an Administrative Child Support and Medical Support Order on August 15, 2007 which set child support at \$385 per month effective September 1, 2007. The calculation was based upon her projected gross income for 2007 of \$13,342.59.² Ms. K. requested an

¹ Ms. K.’s cases are federal foster care (#001148331) and non-federal foster care (#001148332).

² Alaska Department of Labor minimum wage data plus the permanent fund dividend received that year.

administrative review of the order, asserting that her financial circumstances were not as CSSD believed. She provided financial information which revealed that she worked part-time (19 to 38 hours per week) and was paid at the rate of \$8.50 per hour.³

CSSD issued an Amended Child Support and Medical Support Order⁴ on December 11, 2007 which set her child support obligation for five children at \$298 per month, effective January 1, 2008.⁵ Ms. K. appealed the administrative review decision⁶ accompanying the amended order on December 18, 2007, arguing that she had custody of all five girls and could not pay the sum of \$298 per month for child support.⁷

III. Discussion

Ms. K. 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 pursuant to 15 AAC 05.030(j) which authorizes the entry of a child support decision without taking further evidence from that person, 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.⁸ 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. K.'s child support at \$298 per month, based on the income information for three quarters of work, plus one quarter of extrapolated information. Pursuant to Civil Rule 90.3(c), the foregoing is the best available information and is a correct measure of Ms. K.'s child support obligation.

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

1. Ms. K. 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. K. at her last known address, which she provided on December 18, 2007;

³ Exhibit 6.

⁴ Exhibit 7.

⁵ CSSD used 1st, 2nd, 3rd quarter information from 2007 Alaska Department of Labor, extrapolated the data for the 4th quarter, and added the permanent fund dividend, to calculate total gross income for 2007 of \$9961.40.

⁶ Exhibit 8.

⁷ Exhibit 9.

⁸ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

3. Ms. K. did not appear for the hearing;
4. Ms. K. regained physical custody of her five children on November 1, 2007. So long as she has physical custody of her children, collection of ongoing support shall be suspended;
5. Total arrearages owed by Ms. K. for the period beginning May 1, 2006 and ending December 31, 2007 are \$3704;
6. CSSD correctly calculated Ms. K.'s 2007 and ongoing child support at \$298 per month, based on her Alaska Department of Labor data and including the Permanent Fund dividend.⁹

IV. Conclusion

Ms. K. 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. K.'s child support should be calculated at \$298 per month. Accordingly, CSSD's Amended Administrative Child Support and Medical Support Order dated December 11, 2007 should be affirmed.

V. Child Support Order

- CSSD's December 11, 2007, Amended Administrative Child Support and Medical Support Order is affirmed.

DATED this 21st day of April, 2008.

By: Signed _____
James T. Stanley
Administrative Law Judge

⁹ Exhibit 6 at pg. 2.

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 9th day of May, 2008.

By: Signed _____
Signature
James T. Stanley _____
Name
Administrative Law Judge _____
Title

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