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

In the Matter of	)	
	)	
L.N	)	OAH No. 25-0767-CSS
	)	

DECISION AND ORDER

I. Introduction

The Child Support Services Division (Division) issued a Modified Administrative Child Support Order on February 21, 2025, reducing the obligor, K.C's monthly support obligation from $386 to $246 for his daughter L.C based upon an imputed full-time minimum wage income. L.N, the custodian, appeals the reduction. Mr. C, in turn, claims that the new support amount of $799 monthly, calculated during the appeal based upon his earned wages and Unemployment Insurance Benefits (UIB) is too high, and will cause him substantial hardship.

Mr. C showed by clear and convincing evidence that manifest injustice would result if his obligation was not reduced by way of a hardship variance. Based on the record as a whole and after careful consideration, this decision concludes that Mr. C's monthly child support obligation is to be set at $386 per month for one child, based on primary custody, effective February 1, 2025, and ongoing.

II. Facts

A. Procedural Facts

In January 2025 Mr. C requested a modification of a Modified Administrative Child Support Order issued September 28, 2021, setting his monthly support obligation at $386 for one child, based on primary custody.[1] The Division requested income information from Mr. C and L.N.[2] Mr. C did not provide any income information therefore the Division imputed full-time minimum wage employment in the state in which he resides to calculate his monthly support obligation.[3] The Division assessed Mr. C's gross annual income at $22,256, applied the Self-Sufficiency Reserve deduction in the amount of $7,500, and

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1 Div. Ex. 1 and Div. Ex. 2.
2 Div. Ex. 3.
3 Div. Ex. 4.

calculated his adjusted annual income to be $14,756.[4] From this amount, 20% is marked as available for child support as per Civil Rule 90.3, which is $2,951.20 annually or $246 per month for one child, based on primary custody, thereby reducing Mr. C's monthly support obligation from the previous amount of $386.[5]

Ms. N appealed the Modification Decision, asserting that Mr. C can earn more than the minimum wage and that he may be earning self-employment income from a business.[6] A formal hearing was held over several dates between April 22, 2025, and August 7, 2025. Mr. C did not appear at the first hearing date, however, he appeared telephonically at all subsequent hearing dates and represented himself, testifying on his own behalf. Ms. N appeared at all the hearing dates telephonically, representing herself and she also testified on her own behalf. Mark Phang, Child Support Specialist II, appeared and represented the Division. Division Exhibits 1-12 were admitted into evidence and the record closed on August 11, 2025. The parties agreed to waive the 120-day deadline in this case.[7]

B. Material Facts[8]

L.N and K.C are the parents of L.C, who is currently 15 years old. Mr. C left Alaska in June of 2014, and currently lives in Ohio with his wife and ten-year-old son. His wife does not work outside the home as she has brain cancer-related physical disabilities. Mr. C's son is a Type I diabetic who also suffers from Celiac Disease.[9] Mr. C's wife and his son are both covered by Medicaid for their health insurance, but Mrs. C. does not receive any income-related disability benefits.[10] He and his wife filed for Chapter 7 bankruptcy and received an Order of Discharge in June 2024.[11]

Mr. C has a Commercial Driver's License (CDL) and has been employed as a truck driver for Employer A since February 2025. He works full-time seasonally, his schedule

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[4] Minimum wage of $10.70/hr. x (40 hours per week x 52 weeks = 2,080 hours) = $22,256. The Self Sufficiency Reserve is a deduction representing the minimum income a parent must retain to afford basic living costs; Civil Rule 90.3.(a)(5)(B). $22,256 - $7,500 = $14,756.

[5] Div. Ex. 4.

[6] Div. Ex. 5.

[7] Alaska Statute 44.64.060(d) requires decisions to be issued by an ALJ within 120 days after the date OAH received a request for hearing. The 120-day deadline in this case ran on July 25, 2025. Due to Mr. C's absence at the first hearing date, additional time was required to complete the hearing in this case.

[8] Material facts are based on the testimony presented at the hearing by Mr. C, Ms. N and Mr. Phang as well as the submitted written record.

[9] Testimony of K.C.

[10] *Id.*

[11] Div. Ex. 8, pp. 1-2.

mirroring the academic year, running from the second week of September through the third week of May. He earns $37.00 per hour for a 40-hour week.[12] He had hoped to secure employment as a truck driver during the summer hiatus, but he was unable to do so despite actively applying and attending several interviews.[13] He qualified for unemployment benefits (UIB) in the amount of $600 per week from the last week in May through the first week in September, totaling sixteen weeks of benefits.[14] He testified credibly that he was involved in a catering-type business with a family member in the past, but currently does not earn any income from that business.[15] His 2025 expected gross income is $58,425.86.[16] His documented take home pay during the school year averages $2,711.32 a pay period.[17]

During the formal hearing Mr. C's actual monthly household expenses were identified as $4,922.64.[18] This includes: $1,150 per month for rent, $1,000 for food[19] in the home, $500 for food outside of the home, $125 for entertainment; $225 for gas, $200 for electricity, $22 per month for renter's insurance, and $100 for cellular phone costs. He owns a 2023 Chevrolet Blazer he recently purchased and for which he owes $36,000 and makes a monthly payment of $820. He spends $200 per month on insurance, and an average of $400 per month on gasoline. He has a $1,400 medical debt for which he is paying $140 per month. Mr. C submitted proof of a federal tax debt of $4,202.54 with a current monthly payment of $60.[20] Finally, Mr. C pays $713.02 in child support arrears for children from a prior relationship for which he does not receive a monthly deduction to his child support calculation.[21] He testified that he has been able to save around $500 per month after paying

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12 Div. Ex. 8, pp 7-12; *see also* Testimony of K.C.
13 Testimony of K.C.
14 Div. Ex. 10; *see also* Testimony of K.C.
15 Testimony of K.C.
16 Actual earned wages in January 2025 of $4,800 from a prior employer + $20,345.86 (from February – May 2025) + $23,680 (projected income from Sept-Dec 2025 ($37/hr. x 640 hrs. = $23,680)) + $9,600 UIB ($600/wk. x 16 weeks) = $58,425.86 in wage and UIB income.
17 Mr. C provided six paycheck stubs containing his earnings from the start of his employment through his second to last paycheck before the hiatus and they were added together and divided by 6 to determine his average take home pay due to the inclusion of intermittent overtime hours; *see* Div. Ex. 8, pp. 7-16.
18 Div. Ex. 7; *see also*, Testimony of K.C.
19 Listed as $2,000 in his expense worksheet, but agreed it was overestimated.
20 Div. Ex. 8, p. 16.
21 Div. Ex. 7; *see also* Testimony of K.C. Child support payments for prior children are an allowable deduction under Civil Rule 90.3(a)(1)(C)(i) however, Mr. C's support payment is solely for arrears for emancipated children, which is not an allowable deduction under Civil Rule 90.3(a).

the above expenses, anticipating the need to rely on savings if he was unable to secure full-time employment during the summer hiatus.[22]

Ms. N lives in Fairbanks, Alaska, with her husband, her daughter L, and a son she shares with her current husband. She works full time in the insurance field earning about $80,000 per year between her base salary and her commissions. Her husband is employed full-time and also receives veteran disability benefit payments. Their annual gross income is $142,000,[23] approximately $11,833 per month gross. She itemized monthly household expenditures totaling $8,597.51 with approximately $500 to $700 left at the end of each month. Ms. N indicated that she is having some health issues and may be going on disability at some point in the future.[24]

III. Discussion

As the person who filed the appeal on the modification in this case, Ms. N bears the burden of proof to show by a preponderance of the evidence that the support amount calculated under the primary custody formula and applied to the modified child support order is incorrect.[25] Regarding Mr. C's request for a variance based on financial hardship, Mr. C must show by clear and convincing evidence that manifest injustice would result if the support award were not varied.[26]

A parent is obligated both by statute and at common law to support his or her children.[27] Child support orders may be modified upon a showing of "good cause and material change in circumstances."[28] If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes a "material change in circumstances" has been established.

Mr. C's child support was previously set at $386 per month, so a support calculation that changes his obligation by $57.90 or more would be sufficient to modify his child support obligation.[29] When the newly calculated amount is less than a 15% change, the

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22 Testimony of K.C.
23 This does not include her husband's untaxed veteran's disability income, *see* Testimony of L.N.
24 Testimony of L.N.
25 15 AAC 05.030(h).
26 Civil Rule 90.3(c).
27 *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987); AS 25.20.030.
28 AS 25.27.190(e).
29 $386 x 15% = $57.90.

Division still may grant the modification if three or more years have elapsed since the prior support order was issued.[30] Both conditions are met in the present case.

A. Rule 90.3 Calculation

Under Civil Rule 90.3, a parent's child support obligation is calculated based on his or her total income from all sources during the period for which the support is being paid.[31] Once a parent's total income from all sources is determined, Civil Rule 90.3 calculates the parent's adjusted annual income by subtracting specified deductions, such as for federal income taxes and Social Security/Medicare withholding.[32]

Because the Division had no income information from Mr. C prior to the appeal, it was appropriate to base the support calculation for the modification order on imputed full-time minimum wage earnings for the state in which he resides. Having received paystubs verifying his wages and a Determination of Benefit Payment Eligibility verifying his UIB during the hearing, the Division recalculated Mr. C's support obligation. His wage income was applied to 36 weeks of the year and his UIB to 16 weeks, resulting in annual gross wages of $58,425.86.[33]

Mr. C's monthly support obligation is calculated by taking his gross income of $58,425.86 and subtracting total allowable monthly deductions in the amount of $872.80 as follows: $414.38 for federal income tax, $322.86 for social security and Medicare, $135.56 for state taxes and his portion of dental insurance coverage for himself.[34] This results in an adjusted annual income of $47,952.26.[35] From this amount, 20% is marked as available for child support as per Civil Rule 90.3, which is $9,590.45 annually or $799 monthly. Ms. N met her burden of showing that Mr. C's support amount calculated under the primary custody formula and applied to the modified child support order was incorrect.

B. Financial Hardship Variance

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30 15 AAC 125.321(b)(2)(C).

31 *See also* 15 AAC 125.020, 15 AAC 125.030.

32 *See* Civil Rule 90.3(a)(1). Other deductions include, for example, work-related childcare expenses, retirement plan contributions, and health insurance premiums for the paying parent.

33 Actual earned wages in January 2025 of $4,800 from a prior employer + $20,345.86 (from February – May 2025) + $23,680 (projected income from Sept-Dec 2025 ($37/hr. x 640 hrs. = $23,680)) + $9,600 UIB ($600/wk. x 16 weeks) = $58,425.86 in wage and UIB income.

34 $23.67 for Mr. C's monthly dental insurance premiums + $111.89 for state income tax = $135.56.

35 Div. Ex. 12.

Mr. C's primary argument is that he is unable to pay the modified support for L while also paying his arrears obligation for his prior older children from a different relationship, as well as supporting his disabled wife and their ten-year-old son who is a Type I diabetic and suffers from Celiac Disease. This raises the issue of a financial hardship variance under Civil Rule 90.3(c).

Child support determinations calculated under Civil Rule 90.3 from an obligor's actual income figures are presumed to be correct. The parent may obtain a reduction in the amount calculated, but only if he or she shows that "good cause" exists for the reduction. To establish good cause, the parent must prove by clear and convincing evidence that "manifest injustice would result if the support award were not varied."[36] It is appropriate to consider all relevant evidence, including the circumstances of the custodial parent and child, to determine if the support amount should be set at a different amount than the one determined under Civil Rule 90.3(a).[37]

C. The C. Household

Mr. C testified about his household expenditures and submitted into the record an itemized list of monthly costs. After further discussion on the record, he acknowledged that he may have overestimated some bills. It was agreed that a reasonable estimate of his monthly household expenses totaled approximately $4,922.64 per month, with his household more likely spending less on food costs and gasoline costs – the expenditures he estimated.[38]

Because Mr. C works seasonally and receives UIB for the 16-week summer hiatus, his income is substantially reduced during the summer. It is necessary for him to save the $500 per month excess he has during the 8-month school year to cover some of this shortfall, although it likely still leaves his household significantly short each year.

Mr. C is his family's sole financial provider, as his wife is disabled. He has a child in his household with above normal nutritional needs. A review of the household budget indicates that Mr. C's income barely covers the family's expenses as long as he remains

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36 Civil Rule 90.3(c).

37 Civil Rule 90.3(c)(1); Civil Rule 90.3, Commentary VI.B.

38 $6,595.02 alleged monthly household costs - $5,422.64 average monthly take-home pay = $1,172.38 more than his take-home pay; $1,172.38 + $500 leftover monthly = $1,672.38. $6,595.02 alleged - $1,672.38 what he would need in order to have $500 left each month = $4,922.64 likely monthly household expenses.

unable to find work during the summer months. Increasing Mr. C's monthly child support obligation to $799 per month would cause substantial hardship to his current family and his subsequent child, possibly impacting his son's health if he cannot afford his specialized nutritional needs.

D. The Miller Household

Ms. N and her family also have $500 or more available at the end of each month. The difference between the households however is that Ms. N's household does not need to put the additional funds away to cover a seasonal loss of income. This makes Ms. N's household significantly more stable, including having the benefit of two employed parents. While Ms. N indicated that she was experiencing health issues, any impact that may have on her family's financial situation is not present now.

E. The balancing of the households

Based upon the current circumstances, Mr. C has shown by clear and convincing evidence that his support obligation as calculated under Civil Rule 90.3(a) would result in a manifest injustice. There is little room in his budget or a reasonable opportunity for an increase in his income therefore support obligation as calculated would just force him into debt again.[39]

While the focus here, as properly pointed out by Ms. N, should be on L, the household L lives is supported by two employed parents and has considerably more financial stability than Mr. C's. Therefore, weighing the situations of both parents and considering the wellbeing of L, Mr. C's ongoing monthly obligation should be reduced to his prior obligation amount of $386 per month, effective February 1, 2025, and ongoing. If circumstances change for either household, such as Mr. C obtaining summer employment and/or Ms. N's health causing a reduced household income, Mr. C's support obligation may be reviewed for a possible modification.

IV. Conclusion

Through evidence presented at the hearing, Ms. N met her burden to prove that the modified administrative support obligation based upon full-time minimum wage income,

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[39] Mr. C and his wife filed for Chapter 7 bankruptcy last year to manage the debt they had previously accumulated.

which reduced Mr. C's monthly support to $246, was incorrect. Mr. C has also met his burden of proving that his monthly support amount under the regular formula exceeds his ability to pay and would be manifestly unjust. His request for a variance of that obligation is granted under Civil Rule 90.3(c). Beginning February 1, 2025, and ongoing, Mr. C's support for L is set at $386 per month.

V. Child Support Order

1. K.C is liable for child support in the amount of $386 per month for one child effective February 1, 2025, and ongoing.
2. All other terms of the Modified Administrative Child Support Order dated February 21, 2025, remain in full force and effect.

Dated: August 19, 2025

Signed

Beth Goldstein
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 within 30 days after the date of this decision.

DATED this 24th day of September, 2025.

By: *Signed*
Signature
Janelle L. Earls
Name
Acting Commissioner
Title

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]