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

In the Matter of	)	
	)	
S.C	)	OAH No. 25-1647-CSS
	)	

DECISION AND ORDER

I. Introduction

This matter involves the appeal by the obligor, S.C of the Administrative Support Order with Preexisting arrears issued by the Child Support Enforcement Division (Division) on March 6, 2025. The order set a monthly support obligation of $156 for one child, effective April 1, 2025, and arrears of $468 owed from January 1, 2025, to March 31, 2025. The other party to this case is M.C and the obligee child is T.N.

A formal hearing was held on July 1, 2025. Ms. S.C appeared by telephone and represented herself. Ms. M.C was also present by telephone and represented herself. The Division was represented by Child Support Specialist Shawn Pattison.

Based on the record and after careful consideration, Ms. S.C's child support is set at the lowest obligation permissible of $50 per month[1], effective April 1, 2025, and arrears for January 1, 2025, through March 31, 2025, are set at $50 per month for a total of $150.

II. Facts

A. Procedural Facts

The Division received a request to establish a support order for collecting public assistance arrears from the Division of Public Assistance on January 8, 2025.[2] In response, the Division requested financial information from Ms. S.C.[3] No information was received, and the Division issued an Administrative Support Order with Preexisting Arrears on March 6, 2025.[4] The Order set Ms. S.C's monthly support obligation at $156 for one child effective, April 1, 2025, and arrears of $468 owed from January 1, 2025, to March 31, 2025.[5] Ms. S.C filed a Request for Administrative Review Hearing, stating that she has no

1 Civil Rule 90.3(c)(3); 15 AAC 125.075(d).
2 Division Pre-Hearing Brief filed June 27, 2025.
3 Div. Ex. 1.
4 Div. Ex. 2.
5 *Id*.

duty of support owed because she receives Adult Public Assistance and Social Security Disability income since she is disabled and cannot work.[6]

An administrative review hearing was held on April 10, 2025, both parties attended. The Division issued an Administrative Review Hearing Decision on May 20, 2025, affirming the March 6, 2025, order, determining that all of Ms. S.C's disability income was countable for child support purposes.[7] Ms. S.C appealed, asserting that her income should have only been calculated based upon her Permanent Fund Dividend (PFD) and that T lives in her household 50% of the time.[8]

A formal hearing was held before the Office of Administrative Hearings on July 1, 2025. Ms. S.C appeared by telephone and represented herself, testifying on her own behalf. Ms. M.C appeared telephonically for the majority of the hearing.[9] She represented herself and testified on her own behalf. Mr. Shawn Pattison, Child Support Specialist II, represented the Division. At the hearing. Ms. S.C also requested a hardship variance.[10] The record was held open until July 22, 2025, to allow the Division to confirm closure of the Temporary Assistance for Needy Families (TANF) grant, which was confirmed by the Supplemental Submission to Record filed July 17, 2025. Division exhibits 1-9 were admitted into evidence.

B. Material Facts[11]

Ms. S.C and Ms. M.C are sisters.[12] Ms. S.C's name appears on the minor child, T.N's birth certificate. T is currently sixteen years old, and Ms. M.C is the custodian of record.[13]

As sisters, S.C and M.C maintain separate residences and T spends equal time in both homes.[14] In or about January 2025, Ms. M.C applied for and received a TANF grant

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6 Div. Ex. 3.
7 Div. Ex. 4.
8 Div. Ex. 5.
9 Ms. M.C asked to be excused after she provided testimony as the hearing was being held over her lunch break and her break was coming to a close. She was excused at her request.
10 Testimony of S.C.
11 Material facts are based on the testimony presented at the hearing by Ms. S.C, Ms. M.C and Mr. Pattison as well as the submitted written record.
12 Testimony of S.C.
13 Testimony of S.C; *see also* Division Pre-Hearing Brief filed June 27, 225.
14 Testimony of S.C

for T because M.C had become unemployed.[15] During the Administrative Review Hearing Ms. M.C stated that she did not want child support from Ms. S.C. The Division advised her that she would need to close the TANF grant and file a request to withdraw services with the Division to stop the collection of the monthly support obligation from Ms. S.C.[16] Ms. M.C filed the closure request for the TANF grant in mid-June and the grant closure is effective July 31, 2025.[17]

Ms. S.C is 47 years old and lives in Town A, Alaska. She had worked in the customer service field since she was eighteen. She currently does not work, having been determined fully disabled since 2020 by the Social Security Administration (SSA). Her disability encompasses mental health issues including extreme anxiety, which prevents her from leaving the house at times, as well as major depression, severe enough that she cannot get out of bed when experiencing an episode. She also experiences cervical spine issues that will likely result in a need for surgery. She currently receives Title II Social Security disability income in the amount of $1,263 per month.[18]

During the formal hearing Ms. S.C testified to and subsequently submitted her hearing expense worksheet identifying her monthly household expenses of $1,226 to include: Her rent of $1175 per month however, she receives a supplemental housing voucher, putting her cost at $505 per month, including gas; electricity at $100 per month; $60 for phone; and $300 for food in the home above the $150 per month receives in food stamp benefits. She pays $115 per month to insure a 1990 Subaru she purchased outright in May 2025, and she spends $90 per month on gasoline. She owes $600 in consumer debt, paying $56 per month towards that debt.[19] Additionally, she contributes whatever she can towards T's needs in M's household and for T's school activities.[20]

M.C also lives in Town A, Alaska. She was unemployed when she applied for the TANF grant, which provided $50 per month in benefits. She testified to her monthly expenses of between $2700 and $3000 per month. She has three individuals in her household including T and her adult daughter. Her expenses include $1500 for rent,

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15 Div. Ex. 4; *see also*, testimony of M.C.
16 Div. Ex. 4.
17 Testimony of M.C; *see also*, Supplemental Submission to Record filed by the Division July 17, 2025.
18 Div. E. 8; *see also,* testimony of Shawn Pattison
19 Testimony of S.C; *see also*, Div. Ex. 9.
20 Testimony of S.C.

including electricity; $800 for food inside the home; $130 for car insurance; consumer debt of $20,000, including a $5,000 vet bill, of which she pays $500+ each month. She has a cell phone bill of $500, however this is for the entire family and other family members pay her their portion so her exact out of pocket expense is not clear.[21]

III. Discussion

Ms. S.C asserts that she is disabled and cannot work, and that the calculated monthly support obligation should not include her Social Security disability income. She additionally asserts that the monthly support calculation and arrears are a financial hardship. The Division is required to establish a child support obligation beginning the month public assistance was first provided for the child.[22] As the person who filed the appeal in this case, Ms. S.C bears the burden of proof. As to the support amount calculated under the primary custody formula and applied in the modified child support order, her burden is to show by a preponderance of the evidence that the calculation is incorrect.[23] Regarding her request for a variance based on financial hardship, Ms. S.C must show clear and convincing evidence that manifest injustice would result if the support award were not varied.[24]

A. Disability

The Obligor has the burden of proving his or her earning capacity.[25] An Obligor who claims he or she cannot work, or pay child support, because of a disability, or similar impairment, must provide sufficient proof of the medical condition.[26] Ms. C has met her burden of proving by a preponderance of the evidence that she is physically disabled and cannot work in her traditional field of customer service jobs. Ms. C has been determined to be disabled by the Social Security Administration (SSA), which provides her with Title II benefits in the amount of $1263 per month. In addition, she receives food stamp benefits in the amount of $150 per month.

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21 Testimony of M.C.
22 Alaska Statute 25.27.120 & 15 AAC 125.105(a)(1).
23 15 AAC 05.030(h).
24 Civil Rule 90.3(c).
25 Kowalski v. Kowalski, 806 P.2d 1368, 1372 (Alaska 1991).
26 *Id*. at 1371.

The Social Security Administration administers two programs that provide benefits based on disability: SSDI or Title II benefits and SSI or Title XVI benefits.[27] Title II benefits provide disability benefits to individuals who are "insured" because they have made sufficient contributions to the Social Security trust fund through their earnings when they were working.[28] These type of disability payments are countable for purposes of child support because they are not "needs based".[29] Title XVI benefits on the other hand are payments to individuals who have limited income and resources, who have not paid into the Social Security trust fund.[30] Title XVI disability payments are not considered countable income for child support purposes because they are considered "needs based benefits.".[31]

Ms. S.C receives Title II benefits. Therefore, because her disability income payments are not "needs based" they are fully countable and properly considered to determine her child support obligation.

B. 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.[32] The Division calculated Ms. S.C's support obligation using her total non-taxable Title II disability income of $1,263 per month.[33] This resulted in an annual non-taxable gross income of $15,156.[34] This annual income is augmented by a PFD of $1,702, resulting in a total gross income of $16,858.[35]

Ms. S.C's monthly support obligation is calculated by taking her gross income of $16,858 and subtracting $7,500 for the Self-Sufficiency Reserve (SSR).[36] This results in an adjusted annual income of $9,358. From this amount, 20% is marked available for child support as per Civil Rule 90.3, which is $1,871.60 annually or $156 monthly. Therefore,

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27 The title of the SSA benefits refers to the title of the Social Security Act 42 U.S.C. §§ 301-1305 Suppl. 4 1943.

28 Testimony of Shawn Pattison; *see also*; www.ssa.gov.

29 Testimony of Shawn Pattison.

30 Testimony of Shawn Pattison; *see also,* www.SSA.gov.

31 Testimony of Shawn Pattison.

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

33 Div. Ex. 2, p. 6; Div. Ex. 8.

34 Div. Ex. 2, p. 6; $1,263 x 12 months = $15,156.

35 Div. Ex. 2, p. 6; $15,156 + $1,702 = $16,858.

36 Div. Ex. 2, p. 6. 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).

the Division's calculation as affirmed in the Administrative Review Hearing Decision was correct.[37]

C. Financial Hardship

Ms. S.C asserts that because she is disabled, cannot work, and is on an extremely limited income, she is unable to pay the monthly support amount required while also paying her household bills and providing for T's needs in hers and M.C's households.[38] 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."[39] 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).[40]

Ms. S.C supports T in her household 50% of the time. She is on an extremely limited income due to her disability, and she has no ability to work to earn beyond her monthly disability payments. She has at best about $37 per month leftover and many times she contributes her additional monies to M.C's household for T's needs or for T's school activities. The TANF benefits, which supplied the basis for the establishment of child support in this matter are $50 per month. Under the totality of the circumstances and based on the record, this case presents unusual circumstances of the type contemplated by Civil Rule 90.3. Ms. S.C has proven by clear and convincing evidence that a manifest injustice will result, and additionally, it would be detrimental to T if a variance to the support award were not granted.

Based upon her current inability to work, setting Ms. S.C's child support obligation at $50 per month, the lowest amount allowable is appropriate. Ms. S.C's child support

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37 Div. Ex. 4.
38 Testimony of S.C.
39 Civil Rule 90.3(c).
40 Civil Rule 90.3(c)(1); Civil Rule 90.3, Commentary VI.B.

obligation should be set at $50 per month, effective April 1, 2025, and ongoing with arrears of $50 per month owed from January 1, 2025, to March 31, 2025, for a total of $150.

IV. Conclusion

Ms. S.C did not meet her burden of proving the Division's child support calculation was incorrect. The monthly support obligation of $156 for one child was correctly calculated. However, she has met her burden of proving that a manifest injustice would result if her child support was not varied pursuant to Civil Rule 90.3(c). Ms. S.C receives disability benefits of $1263 per month. This barely covers her minimum living expenses without including the additional funds she contributes for T's school activities and T's needs in M.C's household. The TANF grant T received was $50 per month and setting a larger monthly child support obligation than that amount would be unreasonable under the totality of the circumstances.

V. Child Support Order

1. S.C is liable for child support in the amount of $50 per month for 1 child effective April 1, 2025, and ongoing.[41]
2. S.C is liable for arrears in the amount of $50 per month from January 1, 2025, to March 31, 2025, for a total of $150.
3. All other terms of the Modified Administrative Child Support and Medical Support Order dated March 6, 2025, remain in full force and effect.

Dated: July 24 , 2025

Signed
Beth Goldstein
Administrative Law Judge

[41] The current TANF grant is scheduled to closed July 31, 2025, therefore this amount is ongoing only for as long as public benefits are being received on the minor child's behalf.

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 12th day of August, 2025.

By: *Signed*
Signature
Beth Goldstein
Name
Administrative Law Judge
Title

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