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

In the Matter of	)	
	)	
S.D	)	OAH No. 25-2553-CSS
	)	

DECISION AND ORDER

I. Introduction

Obligor S.D appeals an Administrative Review Hearing Decision and Amended Administrative Support Order issued by the Child Support Enforcement Division (CSED) in July 2025. The amended order established Mr. D's monthly support obligation of $894, for his son F.Q whom he shares with custodian C.Q. Mr. D asserts that he should be given an in-kind support credit because he has primary or shared custody of his older son whom he shares with his wife, from whom he is temporarily separated.

A telephonic hearing was held before the Office of Administrative Hearings (OAH) over two dates: September 2, 2025, and October 6, 2025. Mr. D did not show by a preponderance of the evidence that he is entitled to a prior child deduction, as the record did not support his contention of exercising either shared or primary custody of his older child. Accordingly, CSED's Amended Administrative Support Order issued July 16, 2025, is AFFIRMED. Mr. D's support obligation is set at $894 per month for one child, based on primary custody, effective August 1, 2025, and ongoing along with arrears in the amount of $7,152.00 from December 1, 2024, through July 31, 2025.

II. Facts

A. Procedural Facts

In December 2024 Custodian C.Q applied for child support services requesting paternity establishment.[1] Paternity was established by genetic testing in April of 2025.[2] CSED requested income information from Mr. D, however none was forthcoming.[3] In January of 2025, CSED received income information from Mr. D's employer and issued an Administrative Support Order on April 28, 2025, setting his monthly support obligation

1 Div. Ex. 1.
2 *Id.*
3 Div. Ex. 2.

at $978 for one child, based on primary custody, effective May 1, 2025, with arrears of $4,890 owed from December 1, 2024, to April 30, 2025.[4]

Mr. D filed a timely Request for Administrative Review Hearing with supporting financial documents, asserting that CSED's support calculation was incorrect because his financial circumstances were not as CSED had determined.[5] He also contended that he qualified for a deduction for supporting a prior older child he shares with his wife.[6] An administrative review hearing was held in May 2025. Mr. D and CSED Representative Shawn Pattison participated. Ms. Q did not participate. Following the hearing CSED issued an Administrative Review Hearing Decision, along with an Amended Administrative Support Order. CSED determined that Mr. D was eligible for certain deductions not previously applied but refused to grant a prior child credit or an in-kind support credit because there was no court order setting primary or shared custody of his older son whom he shares with his wife from whom he is temporarily separated.[7] The Amended Administrative Support Order set Mr. D's support obligation for F at $894 per month. Mr. D appealed.[8]

A formal hearing was held before the OAH over two dates, September 2, 2025, and October 6, 2025. Mr. D appeared by telephone, represented himself and testified on his own behalf. Additionally, his wife K.D appeared as a witness on his behalf and his father-in-law U.J appeared as a witness. The Division was represented by Shawn Pattison, Child Support Specialist. Ms. Q did not participate on either date. Division Exhibits 1-11 and Obligor Exhibits A-G were admitted into evidence. The record closed on October 7, 2025.

B. Material Facts[9]

S.D and C.Q are the biological parents of six-year-old F.Q, who was born in December 2019. Mr. D testified the child was the result of a brief extramarital affair.[10]

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[4] Div. Exhibits 3 & 4.
[5] Div. Ex. 5.
[6] Div. Ex. 9.
[7] Div. Ex. 8.
[8] Div. Ex. 9.
[9] Material facts are based on the testimony presented at the hearing by Mr. D, Mrs. D, Mr. J, and Mr. Pattison as well as the written record.
[10] Testimony of S.D.

Mr. D is currently married to K.D and they have one son, who is seven years old.[11] Mr. D moved out of the marital home into a separate apartment in or around late February or early March of 2025, when the affair came to light due to the child support action.[12] Mr. D has a current lease agreement which ends on February 28, 2026.[13] Mrs. D lives in the marital home, which is owned outright by her father, U.J.[14] Although the couple currently have separate residences, they both live in City A, Alaska.

There is no formal separation or custody agreement between Mr. and Mrs. D regarding their son. Mrs. D testified that their son stays at Mr. D's apartment from Wednesday to Sunday. However, Mr. D's testimony offered greater detail regarding the arrangement. He explained that he spends almost every evening at the marital home with his wife and their child and that he will stay overnight at the marital home whenever he is allowed to do so.[15] If he does not stay over, he will put his son to bed at the marital home and then leave to go to his apartment, which he described as a temporary living situation.[16] Even on the occasional nights when his son sleeps at his apartment, the evening is spent together as a family at the marital home up until the child's bedtime.[17] Additionally, the family typically spends all weekend together.[18] Mr. D testified that he and his wife are working towards reconciliation, and they spend as much time together as a family as possible.[19]

Ms. Q is believed to live in Anchorage, Alaska with F. Mr. D has no contact with Ms. Q and because she did not attend the hearings, nothing further is known about her current household.

III. Discussion

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11 *Id.*
12 *Id.*
13 Obl. Ex. F.
14 Testimony of U.J; *see also* Testimony of K.D.
15 Testimony of S.D.
16 *Id.*
17 *Id.*
18 Testimony of S.D; *see also* Testimony of K.D.
19 Testimony of S.D.

As the person who filed the appeal, Mr. D bears the burden of proof to show by a preponderance of the evidence that he is entitled to the in-kind support deduction for a prior child, rendering CSED's July 2025 child support calculation incorrect.[20]

A. Deduction for In-Kind Support

A deduction for in-kind support of a prior child is permitted under Alaska Civil Rule 90.3(D) if the parent exercises primary or shared custody of the child. Based upon the evidence presented, Mr. D has not established that he and his wife exercise either such custody arrangement. Pursuant to Rule 90.3(f)(1), a parent *shares custody* of a child if the child resides with that parent for a period specified in writing in the custody order of at least 30, but no more than 70 percent of the year. This is calculated by tallying how many nights the child spends at the parent's home. And Rule 90.3(f)(2) states that a parent has *primary custody* of a child when the child resides with the other parent for a period specified in the custody order of less than 30 percent of the year.

As the Ds both testified, there is no custody order in place, written or otherwise. Additionally, they do not maintain a written custody schedule that involves F spending a specific number of nights with his father, so it is not possible to determine under the law if he resides at his father's home for what percentage of time each year. Additionally, the evidence presented supports a finding that while the Ds are navigating a difficult time in their marriage, their current separate living arrangements are temporary, with minimal time spent apart and maximum time spent together as a family, rather than F spending between 30 and 70 percent of his time in his father's residence.

Regarding primary custody, the lack of a specific order addressing overnights similarly makes it impossible to determine if F spends less than 30 percent of the year with his mother. Because Mr. D did not meet his burden of establishing that he is the primary custodian of his older son – or that he and his wife exercise a shared custody arrangement as defined in Civil Rule 90.3 - he is not eligible for an in-kind support deduction for his older child.

B. Child Support Calculation

The remaining issue on appeal is the calculation of Mr. D's support obligation for F based on his wages. Civil Rule 90.3(a)(1) provides that an obligor's child support amount is to be

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20 15 AAC 05.030(h).

calculated based on his or her "total income from all sources," minus mandatory deductions such as taxes and Social Security. Based upon the information obtained for and during the administrative review hearing, CSED calculated Mr. D's child support obligation based upon his verified annual wage income of $71,066.22 from his employment.[21] This is augmented by the PFD in the amount of $1,702, resulting in an adjusted gross income of $72,768.22.[22] CSED applied the following allowable deductions in the amount of $1,595.89 as follows: $654.17 for federal income tax, $455.10 for social security and Medicare, $454.80 for retirement contributions, $20.25 for unemployment insurance and $11.57 for his dental and vision insurance premiums.[23] This results in an adjusted annual income of $53,617.54.[24]

From this amount, 20% is marked as available for child support as per Civil Rule 90.3, which is $10,723.51 annually or $894 monthly. The undersigned finds no errors in CSED's calculation.

IV. Conclusion

Through the evidence presented at the hearing, Mr. D did not meet his burden to prove that he is eligible for a deduction for in-kind support for his prior child based on exercising either shared or primary custody of the older son he shares with his wife. The support obligation as calculated by CSED and set forth in the July 16, 2025, Amended Administrative Support Order in the amount of $894 per month effective August 1, 2025, and ongoing is correct and AFFIRMED.

V. Child Support Order

1. S.D is liable for child support in the amount of $894 per month for one child effective August 1, 2025, and ongoing.
2. S.D is liable for child support arrears in the amount of $7,152.00 for the months of December 1, 2024, through July 31, 2025.
3. All other terms of the Amended Administrative Child Support and Medical Support Order dated July 16, 2025, remain in full force and effect.

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21 Div. Ex. 8, p. 9; *see also* Testimony of Shawn Pattison.

22 *Id.*

23 $72,768.22 - $1,595.89 = $53,617.54.

24 A review was done by CSED between Mr. D's 2024 and 2025 support calculations and a 15% did not occur so CSED applied the 2024 support calculation, *see* Testimony of Shawn Pattison.

Dated: October 14, 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 7th day of November, 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.]