

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

IN THE MATTER OF)
)
 J. V.) Case No. OAH-08-0114-CSS
) CSSD Case No. 001130870

DECISION & ORDER

I. Introduction

The obligor, J. V., appeals a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on January 31, 2008, effective December 1, 2007. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on March 10, 2008. Mr. V. appeared by telephone, as did the custodian of record, A. F. Andrew Rawls represented CSSD. The child is D. V. (DOB 00/00/98). The administrative law judge issues a support order adopting revised calculations proposed by CSSD.

II. Facts

The original order in this case set child support at \$547 in October, 2004. Upon a request from the custodian, CSSD reviewed Mr. V.'s current income and determined that the support amount should be modified to \$676 per month for one child, effective December 1, 2007. Mr. V. appealed on the grounds that CSSD had overstated his income, and had failed to credit deductions for two older children of a previous relationship that Mr. V. supports.

CSSD agreed with Mr. V., and recalculated his support obligation to reflect a deduction of \$722.61 per month for payments made to the older children. Mr. V. serves in the military at an E6 grade with eighteen years of credited service. Based on income shown on his February 2008 Leave and Earning Statement, CSSD has correctly calculated Mr. V.'s support obligation to be \$646.00 for one child.

III. Discussion

Mr. V. was correct on both points he raised in his appeal. CSSD's most recent calculation, contained in Exhibit 7, addresses these concerns. There are no remaining legal or factual issues.

At the hearing, Mr. V. raised several other concerns. Mr. V. stated that some action on A.'s birth certificate had been taken while he had been deployed in Iraq. Any such action would be beyond the scope of this appeal. Mr. V. next requested that arrears in his case be extinguished in order to make his monthly payments more affordable. It appears that that when his order was

first established in 2004 some amount of arrearages were ordered, but Mr. V. has since paid them all off. These arrearages predate the period covered by the modified order that is the subject of this appeal.

Mr. V. also objected to arrears that have accrued as a result of the fact that the modified order increasing the support amount was effective several months before it was implemented. According to 15 AAC 125.321(d), the effective date of a modification is the first day of the month after the month in which the noncustodial parent was served with the petition for modification. CSSD served Mr. V. with the notice of petition for modification in November, 2007. CSSD correctly began collection of the modified amount in December, 2007. The account will be adjusted for the correct monthly amount of support, and it is likely that by now Mr. V. has paid any additional arrearage that has accrued.

IV. Conclusion

Basing support on actual income and properly accounting for support Mr. V. pays for older children of a previous relationship, CSSD has correctly calculated Mr. V.'s support obligation to be \$646.00 per month for one child.

V. Order

IT IS HEREBY ORDERED that Mr. V.'s support obligation be set at \$646.00 per for one child, effective December 1, 2007. All other terms of the Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division on January 31, 2008, shall remain in effect.

DATED this 1st day of April, 2008.

By: *Signed* _____
DALE WHITNEY
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 notices, 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 R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 17th day of April, 2008.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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