

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

IN THE MATTER OF)
)
 B. X.) Case No. OAH-08-0200-CSS
) CSSD Case No. 001145577
_____)

DECISION & ORDER

I. Introduction

The obligor, B. X., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on March 25, 2008. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on May 12, 2008. The custodian is the State of Alaska. David Peltier represented CSSD by telephone. Ms. X. did not appear or show cause for her failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j). The children are A. X. (DOB 00/00/91 and R. X.). The administrative law judge issues a support order adopting revised calculations proposed by CSSD.

II. Facts

There is very little evidence in the record. CSSD asserts the following facts. The state assumed custody of R. and A. in March, 2006. Although the state had legal custody, R. remained with Ms. X. A. was in the physical custody of the state from March, 2006, through September, 2006. With credit for the child that was in her home, CSSD calculated Ms. X.'s support obligation for A. to be \$215.

After Ms. X. requested a formal hearing, CSSD learned that Ms. X. has a third child, Y. Y. is now over eighteen, but at the time that A. was in state custody Y. was a minor living with Ms. X. Thus, Ms. X.'s support obligation should have been calculated with credit for two children in Ms. X.'s household. CSSD has recalculated Ms. X.'s support obligation to be \$175 per month for the seven months when A. was in state custody.¹ The total amount of support that CSSD is therefore attempting to collect is \$1,225.

III. Discussion

At a formal hearing, the person who has requested the hearing has the burden of proving that CSSD's decision is incorrect.² In her written appeal form, Ms. X. discusses briefly her financial situation and points out that R. was in the home with her. Ms. X. has not provided any

¹ Exhibit 7.

² 15 AAC 05.030(h).

reliable evidence to prove that CSSD's decision was incorrect. CSSD concedes, however, that its calculation was incorrect, and that credit should have been provided for Y. being in the home.

IV. Conclusion

Support should be set according to CSSD's calculations in Exhibit 7, with appropriate credit for the two children who remained in Ms. X.'s home.

V. Order

IT IS HEREBY ORDERED that Ms. X.'s support obligation be set at \$525 per month for three children, effective March 1, 2006. CSSD will collect only one third of this amount, or \$175 per month, for the period from March 1, 2006, through September, 2006, when A. was in the state's physical custody and the other two children were in Ms. X.'s home. CSSD will suspend collection of support for all other times up to the present. Collection of ongoing support will be suspended for as long as the children remain in Ms. X.'s home.

All other provisions of the Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division on March 25, 2008, shall remain in effect.

DATED this 29th day of May, 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 June, 2008.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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