

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

IN THE MATTER OF)
)
 K. K.) Case No. OAH-08-0226-CSS
) CSSD Case No. 001150603
_____)

DECISION & ORDER

I. Introduction

The obligor, K. K., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on April 10, 2008. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on May 28, 2008. Neither Mr. K. nor the custodian of record, F. M., appeared for the hearing; this decision is therefore based on the record in accordance with 15 AAC 05.030(j). David Peltier represented CSSD. The child is I. M. (DOB 00/00/07). Mr. K.'s support obligation should be set in accordance with CSSD's most recent calculations based on the latest income information available for Mr. K..

II. Facts

In the amended order, CSSD had set Mr. K.'s monthly support obligation for one child at \$137 for 2007 and \$272 for 2008 and ongoing. The 2007 calculation was based on wage information reported to the Department of Labor for Mr. K. and PFD income, which CSSD had found to result in gross income of \$8,815.41. For 2008, the amount was based on monthly wages of \$1,428.89 per month and a PFD, resulting in gross annual income of \$18,800.68.

Mr. K.'s appeal reads as follows: "The state incorrectly calculated my wages. As set forth in the earning documents provided my annual income is only \$11,100 a year." CSSD stated that updated Department of Labor information shows that Mr. K. earned gross income of \$12,939.10 in 2007, resulting in a monthly support obligation of \$193.¹ It appears that Mr. K. submitted a pay stub to CSSD for the pay period ending March 29, 2008, showing that he had earned \$3,745.43 for the year to date at that time; this evidence is not in the hearing record. According to CSSD, Department of Labor records show that Mr. K. has been working for the A. C. Company since the third quarter of 2007. Department of Labor records show that Mr. K. earned \$4,123 in the fourth quarter of 2007, and \$3,261 in the first quarter of 2008. Using PFD income and annual wages extrapolated from year to date earnings on the recent pay stub, CSSD

¹ Exhibit 11, page 3.

projects that Mr. K. will earn gross income of \$16,635.72 in 2008, resulting in a child support obligation of \$244 per month for one child.²

III. Discussion

At a formal hearing, the person who has requested the hearing has the burden of proving that CSSD's decision was incorrect.³ There are no legal issues in dispute. Mr. K. has not submitted any evidence to support his assertion that his annual income is only \$11,100 per year. CSSD agrees, however, that the amount of ongoing support in the amended order was too high. While CSSD's latest calculations raise support by \$56 for the five months in 2007 that Mr. K. owes support, they lower support for 2008 and ongoing by \$28 per month.

IV. Conclusion

CSSD's most recent calculations are based on the best available information regarding Mr. K.'s income. Support should be set accordingly.

V. Order

IT IS HEREBY ORDERED that Mr. K.'s monthly obligation for the support of one child be set as follows:

Arrears:

August 1, 2007 – December 31, 2007: \$193

January 1, 2008 – May 31, 2008: \$244

Ongoing Support:

June, 2008 – ongoing: \$244

DATED this 18th day of June, 2008.

By: Signed _____
DALE WHITNEY
Administrative Law Judge

² Exhibit 11, page 2.

³ 15 AAC 05.030(h).

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 7th day of July, 2008.

By: Signed _____
DALE WHITNEY
Administrative Law Judge

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