

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

IN THE MATTER OF:	)	
	)	OAH No. 09-0045-CSS
D. R. M.	)	CSSD No. 001154683
_____	)	

**DECISION AND ORDER**

**I. Introduction**

This case involves the Obligor D. R. M.'s appeal of an Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on January 2, 2009. The Obligees children are A., DOB 00/00/01, and B., DOB 00/00/03.

The formal hearing was held on February 19, 2009. Neither Mr. M. nor the custodian of record, C. R. M., appeared or participated. Andrew Rawls and Erinn Brian, Child Support Specialists, represented CSSD. The hearing was tape-recorded. The record closed on March 2, 2009.

Based on the record and after careful consideration, CSSD's January 2, 2009, Amended Administrative Child Support and Medical Support Order is affirmed.

**II. Facts**

**A. Proceedings**

Ms. M. filed an application for child support services on August 7, 2008.<sup>1</sup> On November 10, 2008, CSSD served an Administrative Child Support and Medical Support Order on Mr. M.<sup>2</sup> He requested an administrative review and provided income information.<sup>3</sup> On January 2, 2009, CSSD issued an Amended Administrative Child and Medical Support Order that set Mr. M.'s ongoing child support at \$903/669, with arrears of \$5,418 for the period from August 2008 through January 2009.<sup>4</sup> Mr. M. filed an appeal on January 21, 2009,<sup>5</sup> asserting he is currently receiving only 50% of the income he made in September 2008, and CSSD's calculation of his child support amount is wrong.

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<sup>1</sup> Exh. 1.

<sup>2</sup> Exh. 2.

<sup>3</sup> Exhs. 3-5.

<sup>4</sup> Exh. 6.

The Office of Administrative Hearings (“OAH”) sent the parties a notice of the date and time for the hearing by certified mail. Both parties received and signed for their notices, but neither appeared or participated in the hearing. Telephone calls were placed to the telephone numbers of record for both parties, but they were not answered. A message to call the OAH was left on Mr. M.’s answering machine. Because Mr. M. received and signed for his notice, service of the notice was found to be effective and the hearing was conducted without his participation.<sup>6</sup>

At the hearing, CSSD stated the agency used Mr. M.’s actual income for 2008 to calculate his child support obligation. CSSD used income of \$45,451.25 for the calculation, which it arrived at by estimating his income for the remainder of the year from his December 12, 2008 paystub,<sup>7</sup> and it results in a child support amount of \$903 per month for two children and \$669 per month for one child.<sup>8</sup>

### **B. Findings**

1. Notice of the date and time for the hearing was sent by certified mail to Mr. M. at his last-known address, and he signed for the notice on February 9, 2009;
2. Mr. M. did not appear for the hearing;
3. CSSD correctly calculated Mr. M.’s child support at \$903 per month for two children and \$669 per month for one child, based on his 2008 income.

### **III. Discussion**

Mr. M. filed an appeal of a child support order and he received the notice of the date and time set for the hearing. However, he failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a child support decision if the person requesting the hearing fails to appear.

A parent is obligated both by statute and at common law to support his or her children.<sup>9</sup> Civil Rule 90.3(a)(1) provides that an Obligor’s child support amount is to be calculated based on his or her “total income from all sources.” CSSD received Mr. M.’s December 12, 2008, paystub, which it used to estimate his total 2008 income and the resulting child support amount. Mr. M. claimed in his appeal that he is currently making only 50% of his former income, but he

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<sup>5</sup> Exh. 7.

<sup>6</sup> “If the department mails a document by registered or certified mail, service is effective if the mailing is addressed to the latest address provided to the department.” 15 AAC 05.010(c).

<sup>7</sup> Exh. 6 at pg. 6; Exh. 5 at pg. 4.

<sup>8</sup> See Exh. 6 at pg. 6.

did not document that claim nor did he appear to present testimony on that or any other issue. Thus, in the absence of any income evidence other than his 2008 paystubs, CSSD's calculation is correct.

Finally, Mr. M.'s appeal documents indicate there may be custody issues in this case.<sup>10</sup> He made a statement about having shared custody with Ms. M., but the dates he indicated – prior to Father's Day 2008 – occurred prior to the initial date child support is due in this administrative action.<sup>11</sup> In the event there is a change in custody or the court issues an order regarding custody, the parties should contact CSSD as soon as possible.

#### **IV. Conclusion**

Mr. M. did not meet his burden of proving by a preponderance of the evidence that CSSD's Amended Administrative Child Support and Medical Support Order was incorrect, as required by 15 AAC 05.030(h). Based on the income documents he provided, CSSD's child support calculation of \$903 per month for two children and \$669 per month for one child is correct and should be adopted.

#### **V. Child Support Order**

- CSSD's January 2, 2009, Amended Administrative Child and Medical Support Order is affirmed.

DATED this 24th day of March, 2009.

By: Signed  
Kay L. Howard  
Administrative Law Judge

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<sup>9</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>10</sup> See Exh. 5 at pgs. 7-10.

<sup>11</sup> Mr. M. has been charged arrears going back to August 2008. Exh. 6 at pg. 7.

**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 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 13th day of April, 2009.

By: Signed  
Signature  
Kay L. Howard  
Name  
Administrative Law Judge  
Title

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