

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

IN THE MATTER OF)	
)	
C. S.)	Case No. OAH-09-0164-CSS
<hr/>)	CSSD Case No. 001102220

DECISION & ORDER

I. Introduction

The obligor, C. S., appeals a decision issued by the Child Support Services Division (CSSD) on February 18, 2009, to deny her request for modification review. Ms. S. appeared by telephone at a hearing held on April 8, 2009. Erinn Brian represented CSSD. The custodian in this case is the State of Alaska. The children are T. S. (DOB 00/00/94), J. S. (DOB 00/00/97), K. W. (DOB 00/00/99), T. W. (DOB 00/00/02), E. W. (DOB 00/00/05), and L. W. (00/00/05).

After Ms. S. presented additional information and testified, CSSD agreed that Ms. S. is not voluntarily and unreasonably unemployed. Because of a material change in circumstances, modification should be granted and support is set at \$50 per month for six children, effective September 1, 2008.

II. Facts

In the existing order, CSSD had set support at \$578 per month for six children in 2006. Ms. S. has been in inpatient or residential treatment since June 4, 2007. Ms. S. testified that her treatment is court-ordered, that the program is full-time and that employment is not permitted while she is in the program. At CSSD's request, Ms. S. provided written documentation from her treatment provider verifying the nature of the program, and stating that her tentative discharge date is December 1, 2009.

III. Discussion

Although CSSD originally needed more information to document Ms. S.'s status, there are now no issues, factual or legal, in dispute. Ms. S. currently has no income. She is not voluntarily or unreasonably unemployed or underemployed. Ms. S.'s correct amount of child support is \$50 per month for six children. This amount represents a change of more than fifteen percent from the current order. The parties agree that modification should be granted, and that support should be set at \$50 per month.

At the hearing, the parties discussed the possibility that it may be appropriate to vacate portions of the existing order that were based on default income amounts. CSSD agreed to send

Ms. S. appropriate forms to begin the process of reviewing whether all or some part of the existing order should be replaced with a new order based on actual income.

IV. Conclusion

The parties correctly agree that modification should be granted, and that support should be set at \$50 per month.

V. Order

IT IS HEREBY ORDERED that CSSD's decision to deny the petition for modification be REVERSED. The existing Administrative Child Support and Medical Support Order shall be modified. Support is set at \$50 per month for six children, effective September 1, 2008. All other terms of the existing order shall remain in effect.

DATED this 10th day of April, 2009.

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 29th day of April, 2009.

By: Terry L. Thurbon for _____
Signature
Dale A. Whitney _____
Name
Administrative Law Judge _____
Title

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