

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

IN THE MATTER OF)
)
C. S.) Case No. OAH-09-0187-CSS
) CSSD Case No. 001153718

DECISION & ORDER

I. Introduction

The obligor, C. S., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (“the division”) on March 3, 2009. Mr. S. appeared by telephone at a hearing held on April 23, 2009. The custodian, M. C., did not appear. Andrew Rawls represented CSSD by telephone. The children are L. S. (DOB 00/00/02) and A. S. (00/00/04).

Mr. S.’s child support obligation is set at \$1,894.00 for two children for months in 2008, and \$1,876.00 per month for two children in 2009 and ongoing.

II. Facts

In the amended administrative order, CSSD had set support at \$1,894.00 per month for two children, based on Mr. S.’s actual gross annual income of \$116,321.78, in 2008.¹ For 2009, CSSD had extrapolated Mr. S.’s annual income by multiplying his first quarter earnings by four, resulting in gross annual income of \$152,239.88 and a child support obligation of \$2,250 for two children.

In his appeal, Mr. S. asserted that he worked an unusual amount of overtime during the first quarter of 2009, and that his 2008 income reflected a better estimate of his earnings for the entire year of 2009. After receiving Mr. S.’s appeal, CSSD prepared a new calculation basing support on Mr. S.’s 2008 wages, with gross income adjusted down slightly to reflect lower projected PFD income in 2009. CSSD submitted this most recent set of calculations before the hearing as Exhibit 7. The Exhibit 7 calculations result in a monthly support obligation of \$1,894.00 for two children in 2008, and \$1,876.00 per month for two children in 2009 and ongoing. After Mr. S. testified at the hearing and some discussion on the record, CSSD and Mr. S. agreed that Mr. S.’s 2008 income is the best available indicator of his likely income in 2009, except for the lower PFD amount, and that CSSD correctly calculated Mr. S.’s support obligation in the recent calculations it submitted as Exhibit 7.

¹ Exhibit 5, page 6.

Mr. S. also raised several issues at the hearing regarding direct payments he has made to the custodian and credit for health insurance he provides for the children. CSSD and Mr. S. agreed these issues would be best resolved outside of the hearing process in discussions off the record.

III. Discussion

Child support should be calculated based on the best available evidence of the obligor's likely income or potential income.² Mr. S.'s testimony supported the agreement that Mr. S.'s total 2008 income is the best indicator of his likely income in 2009, except that he is likely to receive slightly less PFD income. Mr. S. and CSSD are in agreement that support should be set as calculated in CSSD's most recent calculations in Exhibit 7. CSSD should grant Mr. S. appropriate credit for any direct support payments he has made and for out-of-pocket expenditures for health insurance for the children.

IV. Conclusion

Mr. S.'s support amount should be set in accordance with the calculations in Exhibit 7.

V. Order

IT IS HEREBY ORDERED that Mr. S.'s monthly child support obligation for two children be set as follows:

April – December, 2008: \$1,894.00

January, 2009 – ongoing: \$1,876.00

All remaining elements of the Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division on March 3, 2009, shall remain in effect.

DATED this 3rd day of June, 2009.

By: Signed _____
DALE WHITNEY
Administrative Law Judge

² 15 AAC 125.050(a).
OAH No. 09-0187-CSS

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 22nd day of June, 2009.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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