

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

IN THE MATTER OF: )  
 ) OAH No. 09-0270-CSS  
 W. R. C. III ) CSSD No. 001151999  
\_\_\_\_\_)

**DECISION AND ORDER**

**I. Introduction**

This case involves the Obligor W. R. C.’s appeal of an Amended Administrative Child Support and Medical Support Order that the Child Support Services Division (“CSSD”) issued in his case on April 16, 2009. The Obligee child is K., DOB 00/00/05.

The formal hearing was held on May 28, 2009. Neither Mr. C. nor the custodian of record, A. T. R., appeared or participated. Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on June 8, 2009.

Based on the record and after careful consideration, Mr. C.’s child support is set at \$201 per month for February 2008 through July 2008, \$29 per month for August 2008 through December 2008, and \$37 per month for January 2009 through June 2009 and ongoing.

**II. Facts**

**A. Proceedings**

Ms. R. applied for Denali Kid Care services for K. effective February 2008 and CSSD requested financial and medical insurance information from Mr. C. on June 17, 2008.<sup>1</sup> On January 31, 2009, CSSD served an Administrative Child Support and Medical Support Order (dated July 11, 2008) on Mr. C.<sup>2</sup> He requested an administrative review and provided income information.<sup>3</sup> On April 16, 2009, CSSD issued an Amended Administrative Child and Medical Support Order that set Mr. C.’s ongoing child support at \$37 per month, based on shared custody, with arrears of \$1,220 for the period from February 2008 through April 2009.<sup>4</sup> Mr. C.

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<sup>1</sup> Exh. 1.  
<sup>2</sup> Exh. 2.  
<sup>3</sup> Exhs. 3-5.  
<sup>4</sup> Exh. 7.

filed an appeal on April 1, 2009,<sup>5</sup> asserting the parties share custody of K. on a 50/50 basis and he does not want the child to receive Denali Kid Care services.

The Office of Administrative Hearings (“OAH”) sent the parties a notice of the date and time for the hearing by certified mail. Ms. R. received and signed for her notice, but Mr. C.’s was returned unclaimed by the U.S. Postal Service after three attempts at service. Just before the hearing began telephone calls were placed to the numbers of record for both Mr. C. and Ms. R., but neither call was answered. Because Mr. C.’s notice was sent to the address he provided with his appeal,<sup>6</sup> service of the notice was found to be effective and the hearing was conducted without his participation.<sup>7</sup>

CSSD made minor revisions in Mr. C.’s 2008 child support before the hearing. In the original calculation for 2008, CSSD mistakenly put the obligor’s business income into the “earnings” category rather than “other taxable income.” Also, CSSD calculated Mr. C.’s child support obligation from August 2008 forward using the shared custody formula because the parties submitted statements confirming they exercise 50/50 shared custody.<sup>8</sup> As a result of these changes, Mr. C.’s child support is now calculated at \$201 per month for February 2008 through July 2008,<sup>9</sup> \$29 per month for August 2008 through December 2008,<sup>10</sup> and \$37 per month for January 2009 through June 2009 and ongoing.<sup>11</sup>

## **B. Findings**

1. Notice of the date and time for the hearing was sent by certified mail to Mr. C. at his last-known address, but the notice was returned unclaimed;
2. Mr. C. did not appear for the hearing;
3. CSSD correctly calculated Mr. C.’s child support at \$201 per month for February 2008 through July 2008, \$29 per month for August 2008 through December 2008, and \$37 per month for January 2009 through June 2009, and ongoing.

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<sup>5</sup> Exh. 8.

<sup>6</sup> See Exh. 8 at pg. 1.

<sup>7</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>8</sup> See Exh. 5 at pgs. 1-3.

<sup>9</sup> Exh. 9 at pg. 3.

<sup>10</sup> Exh. 9 at pg. 4.

<sup>11</sup> Exh. 7 at pg. 13. This calculation was not changed from the original set out in the Administrative Child Support and Medical Support Order.

### III. Discussion

Mr. C. filed an appeal of a child support order and the notice of the date and time set for the hearing was sent to his last-known address. 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>12</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." By regulation, CSSD collects support from the date the custodial parent requested child support services, or the date public assistance, foster care or Denali Kid Care was initiated on behalf of the child(ren).<sup>13</sup> In this case, Ms. R. requested Denali Kid Care effective February 2008, so that is the first month for which Mr. C. is obligated to pay support in this administrative child support action.

CSSD calculated Mr. C.'s child support obligation for 2008 from the actual income figures he reported on his 2008 tax return and for 2009 from the Alaska minimum wage.<sup>14</sup> Mr. C.'s issues from his appeal form appear to have been addressed. CSSD is obligated to collect support from him because K. is receiving Denali Kid Care services, and the child support amount effective August 2008 has been calculated based on shared custody. Mr. C. did not appear to present testimony on these or any other issues. Thus, in the absence of any additional evidence, CSSD's revised calculations are correct.

### IV. Conclusion

Mr. C. 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 calculations of \$201 per month for February 2008 through July 2008, \$29 per month for

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<sup>12</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>13</sup> 15 AAC 125.105(a)(1)-(2).

<sup>14</sup> Exh. 9.

August 2008 through December 2008, and \$37 per month for January 2009 through June 2009 and ongoing are correct and should be adopted.

**V. Child Support Order**

- Mr. C. is liable for child support of \$201 per month for February 2008 through July 2008, \$29 per month for August 2008 through December 2008, and \$37 per month for January 2009 through June 2009, and ongoing;
- All other provisions of CSSD's April 16, 2009, Amended Administrative Child and Medical Support Order remain in full force and effect.

DATED this 29<sup>th</sup> day of June, 2009.

By: Signed  
Kay L. Howard  
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 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 17<sup>th</sup> day of July, 2009.

By: Signed  
Signature  
Christopher Kennedy  
Name  
Deputy Chief Administrative Law Judge  
Title

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