

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

In the matter of:)	
)	OAH No. 09-0292-CSS
M. C. D.)	CSSD No. 001147292
_____)	

DECISION AND ORDER

I. Introduction

This matter involves the Obligor, M. D.’s, appeal of an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on March 31, 2009. This order sets Mr. D.’s child support arrears at \$3,023.50 from March 2007¹ through May 2008. The child support calculation was based on a 50/50 shared custody arrangement using 2007 Department of Labor income reported for each parent. The Custodian is K. P.. The Obligee child is C. D., born 00/00/06.

Mr. D.’s appeal raised two issues: 1) whether he should receive credit for cash payments to Ms. P. and 2) whether the child support calculation was based on current income information. The formal hearing was held on June 10, 2009. Present were Ms. P. and Child Support Specialist Andrew Rawls. Mr. D. did not participate. As required by regulation, the record remained open for ten days, closing on June 20, 2009.² On June 30, 2009, the Office of Administrative Hearings received a letter from Mr. D. dated June 23, 2009. The record is reopened to receive Mr. D.’s June 23, 2009 letter. The record closed June 24, 2009.

II. Facts

This is an establishment case based on Ms. P.’s application for public assistance for C. which commenced March 2007.³ By court order dated June 30, 2008, Superior Court Judge William F. Morse ordered a 50/50 shared custody arrangement and ordered Mr. D. to pay \$431.50 per month commencing June 2008 and ongoing.⁴ Neither CSSD nor this tribunal may modify the court’s order. So this appeal addresses only the time period prior to the court order.

¹ At the hearing CSSD requested an order for child support from January 2008, not December 2007, through May 2008. This change is most likely due to the Obligor residing with the Custodian and Obligee for a portion of December 2007 and the 50/50 custody arrangement.

² “If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless the person within 10 days after the date scheduled for hearing, shows reasonable cause for failure to appear.” 15 AAC 05.030(j).

³ Exhibit 7 at 16.

⁴ Exhibit 1 (Child Support Order *Preston v. D.*, 3AN-06-13259CI (June 30, 2008).

On January 6, 2009 CSSD issued an Administrative Child Support and Medical Support Order addressing the period of time prior to the court order that established Mr. D.'s monthly child support obligation from March 2007 through December 2007 at \$461 per month and from January 2008 through May 2008 at \$431.50 per month.⁵ These amounts were based on a total 2007 gross income for Mr. D. in the amount of \$54,390.43 and for Ms. P. in the amount of \$6,257.17.⁶ CSSD calculated these child support figures using the shared custody formula in Civil Rule 90.3(b)(1).⁷

Mr. D. requested an administrative review noting that: 1) the parties had a 50/50 shared custody arrangement; 2) he resided with Ms. P. and C. in the house from July 2007 through December 6, 2007; 3) he should receive a credit for child support and cash amounts previously paid; and 4) his child support obligation for 2008 should be recalculated to accurately reflect his earnings in 2008.⁸ CSSD amended its Administrative Child and Medical Support Order to reflect that Mr. D. was in the home from August 2007 through November 2007 and that he was due a credit for child support previously paid to Ms. P. totaling \$1,900.⁹

In response, Mr. D. filed an appeal and again requested credit for prior cash payments totaling \$300 and that child support be calculated using current income information.¹⁰ At the hearing CSSD presented new earnings information for both parents using 2008 Department of Labor information.¹¹ Ms. P. and Mr. D. agreed that the 2008 income reported to the Department of Labor is an accurate reflection of their earnings.¹² Using this new information and applying the monthly allowable deductions, CSSD performed a revised child support calculation for a 50/50 shared custody arrangement. CSSD calculated that Mr. D. is liable for child support in the amount of \$282 per month from January 2008¹³ through May 2008. When Mr. D. received CSSD's revised child support calculation he responded in writing that he was no longer interested in contesting whether he should be credited for the cash payment to Ms. P. and he

⁵ Exhibit 2.

⁶ Exhibit 2 at 7, 8.

⁷ Exhibit 2 at 10.

⁸ Exhibit 3.

⁹ Exhibit 6.

¹⁰ Exhibit 7.

¹¹ Exhibit 8.

¹² Department of Labor data revealed that in 2008 Ms. P.'s total gross income was \$15,206.46 and Mr. D.'s total gross income was \$44,086.

¹³ See *supra* note 1.

accepted the \$282 per month child support obligation from January 2008 through May 2008.¹⁴ He also inquired about how to get the court order modified to reflect the revised number.

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.¹⁵ 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." When parents exercise shared custody of their child, Civil Rule 90.3(b)(1) sets forth a specific formula to be utilized when calculating child support. Ms. P. and Mr. D. agree that the income CSSD used in its calculation is an accurate assessment of each parent's total income in 2008.¹⁶ Thus, CSSD properly calculated the child support in this matter at \$282 per month based on the 50/50 shared custody arrangement.¹⁷

Mr. D. does not dispute that this is an appropriate child support amount for the period from January 2008 thorough May 2008 and he no longer seeks credit for prior cash payments totaling \$300. Therefore, the Amended Administrative Child and Medical Support Order dated March 31, 2009 should be amended to reflect the revised child support calculation.

Regarding modification of the court's order, Mr. D. should contact his case worker in order to petition for modification of his judicial support order.

IV. Child Support Order

- Mr. D. is liable for child support arrears in the amount of \$282 per month from January 2008 through May 2008.
- Mr. D. is entitled to a direct payment credit totaling \$1,800 for the period from January 2008 – May 2008.
- All other provisions of the Amended Administrative Child Support and Medical Support Order issued March 31, 2009, remain in effect.

DATED this 7th day of July, 2009.

By: Signed
Rebecca L. Pauli
Administrative Law Judge

¹⁴ June 23, 2009 D. Letter.

¹⁵ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

¹⁶ Exhibit 8.

¹⁷ *Id.* at 1.

Commissioner's Action

The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060(e)(4), rejects, modifies or amends one or more factual findings as follows, based on the specific evidence in the record described below: **Mr. D. is liable for child support arrears in the amount of \$282 per month from January through May 2008. Mr. D. is entitled to a direct payment credit totaling \$1410 for the period of January 2008-May 2008. All other provisions of the Amended Administrative Child Support and Medical Support Order issued March 31, 2009 remains in effect.**

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 29th day of July, 2009.

By: Signed
Signature
Jerry Burnett
Name
Deputy Commissioner
Title

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