

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

IN THE MATTER OF )  
 )  
 B. W. ) Case No. OAH-09-0596-CSS  
 ) CSSD Case No. 001060419  
\_\_\_\_\_)

**DECISION & ORDER**

**I. Introduction**

The custodian, K. C., appeals a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on October 8, 2009. The obligor, B. W., appeared by telephone at a hearing held on November 23, 2009. Erinn Brian represented CSSD by telephone. The child is T. W. Ms. C. did not appear or show cause for her failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j).

The modified order of October 8, 2009, is affirmed.

**II. Facts**

The existing order in this case was set at \$398 per month for one child in June, 1996, based on statistical wage data.<sup>1</sup> Because Mr. W. is incarcerated and not currently earning any income, CSSD set Mr. W.'s support obligation at \$50 per month for one child in the modified order. Appearing by telephone from a correctional center, Mr. W. testified that his case is pre-trial and he does not know when he might be released.

Ms. C. asserted in her appeal that Mr. W. is voluntarily unemployed in an attempt to evade paying child support. Ms. C. has not provided any evidence to support this allegation.

**III. Discussion**

Child support is calculated under Civil Rule 90.3 as a percentage of the obligor's adjusted annual income, but support may not be set lower than \$50 per month. At a formal hearing, the person requesting the hearing has the burden of proving that the decision being appealed is incorrect.<sup>2</sup>

Ms. C. has not presented any evidence to support her allegation that Mr. W. is voluntarily unemployed. CSSD's decision to set support at \$50 per month is supported by Mr. W.'s current incarceration. A further modification may be appropriate after Mr. W. has been released and is able to work again.

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<sup>1</sup> Exhibit 1, page 3.

<sup>2</sup> 15 AAC 05.030(h).

**IV. Conclusion**

Ms. C. has not met her burden of proving that CSSD’s decision was in error. The modified order should be affirmed.

**V. Order**

IT IS HEREBY ORDERED that the Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division on October 8, 2009 is AFFIRMED.

DATED this 4th day of December, 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 23rd day of December, 2009.

By: Signed \_\_\_\_\_  
Signature  
Dale Whitney \_\_\_\_\_  
Name  
Administrative Law Judge \_\_\_\_\_  
Title

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