

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

IN THE MATTER OF:)
)
 S. K. C.)
)
 _____) OAH No. 09-0638-CSS
 CSSD Case No. 001131028

DECISION AND ORDER

I. Introduction

This case concerns the obligation of S. K. C. for the support of N. T. The custodian of record is M. D. T.

The Child Support Services Division issued an administrative child support order dated May 9, 2007, in the amount of \$209 per month. On December 15, 2008, Ms. T. requested modification of the support order. On October 12, 2009, the division issued a modified support order in the amount of \$714 per month, effective January 1, 2000.

Mr. C. appealed and requested a formal hearing. Administrative Law Judge Andrew Hemenway conducted a telephonic hearing on January 20, 2010. Mr. C. and Ms. T. participated, and Andrew Rawls represented the division.

Based on the preponderance of the evidence in the record and the testimony at the hearing, modified child support order is set at \$660 per month effective January 1, 2009, and \$632 per month effective January 1, 2010.

II. Facts

As of January 1, 2009, S. K. C. was employed by U. W. & F., working as a welder. He remained employed by that company throughout 2009, working full time. In 2009, his total income (consisting entirely of wages, because he was ineligible for an Alaska Permanent Fund dividend) was about \$52,772.04. Mr. C. paid about \$75.33 per month in union dues. He began making contributions to a retirement account in August, at the rate of 7% of his income, for an average of about \$84.84 per month for the full. His adjusted annual income in 2009 was about \$39,606.36.

In 2010, Mr. C. anticipates continuing to work in the same job and earn about the same wages as in 2009. However, he will be eligible for the 2010 Alaska Permanent

Fund dividend, and he anticipates continuing his monthly contributions to his retirement account, at the rate 7% of his income, or \$307.84 per month.

II. Discussion

The annual child support payment for one child in the absence of shared custody is 20% of the adjusted annual income.¹ When the child support obligation changes by an amount greater than 15% of the existing order, a material change of circumstances is presumed and the existing order may be modified.²

The division initially modified Mr. C.'s support order based on income including a 2009 Alaska Permanent Fund dividend, and without providing the correct deductions for his union dues. The division's calculation also overlooked the fact that Mr. C.'s contributions to his retirement account started in August, and that his retirement contributions in 2010 will therefore be significantly larger than in 2009. At the hearing, Mr. C. provided updated income information to establish the correct amounts. The division submitted a post hearing memorandum recalculating Mr. C.'s support obligation based on the updated income information. The division's post-hearing calculations reflect the evidence at the hearing and are therefore adopted.

IV. Conclusion

A material change of circumstances is presumed and the prior support order should be modified to reflect Mr. C.'s current circumstances.

CHILD SUPPORT ORDER

The Modified Administrative Child Support and Medical Support Order dated May 9, 2007, is **AMENDED** as follows; in all other respects, the Amended Administrative Child Support and Medical Support Order dated May 9, 2007, is **AFFIRMED**:

Amended modified ongoing child support is set at \$660 per month, effective January 1, 2009, and at \$632 per month, effective January 1, 2010.

DATED: March 1, 2010.

Signed _____
Andrew M. Hemenway
Administrative Law Judge

¹ Civil Rule 90.3(a)(2)(A); 15 AAC 125.010, -.070(a).

² Civil Rule 90.3(h)(1).

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 22nd day of March, 2010.

By: Signed _____
Signature
Andrew M. Hemenway _____
Name
Administrative Law Judge _____
Title

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