

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

IN THE MATTER OF)
)
 T. G.) Case No. OAH-09-0595-CSS
) CSSD Case No. 001158219
_____)

DECISION & ORDER

I. Introduction

The obligor, T. G., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on October 5, 2009. The State of Alaska is the custodian. A hearing was held on November 19, 2009. Andrew Rawls represented CSSD by telephone. The child is J. H. Ms. G. did not appear at the hearing or show cause for her failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j).

Ms. G.'s child support obligation is set at \$241 per month for one child, effective January 1, 2010. Arrears are set at \$50 per month for the period from April 1, 2009, through December 31, 2009.

II. Facts

Ms. G.'s child, J. H., was placed in foster care on June 14, 2009. CSSD set Ms. G.'s support obligation at the minimum amount allowed, \$50 per month, for the period from April 1, 2009, through October of 2009. After that, support was set at \$241 per month, based on the amount of income a person would make working full-time at minimum wage. Ms. G. did not appear at her hearing to explain her situation, so there is no reliable evidence in the record about her income or earning capacity. In her appeal Ms. G. wrote,

I am appealing the amount \$241.00 monthly of child support. I currently have no monthly income and I am staying in a homeless shelter. I got out of treatment in the 3rd week of March and I have been working on obtaining low income housing, staying sober and working with DVR for job options. I worked at Carl's Jr. for 2 wks in May of 2009 and could not continue to work because of my living situation. I would really like if you would review my financial situation and also putting my life back together.

III. Discussion

At a formal hearing, the person requesting the hearing has the burden of proving that CSSD's decision was in error.¹ Child support is based on the best available evidence of what a person will earn or is capable of earning.²

¹ 15 AAC 05.030(h).

Ms. G. raised a number of important concerns in her appeal. Unfortunately, because she did not appear at her hearing to explain her situation and answer questions, it is not possible to determine what her situation is and how much she is likely to earn in the future.

CSSD had set support at the minimal level and then raised it to an amount based on minimum wages starting in October of 2009. Based on Ms. G.'s likely earnings over the entire course of 2009, CSSD stated that it would not object if support were set at \$50 per month for all of 2009, then rising to \$241 starting at the beginning of 2010. While Ms. G. has not presented any reliable evidence, there is a sufficient basis in the file to conclude that she will not have significant income for 2009.

IV. Conclusion

CSSD's order should be affirmed, except that support for the months of November and December of 2009 should be changed from \$241 per month to \$50 per month for one child.

V. Order

IT IS HEREBY ORDERED that Ms. G.'s child support obligation be set at \$241 per month for one child, effective January 1, 2010. Arrears are set at \$50 per month for one child for the period from April 1, 2009, through December 31, 2009. All other terms of the Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division on October 5, 2009, shall remain in effect.

DATED this 21st 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 7th day of January, 2010.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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