

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

BA,	:	NO. 89-21,606
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
MLC,	:	
Respondent	:	

CLS,	:	NO. 89-21,603
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
MLC,	:	
Respondent	:	

OPINION AND ORDER

Before the Court are cross-exceptions to the Family Court Order dated December 11, 2000, in which Respondent was directed to pay child support to each Petitioner for the support of one (1) minor child. Argument on the exceptions was heard April 11, 2001.

In her exceptions, Petitioner S contends the hearing officer calculated her income incorrectly and also erred in estimating an earned income credit based on a finding that Petitioner did not submit her tax return. In his exceptions,¹ Respondent contends the hearing officer erred in failing to provide a credit for traveling expense and in failing to reduce his income to consider the cost of periodic checkups. These exceptions will be addressed seriatim.

With respect to Petitioner S's contention the hearing officer erred in calculating her income, Petitioner specifically contends that she worked only seven (7) months in 1999, rather than the entire year. The transcript does indicate that Petitioner terminated her employment sometime prior to the birth of her child in September 1999. Therefore, averaging her wages of \$14,267.00 over seven (7) months, rather than twelve (12) months, Petitioner's income from that employment is actually \$1,652.00 per month net, rather than \$964.00 per month net.

¹At argument, Respondent withdrew his exceptions numbers 1 and 4.

With respect to the tax return, Petitioner S was directed to provide her 1999 tax return by Friday of the week of the hearing. The hearing officer found that she failed to do so and estimated an earned income credit, adding \$257.50 per month to her income for purposes of child support. The Domestic Relations Office indicates, however, that Petitioner did provide her tax return by the deadline to the Family Court Office but that such return was simply forwarded to the Domestic Relations Office and placed in their file. The hearing officer never received the tax return. The estimation of an earned income credit was therefore inaccurate. The tax return indicates that Petitioner earned wages from Action Management of \$14,267.00 and wages of \$404.00 from her employment begun in December 1999 with the Dioceses of Harrisburg. It also shows interest income and a taxable refund of state or local income tax, which will be shared equally between she and her husband. Petitioner therefore has 45.53% of the adjusted gross income shown on the return and should be responsible for 45.53% of the federal tax liability of \$511.00 shown on the return. Her federal tax liability is thus \$232.00. Since she had \$1,068.00 withheld from her income, she is entitled to \$836.00 of the refund, which averages to \$70.00 per month. Adding such to her income of \$1,652.00 per month provides her a total monthly net income for purposes of child support of \$1,722.00.

With respect to Respondent's contention the hearing officer erred in failing to provide him a credit for his traveling expense, the only evidence offered by Respondent was that he is a track foreman for Norfolk Southern. He did not raise an issue of traveling expense; he did not indicate where he worked or provide any evidence of his expense. In his exceptions, he contends he travels 90 miles per day to and from his place of employment but there was no evidence of this introduced at the hearing. When asked by the hearing officer if he had any extraordinary expense, he responded "no". The Court therefore cannot consider this exception further.

Finally, with respect to Respondent's contention the hearing officer erred in failing to reduce his income to consider the cost of checkups, Respondent did testify that he incurs approximately \$700.00 per year expense for periodic checkups with an oncologist, which expense is not covered by insurance. Such averages to \$58.00 per month, however, and considering his monthly net income of \$2,856.00 such cannot be considered an extraordinary expense. The hearing officer did not err, therefore, in failing to provide Respondent with a credit

or reduce his income to consider this expense.

Considering Petitioner S's income of \$1,722.00 per month and Respondent's income of \$2,857.00 per month, the guidelines require a payment for the support of one (1) minor child of \$544.07 per month. The Order of December 11, 2000 shall be adjusted accordingly.

ORDER

AND NOW, this 18th day of April, 2001, for the foregoing reasons, the Order of December 11, 2000 is hereby modified with respect to paragraph #2 such that Respondent shall pay for the support of one (1) minor child the sum of \$544.07 per month, and with respect to paragraph #6 such that Respondent shall be responsible for 62.39% of the child's excess unreimbursed medical expenses and Petitioner S shall be responsible for 37.61% of such.

As modified herein, the Order of December 11, 2000 is hereby affirmed.

By the Court,

Kenneth D. Brown, Judge

cc: Family Court
Domestic Relations
BA
CS
William Miele, Esq.
Gary Weber, Esq.
Hon. Kenneth D. Brown