

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

SMD, : NO. 97-20,970
Petitioner :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
DED, :
Respondent :

OPINION AND ORDER

Before the Court are Petitioner's exceptions to the Family Court Order of April 17, 2001 in which Respondent's request for a review of the previous Order was denied, but Petitioner was directed to contribute to the cost of health insurance carried by Respondent. Argument on the exceptions was heard June 13, 2001.

In her exceptions, Petitioner contends the hearing officer erred in failing to consider Respondent's income tax refund, in assessing her an earning capacity, and in requiring her to contribute to the cost of the children's health insurance. These exceptions will be addressed seriatim.

At argument Respondent agreed his income tax refund should have been considered. The refund was only \$203.00, however, adding only \$16.92 per month to his income. The hearing officer had denied Respondent's request for a review on the basis there was no change in his income, having determined such to be \$1,436.00 per month currently, compared to \$1,442.00 per month previously. Adding the \$17.00 per month refund income raises his income to \$1,453.00 per month, still not a significant change.

With respect to Petitioner's contention the hearing officer should not have assessed her an earning capacity, the hearing officer noted that Petitioner had previously been assessed a full-time minimum wage earning capacity and continued that earning capacity. The hearing officer did note at

the time of the previous Order, Petitioner had been employed on a part-time basis but was no longer employed. Petitioner indicated at argument that she was not able to pay to have a transcript prepared. Without a transcript, the Court is unable to say that the hearing officer erred in continuing the previously assessed earning capacity.

Finally, with respect to the contribution to the children's health insurance, Petitioner's argument is based on her alleged lack of an earning capacity. As the Court is affirming the hearing officer's assessment of an earning capacity, the contribution to the children's health insurance premium will also be affirmed.

ORDER

AND NOW, this 19th day of June 2001, for the foregoing reasons, Petitioner's exceptions to the Order of April 17, 2001 are hereby denied and the Order of April 17, 2001 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Domestic Relations Office
Family Court
SD
DD
Gary Weber, Esq.
Hon. Dudley N. Anderson