

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

CC, : NO. 02-20,170  
Petitioner :  
: vs. : DOMESTIC RELATIONS SECTION  
: Exceptions  
LS, :  
Respondent :

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated May 6, 2002 in which Respondent was directed to pay support to Petitioner. Argument on the exceptions was heard June 12, 2002.

In her exceptions, Respondent contends the hearing officer erred in failing to find that the child S is emancipated and in failing to require Petitioner to contribute to the cost of health insurance carried by Respondent.

With respect to the issue of S’s emancipation, the hearing officer found that although S is not attending school, since she is under 18 years of age and since Respondent did not meet her burden of proof, S would not be found to be emancipated. Respondent argues that she wished to present S’s testimony at the hearing but was unable to serve her with a subpoena, as she could not be located, even though she is supposedly living with her father. Respondent requested a continuance of the hearing in order to gain S’s testimony, but that request was denied. It seems to the Court that since Respondent has the burden of proof on the issue but was unable to present evidence based on the inability to locate the supposedly unemancipated child, the matter should have been continued in order to give Respondent the opportunity to present that testimony. The Court will therefore remand the matter for presentation of such.

With respect to the health insurance, although the Family Court Order required both parties to continue to carry the insurance, but provided that neither party contribute to the cost of the insurance carried by the other, at argument the parties agreed that Petitioner may drop his coverage if he so wishes and that he will contribute to the cost of the insurance carried by Respondent. Petitioner's share of that cost is calculated at \$92.42 per month.

ORDER

AND NOW, this 17<sup>th</sup> day of June, 2002, for the foregoing reasons, the matter is hereby remanded to Family Court in order to allow Respondent to present the testimony of the child S on the issue of her emancipation.<sup>1</sup> Further, the Order of May 6, 2002 is hereby modified with respect to numbered paragraph 4 of that Order, to provide that Respondent shall continue to provide health insurance coverage for the children and that Petitioner shall contribute the sum of \$92.42 per month to that health insurance coverage, effective June 12, 2002. Petitioner is free to remove the children from his coverage.

By the Court,

Dudley N. Anderson, Judge

cc: Christopher Williams, Esq.  
William Miele, Esq.  
Family Court

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<sup>1</sup> At argument, Respondent also indicated that the Domestic Relations Office has received a letter from Petitioner indicating that Samantha has moved out of his residence as of May 25, 2002. Respondent contended she had no prior notice of this and Petitioner did not contend that Respondent had been notified. Respondent may file a Petition to modify based upon S's relocation and if the hearing officer finds that notice was not provided, any modification may be retroactive to the date the child moved out, May 25, 2002.