

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

EEC,	:	NO. 99-21,013
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
REC, III,	:	
Respondent	:	

OPINION AND ORDER

Before the Court are cross-exceptions to the Family Court Order dated August 1, 2002, in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard September 25, 2002.

In his exceptions, Respondent contends the hearing officer erred in ordering him to pay support for three (3) children rather than two (2) children and in determining his income,¹ and in her exceptions, Petitioner contends the hearing officer erred in determining Respondent’s income.

With respect to the number of children for whom support is to be paid, although the parties previously agreed that Respondent would pay support for only two (2) children rather than three (3), such an agreement is not enforceable as a child’s right to support is not waivable. The Court therefore finds no error in the hearing officer’s directive that Respondent pay support for three (3) minor children. It is noted that Respondent may be entitled to a credit as a result of the parties’ agreement, referred to above, and a hearing on that request is currently scheduled.

With respect to Respondent’s income, Petitioner contends the hearing officer erred in basing Respondent’s income on his 2001 federal income tax return. She argues that his 2002 income should

be considered, inasmuch as the annual bonus he receives each April was higher in 2002 than it was in 2001. While the hearing officer determined that “because his income fluctuates year to year” the child support obligation should be based on a year-end total, the Court finds there is sufficient certainty in his 2002 income such that the support obligation may properly be based on his current income.

Respondent’s base pay is \$942.30 per week gross, for an annual base pay of \$48,999.60. He received an annual bonus of \$9,000.00 and a bonus in January of \$250.00. He received a quarterly bonus on February 9, 2002 in the amount of \$3,200.00 and a quarterly bonus on May 11, 2002 in the amount of \$3,000.00. Quarterly bonuses are estimated at \$12,000.00, giving him a total annual projected income in 2002 of \$70,250.00. Respondent’s federal income tax is calculated at \$10,771.00, his social security and Medicare tax at \$5,374.00, his local tax at \$1,405.00, and his state income tax of \$1,967.00. Respondent will therefore have a total annual net income of \$50,733.00, or \$4,228.00 per month. Considering that income and Petitioner’s income of \$2,017.00, for the period from May 15, 2002 through June 25, 2002, Respondent’s obligation for three (3) minor children is calculated at \$1,253.13 per month. His health insurance contribution is calculated at \$79.21 per month. Effective June 26, 2002, considering Petitioner’s lower income of \$1,616.00 per month, Respondent’s child support obligation is calculated at \$1,272.64 per month and his health insurance contribution at \$84.65 per month.

ORDER

AND NOW, this 2nd day of October, 2002, for the foregoing reasons, Petitioner’s exceptions are hereby granted and Respondent’s exceptions are hereby denied. The Order of August 1, 2002 is hereby modified to provide for a payment, effective May 15, 2002 through June 25, 2002, for the support of three (3) minor children of \$1,253.13 per month, plus an additional \$79.21 per month contribution to health insurance. Effective June 26, 2002, the payment shall be modified to \$1,272.64 per month, and the health insurance contribution shall be modified to \$84.65 per month. The percentage responsibility toward excess unreimbursed medical expenses is also modified such that

¹ At argument, Respondent withdrew his remaining exceptions.

Respondent shall be responsible for 72.35% of such and Petitioner shall be responsible for 27.65% of such.

As modified herein, the Order of August 1, 2002 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
Janice Yaw, Esq.
Joy McCoy, Esq.
Dana Jacques, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson