

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

EMC, : NO. 96-20,680
Petitioner :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
LRC, :
Respondent :

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated June 15, 2002, in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard August 28, 2002.

In his exceptions, Respondent contends the hearing officer erred in determining his income, in basing a finding regarding Petitioner’s other income on only her testimony without documentation, in her finding that Respondent refuses to take the parties’ child on vacations with his wife’s children, in her statement regarding his wife’s wishes respecting the insurance card, in setting an arrearage payment at \$100.00 per month, and in requiring him to pay “by check or money order” because there is a wage attachment in effect. These will be addressed seriatim.

With respect to Respondent’s income, the hearing officer examined the wage verification and based her finding on the eight (8) weeks shown for pay periods ending in 2002. The wage verification actually covered a time period from pay period ending September 2, 2001 through pay period ending February 17, 2002 and the Court is unsure why only 2002 was considered, especially inasmuch as the wage verification shows no increase in pay from one year to the next. Respondent had also presented his 2001 federal income tax return. Respondent testified that he

works a lot of overtime in the beginning of the year (he is a technician at a power plant) and requested the Court use his 2001 average income, rather than the first eight (8) weeks of 2002. It appears that such is appropriate, as a more representative figure would be obtained by using an average yearly wage, rather than one earned during only the beginning of the year. An examination of the 2001 federal income tax return and the W-2 shows a monthly net income of \$5,525.00, and a deduction of the \$45.00 per month union dues results in an average monthly net income for purposes of child support of \$5,480.00.

With respect to Respondent's contention the hearing officer erred in basing a finding that Petitioner earns \$43.00 per month net from her part-time job in a video store, and Respondent's contention that documentation should have been provided, an examination of the transcript indicates that Respondent did not request any further proof at the time of the hearing. The Court will therefore not question the hearing officer's determination in this regard.

With respect to Respondent's contention regarding the finding that Respondent refuses to take his son on vacations and the hearing officer's statement that Respondent's wife does not want the child's name on the insurance card with her children's names, no further discussion is deemed necessary.

With respect to the arrearage payment of \$100.00 per month, since such represents less than 2% of Respondent's monthly net income and since the arrearage is over \$1,500.00, the Court sees no error in setting an arrearage payment of \$100.00 per month.

Finally, with respect to the requirement that Respondent pay by check or money order in spite of a wage attachment, the Court notes that the employer pays the wage attachment "by check or money order."

Considering Petitioner's income of \$1,120.00 per month and Respondent's income of \$5,450.00 per month, the guidelines provide for a payment for the support of one (1) minor child in the amount of \$945.63 per month.

ORDER

AND NOW, this 19th day of September, 2002, for the foregoing reasons, the Order of

June 15, 2002 is hereby modified to provide for a child support payment of \$945.63 per month. The percentage responsibility for excess unreimbursed medical expenses is also modified such that Respondent shall be responsible for 82.9% of such and Petitioner shall be responsible for 17.05% of such.

As modified herein, the Order of June 15, 2002 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
EC
LC
Dana Jacques, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson