

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

KMH, : NO. 95-20,048
Petitioner :
 :
vs. :
 :
 :
JSS, : Domestic Relations Section
Respondent : Exceptions

OPINION AND ORDER

Before the Court are Petitioner's exceptions to the Family Court Order dated July 15, 2002 in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard November 20, 2002.

In her exceptions, Petitioner contends the hearing officer erred in assessing her an earning capacity, in the determination of Respondent's income, and in the finding that she provides health insurance for the children and the directive that she continue to do so. These will be addressed seriatim.

With respect to Petitioner's earning capacity, it appears Petitioner recently completed an Associates Degree and is planning to continue in a four year program at Mansfield University. She indicated in her testimony that with the degree she currently has she could earn between \$30,000-\$35,000.00 per year but that she has not looked for any jobs using that degree. There is no evidence that the planned four year degree would provide her with a higher earning capacity. The Court finds no error in the hearing officer's assessment of the earning capacity in accordance with Petitioner's testimony.

With respect to Respondent's income, Petitioner contends Respondent has another source of income which was not explored at the hearing and that she was not given a chance to

cross-examine Respondent about such. A review of the transcript indicates that Petitioner is indeed correct that after the hearing officer and Respondent's counsel finished questioning Respondent, Petitioner was given no opportunity to cross examine him. The Court will therefore remand the matter for such cross-examination.

Finally, with respect to the health insurance, Petitioner is again correct inasmuch as the transcript shows that both parties testified that Respondent provides the health insurance, not Petitioner.

ORDER

AND NOW, this 26th day of November, 2002, for the foregoing reason, Petitioner's exceptions are hereby granted in part and denied in part. The Order of July 15, 2002 is hereby amended to provide that Respondent continue to provide the health insurance coverage rather than Petitioner, and the matter is remanded to Family Court to allow Petitioner the opportunity to cross examine Respondent regarding an additional source of income.

Pending any further changes by the hearing officer after consideration of additional testimony, the Order of July 15, 2002 is hereby affirmed as amended herein.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
Jeff Yates, Esq.
Scott T. Williams, Esq.
Dana Jacques, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson