

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

JPO OF LC	: NO. 01-21,662
Petitioner	:
	:
vs.	: DOMESTIC RELATIONS SECTION
	: Exceptions
KE,	:
Respondent	:

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order dated July 23, 2002, in which Respondent was directed to pay child support for the support of one minor child in placement through the Lycoming County JPO. Argument on the exceptions was heard September 4, 2002.

By way of background, a conference was held in the Domestic Relations Office on March 13, 2002 and Respondent was directed to pay the sum of \$61.33 per month toward the support of the minor child Justin, currently in placement through the JPO. Respondent disagreed with entry of that Order and a hearing was scheduled in Family Court on June 18, 2002. Respondent failed to appear and another hearing was scheduled for July 23, 2002. In the Order dated June 18, 2002, Respondent was ordered and directed to personally appear at the hearing on July 23, 2002 and to be able to provide information regarding her last known employment including pay stubs, a federal tax return and W-2's. Respondent was advised that if she failed to appear, a bench warrant would be issued. Respondent wrote a letter to the Domestic Relations Office shortly before the hearing on July 23, 2002, indicating she had recently obtained employment and would not be able to attend the hearing. She did not request a continuance, however. Since Respondent failed to appear on July 23, 2002, the hearing officer assessed her an earning capacity of \$2,000 per month net and ordered her to pay \$472.00 per month child support. Respondent contends this was in error and the Court agrees.

There is nothing in the record to support assessment of a \$2,000 per month earning capacity. While the Court is sympathetic to the hearing officer's position, where a respondent is uncooperative in providing information, assessment of a figure basically "out of the air" does not serve the interests of justice. In the matter of KE v Darren Greiner, No. 93-21,679, information regarding Respondent's previous employment history could have been obtained. In any event, Respondent has at this time presented evidence of her current income from the new employment which she just began, indicating a monthly net income of \$1,131. In an Order entered on February 7, 2002, the child's father was directed to pay support for the child in placement based upon his monthly net income of \$3,098. The parents together thus have a monthly net income of \$4,229 and Respondent in the instant matter has an obligation, based upon both of those incomes, for support in the amount of \$219.83 per month.

Respondent also alleges error in the assessment of 100% of the child's medical bills. The Court again agrees. Since the child's father has 73.26% of the parents' total income, Respondent should be responsible for only 26.74% of the excess unreimbursed medical expenses of the child.

The Court will modify the Order of July 23, 2002 to reflect the lower support payment as well as the lower percentage contribution toward medical expenses, but inasmuch as Respondent failed to ask for a continuance of the hearing and simply chose not to appear, the Court will make the modification effective this date, rather than retroactive to the date of the Petition.

ORDER

AND NOW, this 9th day of September, 2002, for the foregoing reasons, Respondent's exceptions are hereby granted and the Order of July 23, 2002 is hereby modified to provide for a support payment of \$219.83 per month, effective this date, and further to provide that Respondent will be responsible for 26.74% of the child's excess unreimbursed medical expenses.

As modified herein the Order of July 23, 2002 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
KE, 205 N. Main Street, Picture Rocks PA 17762
JPO
Dana Jacques, Esq.
Gary Weber, Esq.
File No. 93-21,679
Hon. Dudley N. Anderson