

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

GM,	: NO. 00-21,485
Petitioner	:
	:
vs.	: DOMESTIC RELATIONS SECTION
	: Exceptions
JDB, JR.,	:
Respondent	:

OPINION AND ORDER

Before the Court are Petitioner’s exceptions to the Family Court Order dated February 26, 2002, in which Respondent was directed to pay child support to Petitioner for the support of the parties’ one (1) minor child. Argument on the exceptions was heard April 17, 2002.

In her exceptions, Petitioner contends the hearing officer erred in determining her monthly net income, specifically in including an income tax refund, in failing to include an income tax refund in calculating Respondent’s monthly net income, in failing to include in Respondent’s monthly net income SSI he receives for one (1) of his children, in failing to require Respondent to contribute to daycare expenses or medical expenses, in requiring Respondent to pay only \$10.00 per month on his arrearage, and in application of the Multiple Family Formula. These exceptions will be addressed seriatim.

With respect to Petitioner’s monthly net income, and addition of a tax refund to that income, the Court agrees the hearing officer erred in including the portion of the refund attributable to return of withheld income tax. In both time periods, Petitioner’s income was calculated by considering the actual federal tax liability. The only portion of the refund to be further considered, therefore, is the earned income credit of \$2,710.00, or \$226.00 per month. Petitioner’s income is therefore correctly calculated at \$976.00 per month for the period from January 14, 2002 through February 24, 2002,

and \$1,045.00 per month, effective February 25, 2002. The Court notes, however, that consideration of this lower income does not significantly alter the calculations of child support. With Petitioner's income at \$976.00 per month, Respondent's child support obligation is \$195.20 per month, rather than \$196.73 per month, and with Petitioner's income at \$1,045.00 per month, Respondent's child support obligation is calculated at \$196.55 per month, rather than \$195.42 per month. In light of such insignificant differences, no modification to the current Order will be made.

With respect to failing to include any income tax refund for Respondent, the Court finds no error. The Order indicates that Respondent has not worked since November 2000, and therefore would be entitled to no tax refund for the year 2001.

With respect to the SSI, in the Order of February 26, 2002, the hearing officer notes that Respondent receives \$527.00 per month for one (1) of the children in his home. In an Order dated January 28, 2001, a finding was made that Respondent used the SSI to assist in paying his household expenses. While this money cannot be considered income to Respondent for purposes of calculating his basic child support obligation, the Court does believe it appropriate in the instant matter to consider such when addressing the issue of childcare, medical expenses and arrearage.

With respect to the childcare expenses and medical expenses, while the hearing officer did not require a contribution to such, considering the SSI received in his household and used for his household expenses, the Court believes it appropriate to require Respondent to contribute to such expenses. The Court will therefore require Respondent to contribute \$10.00 per week or 50% of any childcare expense, whichever is less, and will also require him to contribute to medical expenses, although he will remain free to request relief from such medical expenses in the event such become burdensome. See Pa. R.C.P. Rule 1910.16-6 (c)(3). With respect to the arrearage, the hearing officer ordered Respondent to pay only \$10.00 per month. In light of the SSI, as noted above, the Court believes \$40.00 per month is an appropriate payment.

Finally, with respect to Petitioner's contention the hearing officer erred in application of the Multiple Family Formula, the Court has reviewed the calculations and found no error.

ORDER

AND NOW, this 18<sup>th</sup> day of April, 2002, for the foregoing reasons, Petitioner's exceptions are hereby granted in part and denied in part. The Order of January 28, 2001 is hereby modified to provide for an arrearage payment of \$40.00 per month, a contribution to childcare expenses, which shall be verified by Petitioner through the usual form, of \$10.00 per week or 50% of the expense, whichever is less. Finally, Respondent shall contribute to 49.88% of all excess unreimbursed medical expenses of the child and Petitioner shall be responsible for 50.12% of such. Respondent remains free to file a Petition seeking an annual limitation on medical expenses, should such become burdensome.

As modified herein, the Order of February 26, 2002 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court  
Domestic Relations  
William Miele, Esq.  
JB, Jr.  
Dana Jacques, Esq.  
Gary Weber, Esq.  
Hon. Dudley N. Anderson