

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

CR,	:	NO. 97-21,065
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
TR,	:	
Respondent	:	Reconsideration

**OPINION AND ORDER**

Before the Court is Petitioner's Motion for Reconsideration of this Court's Opinion and Order dated January 3, 2002. Argument on the motion was heard February 12, 2002. It is noted Respondent did not attend the argument, but he was served by regular mail addressed to his address of record.

Petitioner wishes this Court to address a child care issue which it is alleged was raised in the exceptions but not addressed by this Court's Order of January 3, 2002. Specifically, Petitioner contends she presented evidence of a child care expense of \$33.00 per week during the school year and \$100.00 per week during the summer, but the hearing officer considered an expense of only \$18.00 per week during the school year and \$45.00 per week during the summer. Further, Petitioner contends the hearing officer should consider her summer 2000 expense, since she retroactively adjusted the day care expense to August 31, 2000. Finally, Petitioner contends the hearing officer should not have applied the 25% tax credit reduction to the child care expense.

In her written exceptions, Petitioner did raise the issue of the actual expenditure for her child care contributions and therefore that issue will be addressed by the Court in reconsidering its prior Order. Petitioner did not, however, raise the 25% tax credit issue, nor did she raise the issue regarding child care expenses in the summer of 2000. Petitioner is correct that the tax credit reduction should not be applied as she does not meet the income requirements for such and in

recalculating the child care contribution, the Court will not apply the reduction.<sup>1</sup> The summer 2000 expense will also not be addressed, for reasons more fully explained hereinafter.

With respect to the child care expense addressed by the hearing officer for the period from August 30, 2000 through May 7, 2001, Petitioner did provide verification of an expense of \$33.00 per week, \$15.00 per week paid to Leah Larson and \$18.00 per week paid to Kateri Cohick. The hearing officer may have been confused and used only the expense paid to Kateri Cohick. For the period from June 29, 2001 through August 24, 2001, again the hearing officer used only the expense paid to Leah Larson but Petitioner had provided verification of an expense paid to both Leah Larson, of \$45.00 per week, and to Kateri Cohick, of \$55.00 per week, for a total expense of \$100.00. The school year expense will therefore be adjusted to reflect an expense of \$33.00 per week for a period of 36 weeks, for a total expense of \$1,188.00. Respondent's share, 67.04% (his percentage responsibility under the Order in effect at that time) is calculated at \$796.44 and the Domestic Relations Office will be directed to back out the prior monthly expense for that time period and add this amount as an arrearage. With respect to the summer expense, Petitioner paid \$100.00 per week for a period of eight (8) weeks, or \$800.00. Respondent's share is 64.59% of this expense, or \$516.72. The Domestic Relations Office will be directed to back out the monthly expense charged and add this amount as an arrearage.

At argument, Petitioner indicated that if the Order was to be retroactive to August 30, 2000, it should be further retroactive to the beginning of the summer as she paid \$100.00 per week in the summer of 2000. Petitioner argued that the child care contribution of the prior Order was an annualized expense and therefore the reduction considered by the hearing officer should be offset by the increase she experienced during the summer. It appears, however, that the prior Order's child care contribution was not an annualized amount. A review of the Domestic Relations Office's file indicates that at the conference on December 22, 1999, Petitioner presented child care verification forms indicating an expense of \$7.00 per week paid to Shelby Shipton and an expense of \$50.00 per

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<sup>1</sup>If the Court were not recalculating the child care contribution, the reduction issue would not be addressed, but since the Court is recalculating the contribution, the correct method will be used.

week paid to Kateri Cohick, for a total of \$57.00 per week, or \$247.00 per month. The Order entered that date reflects a child care contribution owed by Respondent of \$166.00 per month, which is his proportionate share of \$247.00 per month. The verifications provided by Petitioner indicate that this expense was for the school year only. When Petitioner's expense increased in the summer of 2000, she should have filed a Petition for Modification, seeking a contribution to an increased expense. The Court will therefore not modify the current Order further back than August 30, 2000, when her daycare expense actually decreased below the obligation toward which Respondent was ordered to contribute. The Court notes the hearing officer's modification retroactive to August 30, 2000 is appropriate, as the issue was raised at the hearing by Respondent and Petitioner did fail to report the decrease in the expense to the Domestic Relations Office or to Respondent.

#### ORDER

AND NOW, this 19<sup>th</sup> day of February, 2002, for the foregoing reasons, the Family Court Order dated July 26, 2001, is hereby modified to provide for a lump sum contribution to child care expenses for the period from August 31, 2000 through May 7, 2001, of \$796.44 and for the period June 29, 2001 through August 24, 2001 of \$516.72. The Domestic Relations Office is directed to add these lump sum contributions as arrearages and to back out from the arrearage a monthly amount of \$37.73 for the period from August 31, 2000 through May 7, 2001 and an amount of \$94.32 per month for the period from June 29, 2001 through August 24, 2001.

The Order of July 26, 2001 is also modified with respect to the payment of alimony pendente lite, such that effective June 29, 2001 through August 24, 2001, considering the increased child care expense, Respondent shall pay alimony pendente lite of \$47.70 per month. The Domestic Relations Office is directed to address the alimony pendente lite to consider the child care expense for the school year 2001-2002, in conjunction with verification of that expense as provided by Petitioner.

As modified herein, the Order of July 26, 2001 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

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