

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

ERS,		: NO. 02-20,556
Plaintiff	:	
		: CIVIL ACTION LAW – In Divorce
vs.		:
		: DOMESTIC RELATIONS SECTION
DAS,		: Exceptions
Defendant	:	

OPINION AND ORDER

Before the Court are Plaintiff’s exceptions to the Family Court Order dated May 10, 2002, as amended by Order dated May 20, 2002, in which Plaintiff was ordered to pay alimony pendente lite to Defendant. Argument on the exceptions was heard June 19, 2002. In his exceptions, Plaintiff contends the hearing officer erred in the effective date of the Order, in calculating the percentage responsibility for Defendant’s unreimbursed medical bills and in calculating Defendant’s income. These will be address seriatim.

With respect to the effective date, the hearing officer made the support Order effective the date of the Petition, April 18, 2002. Although Plaintiff contends Defendant did not move out of the marital residence until April 26, 2002, at argument it was indicated to the Court that no evidence of this fact was presented to the hearing officer. The exception will therefore be denied.

With respect to calculation of the percentage responsibility for Defendant’s unreimbursed medical bills, Plaintiff contends the hearing officer should have deducted Plaintiff’s child support obligation (to children of a former marriage) in calculating his net income for determining his percentage responsibility. The Court does not agree. Rule 1910.16-6(c) provides for allocation of unreimbursed medical expenses of the obligee between the parties in proportion to their respective net

incomes. Pa. R.C.P. 1910-16-6(c). While Rule 1910.16-2(c) does indicate in subsection (2) that in arriving at net income Court shall deduct from obligor's monthly net income all of his child support obligations, that rule applies only in computing a spousal support or alimony pendente lite obligation. This exception will therefore also be denied.

Finally, with respect to Defendant's income, the hearing officer based her calculation on a pay stub for pay period ending April 26, 2002. Although the hearing officer found the year to date figures thereon to cover a period of 20 weeks, Plaintiff contends they cover a period of 16.57 weeks. Since Defendant receives her pay on a bi-weekly basis, Plaintiff's suggestion that the income covers a period of 16.57 weeks is illogical. Further, it appears that the 20 weeks used is the correct figure, based upon when Defendant actually received the income.

ORDER

AND NOW, this 20th day of June, 2002, for the foregoing reasons, Plaintiff's exceptions are hereby denied and the Order of May 10, 2002, as amended by Order dated May 20, 2002, is hereby affirmed.¹

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
William Miele, Esq.
Randi Dincher, Esq.
Dana Jacques, Esq.

¹ The Court notes that the hearing officer did err in calculating the alimony pendente lite obligation inasmuch as she multiplied the difference in the parties' incomes, after deduction of Plaintiff's child support obligation, by 30%, rather than 40%. Since the children for whom Plaintiff pays child support are to a former marriage, 40% would be the correct figure. Defendant did not raise this issue on exceptions, however, and the Court will therefore not modify the Order on this basis.