

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MB,	:	NO. 03-20,005
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
RKB,	:	
Respondent	:	

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order dated February 21, 2003, in which Respondent was directed to pay spousal support and a mortgage contribution to Petitioner. Argument on the exceptions was heard September 24, 2003.

Respondent contends the hearing officer erred in assessing Petitioner with a continuing zero earning capacity and in calculating his contribution to the mortgage.

With respect to Petitioner's earning capacity, Petitioner had presented to the hearing officer a medical statement from her doctor indicating that she was unable to work at that time. The document also indicated that his opinion covered the period through March 3, 2003, the date of her next scheduled visit. Petitioner had testified to having filed an appeal of the denial of extended disability benefits available through her employment and the hearing officer indicated in the Order that Petitioner had been advised that if she did receive the disability benefits she was to notify the Domestic Relations Office immediately. Respondent contends the hearing officer should have assessed her with an earning capacity/income based upon the disability benefits, as of March 3, 2003. While the Court does not agree with this proposed method of monitoring the matter, the Court does believe that something more than simply notifying Domestic Relations should she receive disability benefits is in order, considering that the medical excuse provided "expired" on or about March 3, 2003, shortly after the hearing held February 20, 2003. Therefore, the Court will direct Petitioner to provide Respondent with

copies of updated medical verification of her inability to work and any notice received from the disability insurance company regarding Petitioner's application for disability benefits.

With respect to the mortgage contribution directed, Respondent is correct that the contribution was calculated incorrectly. The hearing officer failed to include Petitioner's spousal support in her income in calculating the mortgage contribution. See Pa. R.C.P. Rule 1910.16-6(e). One-quarter of the spousal support award, Petitioner's sole income at the time of the Order, is \$221.01 and the monthly mortgage payment (which actually consists of only insurance and taxes), is \$244.53. Respondent's obligation would be one-half the difference of \$23.52, or \$11.76 per month.

ORDER

AND NOW, this 26th day of September, 2003, for the foregoing reasons, Respondent's exceptions are hereby granted in part and denied in part. The Order of February 21, 2003 is hereby modified to provide that Petitioner shall provide Respondent with copies of medical verifications covering the periods from March 3, 2003 forward, as they are obtained and in such a manner as to provide continuous verification of her inability to work. She shall also provide Respondent, within five (5) days of obtaining such, with notice of the decision regarding her appeal of the denial of her disability benefits. If she has already received notice of that decision, she shall provide such to Respondent immediately. Further, the verifications for the period from March 3, 2003 through the most recent appointment and verification shall be provided within ten (10) days of this date. Any further and continuing verification shall be provided within five (5) days of the date of the verification.

Finally, the Order of February 21, 2003 is hereby modified to provide for a contribution toward taxes and insurance of \$11.76 per month, effective January 17, 2003.

As modified herein the Order of February 21, 2003 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

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