

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CB,	: NO. 02-21,495
Petitioner	:
	:
vs.	: DOMESTIC RELATIONS SECTION
	: Exceptions
JSB,	:
Respondent	:

RMS,	: NO. 02-21,495
Petitioner	:
	:
vs.	: DOMESTIC RELATIONS SECTION
	: Exceptions
JSB,	:
Respondent	:

OPINION AND ORDER

Before the Court are cross exceptions to the Family Court Order dated March 4, 2003 in which Respondent was directed to pay child support to Petitioner RS and the complaint filed by Petitioner CB was dismissed. Argument on the exceptions was heard April 23, 2003.

In his exceptions, Respondent contends the hearing officer erred in requiring him to pay 100% of the child’s excess unreimbursed medical expenses, in failing to award the tax exemption for the child to him, and in ordering him to pay court costs. In their exceptions, the Petitioners, both of whom were represented by the same counsel, contend the hearing officer erred in calculating Respondent’s income and in dismissing Petitioner CB’s request for child support. These will be addressed seriatim.

With respect to the directive that Respondent pay 100% of the child’s excess unreimbursed medical expenses, the Court agrees with Respondent that such was indeed in error. By way of background, Petitioner CB is the mother of the child in question, JB, and Petitioner RS is the maternal

grandmother, C's mother. In calculating Respondent's support obligation to the grandmother, the hearing officer considered the earning capacity of the child's mother and the income of the child's father and required Respondent to pay only his proportionate share of the obligation shared by the parent. This was the correct method of calculating the basic support obligation. In directing Respondent to pay 100% of the excess unreimbursed medical expenses, however, the hearing officer apparently considered that the grandmother has no legal obligation to support the child. The Court believes that the medical expenses of the child must be shared by the parents in proportion to the respective net incomes/earning capacities, just as the basic support obligation is shared. Respondent will therefore be held responsible for only his proportionate share.

With respect to the tax exemption, counsel for Respondent admitted at argument that he did not request the hearing officer award the exemption to his client. The Court will therefore address the issue no further.

With respect to the court costs, it appears Respondent's counsel mistakenly believed court costs were imposed only because the parties went to a hearing in Family Court, rather than settling at the conference. Such is not the case as court costs are assessed by the statewide system upon the filing of a complaint, no matter the method of final resolution. This exception will therefore be dismissed.

With respect to Petitioners' contention the hearing officer erred in calculating Respondent's income, counsel points out that the leave and earnings statement presented to the hearing officer indicates a payment of "SRB" of \$343.27 and then a deduction for "SRB" payment of \$240.98, and argues that the "SRB" payment of \$240.98 was simply a deduction for a payment already made coincident with the mid-month pay. It appears from the leave and earnings statement that "SRB" stands for Selective Reenlistment Bonus. The hearing officer deducted the SRB payment of \$240.98 as though it were an actual expense deducted from Respondent's pay, rather than an advance. As it appears it was indeed an advance similar to the mid-month pay, the SRB payment should not have been deducted. It also appears the \$20.00 for life insurance and the \$.50 for (AFRH) are not deductions allowed under the guidelines. Respondent's correct monthly net income is therefore calculated to be \$2,334.34 per month. Considering this income and the child's mother's earning

capacity of \$750.00 per month, the guidelines require a payment for the support of one minor child of \$507.00 per month. Considering Respondent's corrected income, his share of the excess unreimbursed medical expenses is also corrected to 75.68%.

Finally, with respect to Petitioners' contention the hearing officer erred in dismissing Petitioner CB's request for child support, at least for the period from October 2002 through December 2002, at which time an Order was entered giving the grandparents primary custody of the child, the Court does not agree. Although Petitioner CB argues she shared custody with the grandparents prior to entry of the custody Order, the hearing officer's Order indicates only that the mother and grandparents shared the physical responsibilities of raising the child once the mother returned to the grandparents' residence in September 2002. There is nothing in the Order and, no transcript having been provided, nothing brought to the Court's attention in the record, which would indicate that Petitioner CB actually had primary physical custody of the child prior to entry of the custody Order. Without primary physical custody of the child, Petitioner CB was not entitled to receive support. The Court therefore finds no error in the hearing officer's dismissal of her complaint.

ORDER

AND NOW, this 6th day of May, 2003, for the foregoing reasons, the exceptions filed by the parties are hereby granted in part and denied in part. The Order of March 4, 2003 is hereby modified such that effective December 16, 2002, Respondent shall pay for the support of one minor child the sum of \$507.00 per month. Respondent's obligation for excess unreimbursed medical expenses of the child shall also be modified such that Respondent shall be responsible for 75.68% of such.

As modified herein, the Order of March 4, 2003 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Office
Randi Dincher, Esq.
Matt Zeigler, Esq.
Gary Weber, Esq.
Dana Jacques, Esq.
Hon. Dudley N. Anderson