

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DLM, : NO. 01-21,569
Petitioner :
: vs. : DOMESTIC RELATIONS SECTION
: Exceptions
ACS, :
Respondent :

OPINION AND ORDER

Before the Court are Petitioner’s exceptions to the Family Court Order dated March 20, 2003 in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard May 7, 2003.

In his exceptions, Petitioner contends the hearing officer erred in basing Respondent’s child support obligation upon her current income which she earns from working only 25 hours per week, rather than assessing her capacity based upon 40 hours per week at the same rate, and in failing to address the orthodontic expense and requiring Respondent to contribute to payments made by Petitioner.

With respect to the issue of Respondent’s earning capacity, as it appears there is no reason why Respondent could not work a 40 hour week, the Court agrees with Petitioner that the hearing officer should have assessed Respondent an earning capacity based upon such. Since 25 hours per week provides her with \$722.76 per month, a 40 hour week would provide her with \$1,156.42 per month. Adding her average monthly tax refund of \$281.83 provides her with a total monthly net income of \$1,438.25. Considering that income, the guidelines suggest a payment for the support of one minor child of \$256.17. Further, she now would have 24.49% of the parties’ total net incomes and would therefore be responsible for \$18.24 per month toward the health insurance expenses.

With respect to the orthodontic expense, the hearing officer directed Petitioner to submit the bill to his insurance company and then to provide to Domestic Relations the information regarding the

portion covered, if any, by insurance. The Court will amend the Order of March 20, 2003 to indicate that upon receipt of such information, the Domestic Relations Office may enter an administrative Order directing contributions by both parties, after reviewing the payment history with respect to the total obligation. As with any administrative Order, if either party disagrees with the findings of the Domestic Relations Officer, they will be provided an opportunity to request a hearing in Family Court on the specific issue of the orthodontic expense.

ORDER

AND NOW, this 9th day of May, 2003, for the foregoing reasons, Petitioner's exceptions are hereby granted and the Order of March 20, 2003 is hereby modified to provide for a payment of \$256.17 per month child support plus \$18.24 per month health insurance contribution, effective January 10, 2003. Further, the percentage responsibility for excess unreimbursed medical expenses shall be modified such that Petitioner shall be responsible for 75.51% of such and Respondent shall be responsible for 24.49% of such.

At such time as Petitioner provides to the Domestic Relations Office verification from his dental insurance carrier regarding the portion, if any, of the orthodontic bill which is covered by insurance, the Domestic Relations Office shall enter an administrative Order addressing the required contributions of each party toward the total unreimbursed expense.

As modified herein, the Order of March 20, 2003 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Domestic Relations
Family Court
Janice Yaw, Esq.
AS
Gary Weber, Esq.