

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

BLM,	: NO. 03-20,190
Petitioner/Plaintiff	: 03-20,232
	:
vs.	: DOMESTIC RELATIONS SECTION
	: Exceptions
JWM,	:
Respondent/Defendant	: CIVIL ACTION LAW
	: In Divorce

OPINION AND ORDER

Before the Court are cross-exceptions to the Family Court Order dated March 21, 2003, in which Respondent was directed to pay alimony pendente lite to Petitioner. Argument on the exceptions was heard April 30, 2003.

In his exceptions, Respondent contends the hearing officer made an error of addition when adding the mortgage contribution to the alimony pendente lite obligation, in the amount of health insurance contribution used to calculate his obligation towards such, and in an award which overall provides Petitioner with a higher monthly income than Respondent is left with. In her exceptions, Petitioner contends the hearing officer erred in failing to require Respondent to make a lump sum payment toward arrears. These will be addressed seriatim.

With respect to the error in addition, it appears the hearing officer did indeed make such an error and the correct total is \$602.12 per month (\$411.49 per month alimony pendente lite plus \$190.63 per month mortgage contribution). It also appears the health insurance is \$6.42 bi-weekly, rather than \$32.10 bi-weekly, and thus the monthly premium is \$13.91, Respondent’s share of which is \$8.70.

With respect to his contention the hearing officer erred in awarding Petitioner a combined total of alimony pendente lite and mortgage contribution which provides her with a higher monthly income

than he is left with, Respondent looks to the purpose of alimony pendente lite to provide the parties with equal financial resources during the pendency of a divorce. Respondent fails to consider, however, that resources must also consider expenses as well as income. Since the mortgage contribution is contemplated by the guidelines in an effort to equalize the portion of the mortgage payment considered to be unusually high, i.e. that portion which exceeds 25% of Petitioner's income, the Court believes it appropriate to consider that unusually high expense in (the query - no idea what you said) whether the parties financial resources have been equalized, and in the finding that they indeed have. This exception is therefore without merit.

Finally, with respect to Petitioner's contention the hearing officer should have awarded a lump sum payment toward arrearages, the hearing officer did note that the parties equally share a tax refund and, further, that Respondent assumed and has been paying certain marital debt. While the Court agrees with Petitioner that lump sum payments toward arrearages should be ordered where financially appropriate, in the instant matter the Court finds no error in the hearing officer's failure to award a lump sum payment, considering the particular circumstances of this case.

ORDER

AND NOW, this 6th day of May, 2003, for the foregoing reasons, Respondent's exceptions are hereby granted in part and denied in part and Petitioner's exceptions are hereby denied. The Order of March 21, 2003 is hereby modified to provide, effective February 4, 2003, for a payment of alimony pendente lite of \$602.12 per month and a contribution toward vision insurance of \$8.70 per month.

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

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Office
William Miele, Esq.
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Gary Weber, Esq.
Dana Jacques, Esq.
Hon. Dudley N. Anderson