

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

ARS, : NO. 02-20,267
Petitioner :
: vs. : DOMESTIC RELATIONS SECTION
: Exceptions
WDS, :
Respondent :

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated March 18, 2003, in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard April 30, 2003.

In his exceptions, Respondent contends the hearing officer erred in requiring him to continue to provide health insurance coverage for Petitioner and in failing to consider the alimony Respondent pays to Petitioner pursuant to the parties’ settlement agreement.

With respect to the health insurance, at argument counsel for Petitioner agreed Respondent is correct inasmuch as the parties’ settlement agreement addresses the health insurance issue, and, further, the request for support filed by Petitioner was for child support only, and not spousal support or alimony pendente lite. The Order of March 18, 2003 will therefore be modified to eliminate the requirement that Respondent provide health insurance to Petitioner. Any agreement of the parties contained in their property settlement agreement regarding health insurance will remain in effect.

With respect to the payment of alimony, the parties did agree that effective upon entry of a divorce decree, Respondent would pay \$265.00 per month to Petitioner as alimony, for a period of 18 months. The hearing officer did not deduct such from Respondent’s income nor did he add it to Petitioner’s income, in calculating the child support obligation. Pursuant to the guidelines, the alimony

must be deducted from Respondent's gross income in calculating his net income. Pa.R.C.P. Rule 1910.16-2(c)(1)(D). Also pursuant to the guidelines, the alimony received by Petitioner may be included in her income if the trier of fact determines that inclusion of part or all of it is appropriate. Rule 1910 16-2(a)(7). In the instant matter, it does not appear from the Order of March 18, 2003 that the hearing officer considered the payment and/or receipt of alimony and thus did not make a determination whether inclusion of part or all of it in Petitioner's income would be appropriate. To the extent the record in this regard is incomplete, the Court cannot address the matter further.

Deducting the \$265.00 per month alimony payment from Respondent's income provides him with an income for purposes of child support of \$2,706.00. His child support obligation is therefore recalculated at \$912.55 per month, which will be effective March 24, 2003, the date of the decree. The percentage responsibility for the children's excess unreimbursed medical expenses is also modified slightly, such that Respondent become responsible for 75.73% of such and Petitioner for 24.27% of such.

ORDER

AND NOW, this 6th day of May, 2003, for the foregoing reasons, the Order of March 18, 2003 is hereby modified such that effective March 24, 2003 Respondent shall pay child support for the support of the parties' three minor children in the amount of \$912.55 per month. The amount of \$992.40 per month shall remain in effect from February 28, 2003 through March 23, 2003. Further, the percentage responsibility for excess unreimbursed medical expenses shall be modified such that Respondent shall be responsible for 75.73% of such and Petitioner shall be responsible for 24.27% of such. The requirement in paragraph 3 of the Order of March 18, 2003 that Respondent continue to provide medical insurance coverage for Amy Santo and the three minor children shall be modified to provide simply that Respondent continue to provide medical insurance coverage for the three minor children.

As modified herein, the Order of Mach 18, 2003 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

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