

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

SMS,	:	NO. 03-20,677
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
RES,	:	
Respondent	:	

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated July 9, 2003 in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard August 27, 2003.

In his exceptions, Respondent contends the hearing officer erred in failing to consider the actual custody arrangement and in the determination of his income.

With respect to the custody issue, it appears the parties entered an agreement providing for equally shared custody of their two minor children as of the end of June 2003. Prior to that time, however, according to an exhibit introduced into evidence, Respondent had custody of the children more days each month than did Petitioner. At argument, Petitioner’s counsel agreed that prior to entry of the Order at the end of June 2003, Respondent would not have a child support obligation based upon having custody of the children more than 50% of the time. The Order of July 9, 2003 will be adjusted accordingly. Respondent also contends with respect to the custody issue that although the agreement provides for equal shared custody, he has actually had physical custody of the children more than 50% of the overnights since entry of the Order. The Court believes that absent extraordinary circumstances (such as one party leaving the area and abdicating responsibility for the children to the other party), however, the provisions of the Order should govern. To hold otherwise would discourage flexibility and cooperation between the parties.

With respect to Respondent's income, Respondent contends the hearing officer erred in averaging his coaching income over short periods of time rather than annualizing such. The Court agrees. Respondent's income as a football coach of \$3,105.00, estimated at \$2,484.00 net averages to \$207.00 per month and his income as a wrestling coach of \$1,187.50, reduced to \$950.00 net, averages to \$79.00 per month, providing him with a total monthly net income of \$2,603.00.

Considering Petitioner's income of \$1,759.00 per month and Respondent's income of \$2,603.00 per month, the guidelines suggest a payment for the support of two (2) minor children, after considering the reduction based upon equal shared custody, of \$477.63 per month. As this amount would provide Petitioner with more than half the parties' total net income, the payment must be reduced further to \$422.50 per month to equalize the incomes. Respondent's contribution toward health insurance is calculated at \$161.29 per month and his contribution toward childcare during the months of July and August is calculated at \$59.67 per month.

ORDER

AND NOW, this 5th day of September, 2003, for the foregoing reasons Respondent's exceptions are hereby denied in part and granted in part. The Order of July 9, 2003, as amended by Order dated July 17, 2003,¹ is hereby modified to provide for a payment of child support, effective July 1, 2003, of \$422.50 per month. Respondent shall have an obligation toward child care expenses for the months of July and August of \$59.67 per month. His contribution to health insurance, effective July 1, 2003 is set at \$161.29 per month. Finally, his percentage responsibility toward excess unreimbursed medical expenses of the children, effective July 1, 2003, shall be 59.67%, and Petitioner's share shall be 40.33%.

As modified herein, the Order of July 9, 2003, as amended by Order of July 17, 2003, is hereby affirmed.

¹ The amendment addresses only the addition of an arrearage payment and is not affected by the instant Order on exceptions.

By the Court,

Dudley N. Anderson, Judge

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