

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

|      |            |                              |
|------|------------|------------------------------|
| LGM, |            | : NO. 02-20,425              |
|      | Petitioner | :                            |
|      |            | :                            |
|      | vs.        | :                            |
|      |            | : DOMESTIC RELATIONS SECTION |
| DCM, |            | :                            |
|      | Respondent | : Exceptions                 |

**OPINION AND ORDER**

Before the Court are cross-exceptions to the Family Court Order of March 29, 2004. Argument on the exceptions was heard August 4, 2004. In his exceptions, Respondent contends the hearing officer erred in the determination of Petitioner's income. In her exceptions, Petitioner contends the hearing officer erred in the determination of Respondent's income, and also seeks review of the determination of her own income.

With respect to Petitioner's income, Respondent seeks to attribute an additional sum based on Petitioner's use of a house provided at a reduced rate by her employer. While such a benefit is indeed properly considered as income, as noted below, Respondent has the use at a reduced rate of an automobile provided by his employer. The Court believes consideration of either of these job-related benefits is offset by the other, and no income will be attributed to either party in this regard. Respondent also argues Petitioner should be assessed an earning capacity of \$30,000 per year gross, based on her testimony in a custody proceeding. Petitioner's actual gross income is \$25,845, however, and once the \$300 per month, or an additional \$3,600 per year, is considered with respect to the house, as explained below, Petitioner's gross income is indeed \$29,445, which is sufficiently in keeping with her prior testimony.

Petitioner's contention with respect to the alleged error in the determination of her income is that the hearing officer incorrectly found her net weekly income to be \$430.77 when the documents supplied by her employer show that her net weekly income is actually \$400.00. Petitioner is correct and the determination will be adjusted accordingly. Petitioner also

testified, however, that her employer gives her an additional \$300 per month to contribute to the expense of the house mentioned above and that an additional \$300 per month should be added to the \$400.00 per week in determining her income. Considering her tax refund as well, her total monthly net income is, therefore, \$2291.

With respect to Respondent's income, Petitioner contends an additional sum should be added to consider his use of an employer-provided vehicle. Respondent testified in Family Court that his employer allows him the use of a vehicle for both business and personal use and that he pays his employer \$100 per month for his personal use. Again, as stated above, while such a benefit would ordinarily be considered in determining income, inasmuch as both parties have an employer-provided benefit, and especially considering the difficulty in assigning a value to either one<sup>1</sup>, no further income will be attributed to Respondent on account of this benefit.

Petitioner also contends with respect to Respondent's income that the hearing officer erred in deducting the employee expenses shown on his tax return. The Court agrees. The hearing officer deducted \$10,091 from Respondent's gross, comprising mostly his rent expense incurred to rent a room near his employment and his meal expense. These expenses are incurred because Respondent works in New York but maintains as his primary residence a home in Jersey Shore, Pennsylvania. Respondent has been working for the same employer at the same location in New York for five years and offered no explanation why he must continue to maintain a home in Jersey Shore.<sup>2</sup> The Court believes deduction of such expenses is, therefore, inappropriate. Respondent's income without consideration of the employee expenses is \$4364.63 per month.

Considering Petitioner's income of \$2291 and Respondent's income of \$4365, the Guidelines suggest a payment for the support of one minor child of \$756.14 per month.

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<sup>1</sup> Neither party provided sufficient evidence of the value of the benefit he or she wished to attribute to the other.

<sup>2</sup> The Court notes the child of the parties resides with her mother in Missouri.

ORDER

AND NOW, this 6<sup>th</sup> day of August 2004, for the foregoing reasons, Respondent's exceptions are hereby denied and Petitioner's exceptions are hereby granted in part and denied in part. The Order of March 29, 2004, is hereby modified to provide for a payment of \$756.14 per month, effective December 4, 2003. The percentage responsibility for excess unreimbursed medical expenses is also modified such that Petitioner shall be responsible for 34.42% of such and Respondent shall be responsible for 65.58% of such.

As modified herein, the Order of March 29, 2004, is hereby affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court  
Domestic Relations Section  
Fred Lingle, Esq.  
Jan Yaw, Esq.  
Gary Weber, Esq.  
Dana Jacques, Esq.  
Hon. Dudley Anderson