

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

HZ, : NO. 95-21,408
Petitioner :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
MZ, :
Respondent :

DL, : NO. 97-21,431
Petitioner :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
MZ, :
Respondent :

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated October 3, 2003 in which Respondent was directed to pay child support to each Petitioner. Argument on the exceptions was heard January 14, 2004.

In his exceptions, Respondent contends the hearing officer should have placed the matter on hold pending resolution of Petitioner L’s workers compensation claim, should have put the matter on hold pending a determination of Respondent’s new income from his deployment to Operation Enduring Freedom, and erred in the amount of the arrearage payment.¹

With respect to Petitioner L’s workers compensation claim, it does appear that a claim is pending but the Court does not agree that the matter should be placed on hold. Rather, Petitioner L will be directed to report the resolution of her claim and if she is awarded worker’s compensation, Respondent’s child support obligation will be adjusted by the Domestic Relations Office, retroactive to the effective date of the claim. Respondent also raises an issue

¹ Respondent also takes issue with certain language regarding an earned income credit but such is of no consequence with respect to the amount of child support ordered, and also objects to the effective date of the Order

regarding the fact Petitioner L was given zero earning capacity retroactive to the date of his Petition, May 15, 2003, even though she was not injured on the job until May 29th. In this regard, Respondent does have a legitimate issue and the Court will recalculate his support obligation to Petitioner L for the period from May 15, 2003 through May 29, 2003. The prior Order indicates Petitioner L had a monthly net income from both employment and a tax refund of \$1,087.75 per month. Considering that income and Respondent's income as determined in the instant Order, Respondent's child support obligation is recalculated to be \$641.38 per month for that two-week period.

With respect to Respondent's contention the matter should be placed on hold until his income from his deployment to Operation Enduring Freedom is determined, the Court again does not agree. Once Respondent learns of his new income, he should report such to the Domestic Relations Office and to both Petitioners, and he is free, if such income is reduced from that determined in the instant Order, to file a Petition for Modification.

Finally, with respect to the arrearage payment of \$100.00 per month, although Respondent wishes to pay only \$50.00 per month, it appears the instant modification results in a substantial arrearage, and considering Respondent's monthly income of \$3,345.00, the Court sees no error in requiring him to pay \$100.00 per month toward the arrearage.

ORDER

AND NOW, this 20th day of January, 2004, for the foregoing reasons, the Order of October 3, 2003 is hereby modified with respect to paragraph #1 of such so that rather than the sum of \$697.00 per month effective May 15, 2003, that sum shall be effective May 29, 2003 and for the period from May 15th through May 29th, the sum shall be \$641.38 per month rather than \$697.00 per month.

Petitioner L is ORDERED AND DIRECTED to report to both Respondent and the Domestic Relations Office the results of her pending worker's compensation claim, at such time as the claim is resolved one way or the other, within five days of receipt of notice thereof. Should her claim be granted, the Domestic Relations Office is directed to administratively

but since such was made effective as of the date of the Petition, no issue is presented.

adjust Respondent's child support obligation based on Petitioner L's worker's compensation income, retroactive to the effective date of such income.

As modified herein, the Order of October 3, 2003 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
HZ
DL
MZ
Dana Jacques, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson