

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA**

P.B.,	:	
Plaintiff	:	
	:	
vs.	:	No. 01-21,023
	:	PACES NO. 017103696
J.P.,	:	
Defendant	:	

**OPINION and ORDER**

This issue in this case is retroactive modification of arrears where the payee, the Wife, failed to report a substantial change in her income. As a result of this failure, Husband overpaid approximately \$230 per month in child support from July 2002 until December 29, 2003. Father has requested the court to recalculate his support as of July 2002, and give him credit for the overpayments. Wife has argued that the court can only modify his arrears.

As stated in this court’s opinion issued in this case on June 10, 2004, we do not believe we can modify Husband’s general support obligation retroactive to the date of the misrepresentation. In that opinion we stated,

Furthermore, and regrettably, although the text of §4352(e) appears to permit the court to retroactively modify the general support obligation, the title of §4341(e), “Retroactive modification of arrears” and the relevant caselaw, indicate that only the arrearage may be modified. Maddas v. Dehaas, 816 A.2d 234, 239 (Pa. Super. 2003).

Maddas states,

This section [23 Pa.C.S.A. §4352(e)] applies only to modification of arrears and does not permit retroactive modification of the general support obligation. Holcomb v. Holcomb, 448 Pa. Super. 154, 670 A.2d 1155, 1157-58 (Pa. Super. 1996). Therefore, under this section, the trial court could order a retroactive modification of Father’s arrears dating back to the time Mother first misrepresented her income if Father promptly filed a petition for modification upon discovery of Mother’s misrepresentation.

Maddas at 239.

The arrearage that existed in July 2002, when Wife first went from a part-time to a full-time job, was \$3530.58. Husband's support obligation decreased \$230 per month once the full-time job was finally factored into the obligation, and the new support obligation became effective on December 29, 2003. Therefore, the \$3530.58 does not appear to be more than Husband's overpayments due to Wife's failure to report, and the court will therefore retroactively modify his arrears of \$3530.58 to zero. This will result in a credit of \$3530.58. To implement this change, the court will decrease Husband's support/APL obligation by one half until the credit is consumed, which will be approximately ten months.

**ORDER**

AND NOW, this \_\_\_\_\_ day of January, 2005, for the reasons stated in the foregoing opinion, Husband's spousal support/alimony pendente lite obligation shall continue to invoice at the present amount, but the attachment shall be \$356.40 per month until such time as the \$3530.58 credit is consumed.

BY THE COURT,

\_\_\_\_\_  
Richard A. Gray, J.

cc: Dana Jacques, Esq., Law Clerk  
Hon. Richard A. Gray  
Christina Dinges, Esq.  
Rita Alexyn, Esq.  
Domestic Relations (MR)  
Family Court  
Gary Weber, Esq.