

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

L.J.E.,	:	
Plaintiff	:	
	:	
v.	:	No. 03-21,681
	:	PACES NO. 399105953
G.R.,	:	
Defendant	:	

OPINION and ORDER

The issue before this court is the defendant’s exceptions to the Master’s dismissal of his petition for modification of child support. The Master found the petition was prematurely filed, and the court agrees.

The defendant’s previous income assessment was based upon what he was actually earning as an employee of his SubS corporation at the time of his injury, which occurred in March 2004. The defendant was off work for six months due to his injury, and returned to work on September 16, 2004. He filed a petition to modify on November 4, 2004.

The defendant points to the case of Young v. Muthersbaugh, 609 A.2d 1381 (Pa. Super. 1992), which involved a payor who received a reduction in income from a part-time job. The court reduced his income assessment accordingly. However, in the case before this court, Father’s income is derived from his own SubS corporation. Since he controls the financial decision-making, any reduction in his wages must be closely scrutinized by the court, to ensure that he is not shifting money that will ultimately land in his own pockets. Such a review will necessarily entail a review of the finances of the corporation itself, and to conduct such a review upon less than two months’ time period would not provide an accurate financial picture.

Moreover, because Father is the primary worker in his corporation, upon his returning to work it is understandable there may be an initial—and perhaps temporary—

adjustment period during which his income is reduced. However, once Father has been working again for a period of time, the financial situation may well improve. To alter Father's income assessment in these circumstances, based upon less than two months' figures, would be premature, since it would not provide an accurate estimate of his income.

The court will not, however, require the defendant to file another petition for modification and further delay the ultimate review. Instead, we will remand the matter back to Family Court to address the issue of modification. Any changes made to the support will be retroactive to March 16, 2005, a six-month period after returning to work.

ORDER

AND NOW, this 11th day of May, 2005, after argument, the Exceptions filed by the defendant to the Master's order of December 30, 2005 are dismissed, but the matter is remanded back to the Family Court for proceedings consistent with this opinion.

BY THE COURT,

Richard A. Gray, J.

cc: Dana Jacques, Esq., Law Clerk
Hon. Richard A. Gray
Christopher Williams, Esq.
Joy McCoy, Esq.
Domestic Relations Office (MR)
Family Court