

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

L.A.S.,	:	
Plaintiff/Respondent	:	
	:	
v.	:	No. 06-20,485
	:	PACSES No. 565108251
R.M.S.,	:	DOMESTIC RELATIONS SECTION
Defendant/Petitioner	:	

MEMORANDUM ORDER AND OPINION

Before this Honorable Court, is the Defendant/Petitioner's June 19, 2006 Exceptions filed to the Family Court's June 15, 2006 Order. The Defendant/Petitioner contends that the Family Court Hearing Officer committed two errors when she calculated the parties support obligations. First, the Defendant/Petitioner contends that the Master erred when she calculated the Plaintiff/Respondent's income. Second, the Defendant/Petitioner contends that the Master erred when she ordered that the Defendant/Petitioner would be responsible for the first \$1,000.00 of unreimbursed medical expenses. For the following reasons, the Court SUSTAINS the Defendant/Petitioner's first exception and DISMISSES his second exception.

The Master erred when calculating the Plaintiff/Respondent's income

As a security measure, the Plaintiff/Respondent has twenty dollars (\$20.00) withheld, by the government, from her bi-monthly paycheck so that, if at the end of the year, she owes tax monies, the additional \$20.00 she had withheld from her paychecks throughout the year will be used to cover her tax debt. When the Master calculated the Plaintiff/Respondent's income, she erringly included this extra withholding as tax monies; because the money is essentially a savings account and not applied towards taxes, if ever, until the end of the year, the Master should not have deducted it from the Plaintiff/Respondent's income as tax monies, but instead she should have categorized it as income.

In the event the Plaintiff/Respondent does not use the entire amount that she voluntarily has withheld from her paychecks, then that remaining money should *not* be considered income for support purposes the following year (to do so would assess the Plaintiff/Respondent with that income twice). Alternatively, if all of the monies she voluntarily had withheld is applied towards the Plaintiff/Respondent's tax debt, then this amount should be deducted from her income for purposes of determining the support for the following year (to not do so would mean that the Plaintiff/Respondent's support obligation was partially calculated from her gross as opposed to her net income).

The Master did not err when she ordered that the Defendant/Respondent responsible for the first \$1,000.00 of unreimbursed medical expenses.

The Plaintiff/Respondent carries the medical insurance for both parties and their child. The Defendant/Petitioner is enrolled in a Flexible Spending Account health care program. Under this program, the Defendant/Petitioner's employer provides him with a \$1,000.00 debit card to be used for various medical, dental, and vision services. The Master's Order states that the parties agreed that this debit card was to be used for the first \$1,000.00 of unreimbursed medical expenses; because neither party could offer evidence to the contrary, the Court must accept the Master's characterization (i.e. that the parties agreed regarding the debit card) of the Defendant/Petitioner's insurance responsibilities.

ORDER

AND NOW, this _____ day of July 2006, for the reasons set forth above, it is ORDERED and DIRECTED that the Defendant/Petitioner's first exception (regarding the Master's calculation of the Plaintiff/Respondent's income) is SUSTAINED; accordingly, the Master's June 15, 2006 Order is partially VACATED and AMENDED in that the parties respective support obligations should be calculated, after setting the Plaintiff/Respondent's monthly income, for support purposes, at \$1919.42¹. Furthermore, for the aforementioned reasons, there is *no* further support implications regarding the monies the Plaintiff/Respondent has voluntarily withheld from her paycheck for tax purposes, irrespective if it is returned to her in full at the end of the year or is it applied, in whole or in part, to her tax debt.

It is further ORDERED and DIRECTED that the Defendant/Petitioner's second exception (regarding the Defendant/Petitioner's insurance responsibilities) is DISMISSED.

By the Court,

Nancy L. Butts, Judge

cc: Joy R. McCoy, Esq.
Patricia L. Bowman, Esq.
Family Court
Domestic Relations (SF)
Hon. Nancy L. Butts
Judges
Laura R. Burd, Law Clerk
Gary L. Weber, Esq.

¹ \$1,879.42 – the Master's calculation plus the \$40.00 the Plaintiff/Respondent has voluntarily withheld from her bi-monthly paycheck for tax purposes.