

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

<b>KW</b>		:	
	<b>Plaintiff</b>	:	<b>DOMESTIC RELATIONS</b>
		:	<b>NO. 02-21,050</b>
	vs.	:	<b>PACSES CASE NO. 625104702</b>
		:	
<b>DB</b>		:	
	<b>Defendant</b>	:	

**ORDER**

AND NOW, this 11<sup>th</sup> day of March, 2010, after a hearing was held on March 2, 2010, on Father’s request for the dependency exemption for the parties’ two minor children filed on February 18, 2010. Both parties appeared and were not represented by counsel.

The parties are the parents of two minor children, KB, born May 13, 2000, and CB, born August 29, 2001. In addition to the two children born of the marriage, Mother has a third child which she has indicated she will be claiming on her 2009 federal income tax return.

Both parties presented tax returns outlining the various scenarios in which they could file their federal income tax returns with Father claiming none, one, or two children and Mother claiming one, two or three children. The proposed tax returns show the following anticipated federal returns for 2009:

	Mother	Father	Combined Refund
Mother claiming 1 child (her child not born to Father)	\$6,205.00	\$4,699.00	\$10,904.00
Father claiming 2 children			

Mother claiming 1 child born of the marriage and her child not born of the marriage Father claiming 1 child	\$7,677.00	\$3,152.00	\$10,829.00
Mother claiming 2 children born of the marriage and her child not born of the marriage Father claiming 0 children	\$9,507.00	\$1,604.00	\$11,111.00

Pennsylvania Rule of Civil Procedure 1910.16-2(f) states “In order to maximize the total income available to the parties and children, the Court may, as justice and fairness required, award the federal child dependency tax exemption . . .” In this case, the total amount that the parties will receive back from the IRS regardless who retains the federal exemptions are within a few hundred dollars under each scenario. In the present matter, what the Court deems to be the most just and fair is for each parent to claim one child as a dependency for tax exemption purposes on the 2009 federal income tax returns. Mother shall therefore be awarded the 2009 dependency exemption for KB and Father shall be awarded the 2009 dependency exemption for CB.

The tax consequences resulting from an award of the child dependency exemption must be considered and calculated in each party’s income available for support. Additionally, Father states that he has reduction in his pay and, therefore, requests that the child support be reviewed.

Mother is employed by Northwestern Academy in Coal Township, Pennsylvania. She is a full-time employee and has been employed here for approximately 18 months. She has medical insurance for herself only, but provides vision and dental insurance for herself, the parties’ minor children and her child. Mother’s February 19, 2010, paystub shows year-to-date gross income in the amount of \$5,103.08. The Court has reduced

\$90.00 from Mother's year-to-date gross income as this appears to be her employer's contribution to a cell phone expense necessary for work. After reduction of taxes totaling \$1,198.56, Mother's year-to-date net income is \$3,904.52. Dividing this amount by 4 pays received so far in 2010, Mother is found to have bi-weekly income of \$976.13. Multiplying this by 26 pays per year and dividing it by 12, Mother is found to have a net monthly income of \$2,114.94.

Mother's 2009 federal income tax return claiming one of the parties' minor children as a dependent and her other child as a dependent will be \$7,677.00. Dividing this by 12 months, an additional \$639.75 per month shall be added to Mother's net monthly income for a total net monthly income in the amount of \$2,754.69.

Mother provided Plaintiff's Exhibit 4 which includes the charges associated for the dental and vision plan which Mother carries. Based upon the information provided by Mother, Mother has dental insurance for employee/children at \$4.31 per pay. The cost for Mother for dental insurance per pay is \$2.15 which represents the cost for employee only. Therefore, the added cost to cover the children on the dental is \$2.16 per pay which equates to \$4.68 per month. As there are three children covered, the cost per child per month is \$1.56. Multiplying this by the two children, the dental insurance premium for the two children is \$3.12 per month. The parties shall proportionately share the dental insurance cost of \$3.12 per month. As Mother's vision cost per pay is \$2.31, it is clear from Plaintiff's Exhibit 4 that only she, as the employee, is covered under the vision.

Mother also requested contribution for child care costs, which are \$40.00 per week during the 40 weeks of the school year. At this point, it is unclear what costs the parties will incur for the upcoming summer. The Court will, therefore, prorate the \$40.00

per week over the 40 weeks of the school year. This results in a yearly expense of \$1,600.00. The parties will need to notify Domestic Relations upon the determination of the cost for the summer of 2010 so that the Order can be modified to reflect this amount. Divided by 12 months, child care costs are \$133.33 per month. As the Court has included Mother's federal income tax refund into her monthly net income, the Court will not reduce her annual expenditure on child care by the dependent care credit that she may receive. This amount is ultimately reflected in her income tax refund which is included in her monthly net income. The parties shall proportionately share the child care expense of \$133.33 per month.

Father is employed by Apria Healthcare and has been employed there for approximately 13 years. Father was previously a multiple state manager and was located in the Danville location for Apria Healthcare. Father's location was closed by the employer and Father was offered a position closer to his home. Father has accepted this position despite the fact that it caused a reduction in Father's pay. The Court does not believe that Father's reduction in pay was as any fault of his own or as a result of any attempt to avoid payment of child support.

Father presented his February 26, 2010, paystub which shows year-to-date earnings of \$5,835.05. Father requested the Court to reduce the T&E pay and the overtime pay from his year-to-date earnings as he indicated that these are non-reoccurring income sources associated with Father's change in position. The Court will deduct from Father's total year-to-date gross earnings the T&E pay totaling \$156.89 and the overtime of \$17.57 as these are non-occurring income expenses. After reduction of the T&E pay and the overtime, the year-to-date gross earnings are \$5,660.59. After reduction of taxes

totaling \$1,206.47, Father's year-to-date net income is \$4,454.12. Dividing this amount by 4 pays received so far in 2010, Father is found to have bi-weekly income of \$1,113.53. Multiplying this amount by 26 pay periods per year and dividing it by 12 months, Father is found to have net monthly income in the amount of \$2,412.64.

Father's 2009 federal income tax return, claiming one of the minor children as a dependent will be \$3,152.00. Dividing this by 12 months, an additional \$262.66 per month shall be added to Father's net monthly income for a total net monthly income in the amount of \$2,675.30.

At the time of the hearing, Father was requested to provide further documentation showing what the cost of medical insurance for himself, individually, would be so that the premium amount for the children could be determined for Mother's contribution. Father provided to the Court by fax an email from Jenny Blocks, Benefits Analyst at Apria Healthcare, which indicates that the cost per pay for medical insurance for an employee only is \$40.55. The cost for an employee and children is \$113.47. This document has been marked as Defendant's 3. Father's additional cost for health insurance for the children per pay totals \$72.92, which is \$157.99 per month. The parties shall proportionately share the medical insurance premium of \$157.99 per month.

With Mother's net monthly income at \$2,754.69 and Father's monthly net income at \$2,675.30, the parties' combined incomes total \$5,429.99 per month. At this income, the child support obligation for two children is \$1,265.00 per month. Mother's share of the total income is 51.73% and Father's share is 49.27%. Father's share of the child support obligation is \$623.26. Father's share of the vision expense of \$3.12 per month is \$1.54 per month. His share of the child care expense of \$133.33 per month is \$65.69 per

month. Mother's share of the health insurance premium of \$157.99 per month is \$81.72 per month. Thus, Father's overall obligation to Mother for child support after offsetting the payments for insurance premiums and child care totals \$608.77. As the obligation prior to the request for review was \$609.49 per month, the Court finds that there is not a significant change such as would justify entry of a new order.

On May 12, 2010, however, the new Pennsylvania Child Support Guidelines will come into effect and the total basic child support at the parties' income level for two children will increase to \$1,399.00. Beginning May 12, 2010, Father's 49.27% share results in an increased child support obligation of \$689.14. Father's share of the vision expense of \$3.12 per month is \$1.54 per month. His share of the child care expense of \$133.33 per month is \$65.69 per month. Mother's share of the health insurance premium of \$157.99 per month is \$81.72 per month. Therefore, Father's overall child support obligation after offset of the insurance premiums and child care cost is \$674.65.

Accordingly, it is here by ORDERED and DIRECTED as follows:

1. Child Support

Based upon Mother's net monthly income of \$2,754.69 and Father's net monthly income of \$2,675.30, Father shall pay by check or money order to PA SCDU, P.O. Box 69110, Harrisburg, PA 17106-9100, for the support of KB, born May 13, 2000, and CB, born August 29, 2001, the sum of \$609.49 per month pursuant to the current Order of support. Effective May 12, 2010 and continuing until further order of court, Father shall pay child support in the amount of \$674.65 per month. This shall be wage attached.

Any advance or additional payments may be made directly by issuing a check or money order to PA SCDU, P.O. Box 69110, Harrisburg, PA 17106-9110. The check or money order shall contain Defendant's social security number.

2. Arrearages

Father shall pay \$25.00 monthly on this order for any past due support because of the retroactive effect of this order and for any overdue support which has accrued prior to the entry of this order.

3. Balance to be paid by defendant

Father shall be responsible for the payment of any balance remaining if his employer is unable to deduct the total amount of child support, health insurance, child care costs, and arrearages pursuant to this order within fourteen days of the reduced payment to PA SCDU.

4. Unreimbursed Medical

Mother shall be responsible for the first \$250 of unreimbursed medical expenses incurred for each child during the calendar year. Medical expenses do not include over-the-counter medications.

Once this \$250 threshold has been met, Mother shall be responsible for 49.27% and Father shall be responsible for 50.73% of all reasonably necessary medical services and supplies including, but not limited to, surgical, dental, optic, and orthodontic services incurred on behalf of each child, which are unreimbursed by insurance or Medicaid within thirty days of proof of such paid expenses presented by Mother to Father.

Unreimbursed medical, dental, optic, and orthodontic expenses shall be determined after submission to both parties' insurance companies, if any, with

documentation of payments or denial of payment to be presented to the Domestic Relations Office.

5. Continue to Obtain Medical Insurance

Father shall continue to obtain medical insurance coverage for the children covered under this order, so long as medical insurance can be obtained at a reasonable cost. Reasonable cost is defined as a monthly medical insurance premium of 5% or less of Father's net monthly income as found above. If the cost of medical insurance is or increases to an amount in excess of 5% of net monthly income, either party may provide documentation showing this to the Domestic Relations Office of Lycoming County and request an administrative adjustment eliminating the medical insurance coverage provisions in this order.

6. Continuing Obligation

As long as the Domestic Relations Office has administrative responsibility, all parties are under a continuing obligation to report any material change in circumstances relevant to the level of support or the administration of the support order as specified on the Addendum to this order, to both the Domestic Relations Office and all other parties in writing, within seven days of the change.

The provisions of the Addendum (form 3795), which is attached hereto, is made a part hereof and incorporated by reference as though set forth herein.

7. Dependency Exemption

Based upon the findings set forth above, Mother is awarded the 2009 federal income tax dependency exemption for KB, born May 13, 2000, and Father is awarded the



2009 federal income tax dependency exemption for CB, born August 29, 2001. Mother shall sign the necessary form for Father to claim the exemption.

By the Court,

Joy Reynolds McCoy, Judge

JRM/jrr

cc. KW  
DB  
Domestic Relations  
Family Court  
Gary Weber, Esquire  
Terra Koernig, Esquire  
Jerri Rook, Executive Secretary to The Honorable Joy Reynolds McCoy  
Dana Jacques, Family Court Hearing Officer  
Diane Turner, Family Court Hearing Officer