

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

KC,		: NO. 08 – 21,527
	Petitioner	: PACSES NO. 153111005
		:
	vs.	:
		: DOMESTIC RELATIONS SECTION
AS,		:
	Respondent	: Exceptions

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order of June 20, 2012, in which Respondent was directed to pay child support for the parties' one minor child, FS. Argument on the exceptions was heard August 14, 2012. As Respondent raises several issues, each will be addressed in turn.

First, Respondent contends the hearing officer erred in failing to recognize that Respondent pays for dental and vision insurance for the child. The court agrees that such was overlooked, and considering the bi-weekly premium of \$24.70 and the fact that such insurance covers four people, the child's expense is \$13.38 per month. Rather than have Petitioner contribute to this cost, however, the court will consider that this cost is offset by the cost for dental and vision insurance incurred by Petitioner for the child, as noted hereinafter.

Second, Respondent contends the hearing officer erred in calculating the cost of the dental and vision insurance provided by Petitioner as the premium covers four people rather than three. Again the court agrees. The premium of \$24.19 bi-weekly divided by four results in a cost for the child of \$13.10 per month. As noted above, as this cost is substantially equal to the \$13.38 per month paid by Respondent, no contribution will be required by either party.

Next, Respondent contends the hearing officer erred in requiring a contribution to the childcare cost without requiring proper verification. As verification *was* provided, however, and as the calculations based on that document appear to be correct, this exception will be overruled.

Next, Respondent alleges error in the hearing officer's inclusion in his income of reimbursed business expenses. As the hearing officer did not deduct business expenses, the court agrees that to include the reimbursement was error. After deducting the mileage and per diem shown on the paystub used by the hearing officer, a total of \$1521.60, Respondent is found to have a monthly net income from employment of \$3419.16. After adding his tax refund of \$252.67 per month, Respondent's total monthly income is found to be \$3671.83.

Next, Respondent contends the hearing officer erred in failing to include Petitioner's income tax refund in the calculation of her income. Again, the court agrees. Because Petitioner was off work for a period in 2012, the hearing officer did not use Petitioner's pay stub but, rather, calculated an earning capacity based on her current hourly rate and noted that she was not adding Petitioner's refund as an earning capacity was assessed. While this procedure was correct to the extent that the withholding portion of the refund should not have been added back in, it did not consider the childcare credit, child tax credit or earned income credit received by Petitioner, and to that extent was in error. Since Petitioner was employed in the same capacity in 2011, the court will simply use her tax return to calculate her income. From Petitioner's gross income of \$31,259 the court will deduct federal tax of \$507, state tax estimated at \$959, FICA and medicare tax estimated at \$1718, and local tax estimated at \$515, plus add in an earned income credit of \$763, for a net income of \$28,323, or \$2360 per month.

Finally,¹ Respondent contends the hearing officer erred in considering the child's health insurance premiums paid by Petitioner's husband to offset those paid by Respondent, arguing that only those premiums actually paid by a party and not a party's spouse should be considered. The court does not agree. Pa.R.C.P. 1910.16-6(b)(1) specifically provides that "[i]f health insurance coverage for a child who is the subject of the support proceeding is being provided and paid for by a third party resident of either party's household, the cost shall be allocated between the parties in proportion to their net incomes." This exception will, therefore, be overruled.

Accordingly, considering Petitioner's income of \$2360 per month and Respondent's income of \$3672 per month, the guidelines suggest a support obligation for one minor child of \$1043 per month. Respondent's share (60.88%) is \$634.98 per month, plus his share of the child care expense (\$171.48 per month) results in a total payment of \$806.46 per month.

ORDER

AND NOW, this 15th day of August 2012, for the foregoing reasons, Respondent's exceptions are hereby sustained in part and overruled in part. The Order of June 20, 2012, shall be modified to provide for a payment for the support of one minor child, effective April 20, 2012, of \$634.98 per month plus \$171.48 per month toward the child care expense. The percentage responsibility for unreimbursed medical expenses shall also be modified such that Petitioner

¹ Respondent also raised an issue regarding the deadline for submitting a release, but such issue was withdrawn from consideration at argument.

shall be responsible for 39.12% of such and Respondent shall be responsible for 60.88% of such.

As modified herein, the Order of June 20, 2012, is hereby affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Section
KC
Andrew Lyons, Esq., 51 N. Third Street, Lewisburg, PA 17837
Gary Weber, Esq.

Hon. Dudley Anderson