

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

|     |            |                              |
|-----|------------|------------------------------|
| ML, |            | : NO.11 – 20,365             |
|     | Petitioner | : PACSES NO. 091100876       |
| vs. |            | :                            |
|     |            | : DOMESTIC RELATIONS SECTION |
| TA, |            | :                            |
|     | Respondent | : Exceptions                 |

**OPINION AND ORDER**

Before the Court are cross-exceptions to the Family Court Order of November 14, 2011. Argument on the exceptions was heard January 10, 2012.

The parties are the parents of one minor child who is in the primary physical custody of Petitioner. The Order of November 14, 2011, provides for a payment of \$579.68 per month from Respondent to Petitioner, after consideration of a contribution from Petitioner toward the cost of health insurance, and a deviation based on the health insurance expense. In her exceptions, Petitioner contends the hearing officer erred in allowing the deviation for health insurance expense. In his exceptions, Respondent contends the hearing officer should have provided for retroactive correction of a mistake in the calculation of the health insurance contribution from Petitioner, should have required proof that the HIPP checks received by Petitioner and her spouse are in the spouse's name only, and should have required more documentation to show that Petitioner's husband's income was really his income and not the income of both Petitioner and her husband. These exceptions will be addressed seriatim.

With respect to the health insurance issue, it appears both parties have the child on their respective health insurance policies, that both parties have new families which include other children and that the child in question is added to those policies at no expense to either party as the cost for a family policy is the same regardless of the number of children. Therefore, the Court believes the hearing officer should not have required Petitioner to contribute to the cost of Respondent's health insurance policy. Inasmuch as the evidence indicates that Respondent does have an unusually large health insurance premium, however, the deviation provided for him by the hearing officer was appropriate, just as it would be were Respondent to have an

unusually large medical bill toward which he had to make payments. The court will therefore remove the contribution but continue the deviation.

With respect to the retroactivity of the health insurance contribution error, the court agrees with Respondent that the error, once discovered by the hearing officer, should have been corrected back to its inception. Therefore, the court will provide for an increased contribution from March 28, 2011, through September 29, 2011, when the contribution will be discontinued, as noted above.

With respect to the issues of documentation and proof, the court notes the HIPP checks are issued to subsidize Petitioner's family's health insurance expense. As such, they are not income and the name on the check is of no moment. As far as the farm income, the tax return shows farm income for 2010 of \$19,855. Even were the Court to assess Petitioner with half this income, such would be less than the minimum wage earning capacity she has been assessed. The request for further documentation is, therefore, without practical effect and the court will not pursue it.

**ORDER**

AND NOW, this 10th day of January 2012, for the foregoing reasons, the exceptions are hereby granted in part and denied in part. Respondent shall receive a credit for \$15.63 per month (the difference between the \$31.25 Petitioner should have been contributing and the \$15.62 she actually contributed) from March 28, 2011, through September 29, 2011. Effective September 29, 2011, the health insurance contribution is eliminated.

As modified herein, the Order of November 14, 2011, is hereby affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court  
Domestic Relations Section  
Janice Yaw, Esq.  
TA  
Gary Weber, Esq.  
Hon. Dudley Anderson