

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

<b>LF</b>	:	
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	:	<b>No: 11-20,575</b>
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<b>DF</b>	:	
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**ORDER**

**AND NOW**, this 20<sup>th</sup> day of **March, 2013**, this order is entered after a hearing held on January 29, 2013, regarding Husband’s Exceptions to Master’s Order filed May 24, 2012 regarding support. Present at the hearing held on January 29, 2013, was Wife with her counsel, Steven Hurvitz, Esquire and Husband with his counsel, Janice Yaw, Esquire.

Husband alleges that the Master committed the following errors:

1. The Master erred in not doing the equalization of income as the Order puts more income in Mother’s house than in Father’s house.
2. The Master erred in not splitting unreimbursed medical expenses and other expenses on a 50/50 basis.
3. The Master erred in determining the income of Father and Mother. The Master should have utilized Father’s tax return.
4. The Master erred in not deviating as Mother has additional income in her home.

The Court will address each exception separately.

**Exception Number One: The Master erred in not doing the equalization of income as the Order puts more income in Mother’s house than in Father’s house.**

Husband argues that the Master erred by not equalizing the incomes in both parent's homes. Pa.R.C.P. 1910.16-4(c)(2) provides in part, "[i]f the application of the formula in part II results in the obligee receiving a larger share of the parties' combined income in cases in which the parties share custody equally, then the Court shall adjust the support obligation so that the combined income is allocated equally between the households. In those cases, no spousal support or alimony pendente lite shall be ordered." Father's monthly net income is \$5,385.81. Mother's monthly net income is \$1,779.65. Father's child support obligation is \$906.28. Father's payment of the ordered child support to Mother of \$906.28 per month does not result in Mother receiving a larger share of the parties' combined income. Therefore, the equalization of incomes is not applicable.

Father argues that all of his support obligation should be considered to determine if there is more income in Mother's household. Specifically, Father argues that his child support (\$906.25), APL (\$711.38), percentage of health insurance premium (\$176.59), and contribution to dance (\$213.14) should be considered. This amount totals \$2,007.39. When the total amount that is paid by Father to Mother is reduced from Father's income and added to Mother's income, Father's income is reduced to \$3,378.42 and Mother's income is increased to \$3,787.04. This does put approximately \$408.62 more income in Mother's household. Father argues that it is inequitable that Mother has more income in her household and that as the parents have shared custody, the incomes should be equalized after the total Father pays to Mother is

calculated. Father argues that to do otherwise is contrary to the intent of the rule which provides that an obligee should not receive a larger share of the parties' income when custody is shared 50/50. Father's argument is flawed. Though Father pays to Mother a portion of the health insurance costs and dance expense, Mother is responsible for her proportionate share of these expenses as well. While Father pays his portion of the expenses directly to Mother, Mother incurs the bill for the full expense which she pays directly. If the total cost of the health insurance and the total cost of the dance is reduced from Mother's total income, Mother's income is reduced to \$3,268.51, which is less than Father's income of \$3,378.42.

The Master did not abuse her discretion by failing to equalize the parties' incomes. Exception Number 1 is, therefore, DISMISSED.

**Exception Number Two: The Master erred in not splitting unreimbursed medical expenses and other expenses on a 50/50 basis.**

Husband argues that the Master erred by failing to allocate unreimbursed medical and other expenses on a 50/50 basis.

The allocation of unreimbursed medical expenses is governed by *Pennsylvania Rules of Civil Procedure* Rule 1910.16-6 (c) which states: "[u]nreimbursed medical expenses of the obligee or the children shall be allocated between the parties in proportion to their respective net incomes. The Master did not err by proportioning the unreimbursed medical expenses of the parties consistent with their proportionate incomes. The exception filed by Husband references unreimbursed medical expenses

and other expenses however during the hearing only unreimbursed medical expenses were referenced and argued by Husband. Pennsylvania Rule of Civil Procedure 1910.16-6 addresses child care expenses and health insurance premiums in addition to the unreimbursed medical expenses and similarly allocates expenses in proportion to respective net incomes. The Master did not abuse her discretion by allocating unreimbursed medical and other expenses proportionate to the parties' incomes. Exception Number 2 is, therefore, DISMISSED.

**Exception Number Three: The master erred in determining the income of Father and Mother. The Master should have utilized Father's tax return.**

The Court finds that there was no abuse of discretion on the part of the Master in determining the parties' incomes. The May 1, 2012 Order thoroughly addresses the lack of credibility of Husband in both the prior hearing of December 7, 2011 and the hearing of March 26, 2012. What the Master did find credible was Husband's December 7, 2011 testimony ". . .that in the past he has intentionally decreased his actual W-2 earnings and increased the loan repayments made by the business to him personally so that he would suffer no change in his standard of living but still have a much small income on paper." May 1, 2012, Domestic Relations Order, pg. 2. Additionally, the Master highlighted the fact that at the time of the March hearing Husband did not present any testimony or evidence that was significantly different than what he presented in December. The Master did not abuse her discretion in determining the parties' incomes. Exception Number 3 is, therefore, DISMISSED.

**Exception Number Four: The Master erred in not deviating as Mother has additional income in her home.**

Husband argues that there should be a deviation from the support guidelines due to the fact that Wife lives with her parents. Wife argues that other than lack of rent she is receiving no financial assistance from her parents. Wife further argued that Husband is not put at a disadvantage because he is not paying rent or mortgage either as he stopped paying the mortgage in 2011, but continues to reside in the marital residence.

Deviation from the support guidelines is not something that is done cavalierly, it involves the analysis of the nine factors outlined in *Pennsylvania Rules of Civil Procedure* Rule 1910.16-5. Based upon the factors, the fact that neither party has an expense for where he or she is living, justifies a deviation from the support guidelines. The Master did not abuse her discretion in failing to deviate from the support guidelines. Exception Number 4 is, therefore, DISMISSED.

BY THE COURT,

Joy Reynolds McCoy, Judge