

DONALD L. HUDSON,	:	IN THE COURT OF COMMON PLEAS OF
	:	LYCOMING COUNTY, PENNSYLVANIA
Plaintiff	:	
	:	
vs.	:	NO. 98-20,338
	:	
PENNY L. CARICHNER,	:	CIVIL ACTION – LAW - SUPPORT
	:	
Defendant	:	EXCEPTIONS

OPINION AND ORDER

The initial Order and Supporting Opinion determining the Exceptions and Cross-Exceptions was filed November 30, 1999, where this Court determined the Exceptions of Defendant, filed June 2, 1999, and Cross-Exceptions of Plaintiff, filed June 14, 1999, to a Support Order entered by Hearing Officer Gerald W. Seevers and approved by Judge Dudley N. Anderson May 29, 1999. In her Motion for Reconsideration, argued December 23rd, Plaintiff claimed this Court had failed to address Plaintiff’s Cross-Exception 3, regarding whether Defendant had a duty to contribute to the health insurance payments made by Plaintiff for the health insurance of the parties’ minor child. However, our Order expressly denied all three of Plaintiff’s Cross-Exceptions. Further, in our supporting Opinion, we noted: “With respect to health insurance for Tierney [the minor child], the Master did not assess a contribution for Defendant, given the requirement under the new guidelines that she be left with \$550.00...” Opinion and Order filed November 30, 1999, p. 3. Later in the Opinion, we adhered to the \$550.00 minimum requirement to which Defendant was entitled in calculating and applying a proportional deviation to determine Defendant’s child support obligation. *Id.* at 7-9. We did not order Defendant to pay anything towards the health insurance premiums. Granted, we did not explicitly state we affirmed the Master’s determination concerning whether

Defendant should be ordered to contribute to the health insurance payments. However, it was evident from our findings in the Opinion and our Order that Cross-Exception 3 was denied.

At oral argument, Plaintiff's counsel indicated Plaintiff was asking that Defendant be ordered to contribute to the health insurance payments once Defendant had paid in full her assigned portion of Tierney's orthodontic bill, as set forth in our Order. We had affirmed the Master's determination that Defendant must pay her share of this bill, notwithstanding the fact that this would temporarily reduce her monthly income below the \$550.00 minimum, because (1) the Master was following a prior Order of Court, and (2) we could not overlook the fact that Defendant was not actually living on her assessed earning capacity of \$750.00 monthly, but rather on the household income earned by her current husband, which was substantially higher than \$750.00 a month. *Id.* at p.6. Thus, we felt the *temporary* reduction below the \$550.00 minimum was justified.

It was never the intention of the Court to order that the reduction should be permanent, which would be the result if we were to order Defendant to start contributing to the health insurance payments once her obligation concerning the orthodontic bill had been satisfied. Moreover, were we to entertain Plaintiff's request at this point, we would be speculating as to the financial circumstances of the parties some ten months hence, when Defendant's orthodontic bill payments cease. This we will not do. Accordingly, Plaintiff's Motion must be denied.

ORDER

AND NOW, this 16th day of February 2000, for the reasons set forth *infra*,
Plaintiff's Motion for Reconsideration, filed December 2, 1999, is **HEREBY DENIED**.

BY THE COURT:

William S. Kieser, Judge

cc: Court Administrator
Randi W. Dincher, Esquire
Elizabeth A. Sutliff, Esquire