

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

AMY M. KAUFFMAN, : NO. 88-21,544
Petitioner :
 :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
MICHAEL R. BOCK, :
Respondent :

OPINION AND ORDER

Before the Court are Petitioner's exceptions to the Family Court Order of October 7, 1999, in which the Respondent was directed to pay to Petitioner support for the parties' one (1) minor child. Argument on the exceptions was heard January 19, 2000.

In her written exceptions Petitioner objects to certain factual findings, contends the hearing officer erred in the assessment of Respondent's income/earning capacity, erred in failing to require Respondent to contribute to the cost of the child's health insurance, and erred in determining Petitioner's earning capacity. At argument, Petitioner focused on the earning capacity issue and the health insurance cost.

With respect to the earning capacities of both parties, Petitioner contends the hearing officer erred in assessing her with a higher earning capacity than was assessed against Respondent. She argues that if anything, the earning capacities should be equal. Respondent did agree with this contention and a review of the transcript indicates that equal earning capacities should be assessed. Therefore, Petitioner's earning capacity will be lowered from \$1,562.00 per month to \$1,250.00 per month, the same as the earning capacity assessed to Respondent.

In addition, Petitioner contends with respect to Respondent's income/earning capacity that he should have been assessed a monthly amount attributable to capital gains. Both parties agree that in 1998 Respondent received \$2,008.00 in capital gains. In 1997 he received \$24,065.00 and in 1996 he received \$11,305.00. Due to the vast

difference from year to year, rather than averaging the capital gains, the Court will add to Respondent's income/earning capacity an average monthly figure based upon his 1998 gains, which figure may be modifiable from year to year. Subtracting 15% for federal income tax, Respondent has an additional \$142.00 per month net income from capital gains.

Considering Petitioner's earning capacity of \$1,250.00 per month and Respondent's income/earning capacity of \$1,392.00 per month, the guidelines require a child support payment of \$322.44 per month.

With respect to the health insurance issue, it appears that Petitioner's husband carries both Petitioner and the minor child on his health insurance maintained through his employment under COBRA. Documentation indicates that should Petitioner's husband cover only himself, the cost would be \$166.71 per month but since he covers himself and Petitioner and the child, the cost is \$460.07, or \$293.36 more per month. It is determined appropriate that Respondent should contribute to the child's portion, determined to be one-half of the extra cost, or \$146.68, and as his income is 52.69% of the total incomes of the parties, his share of the health insurance is determined to be \$77.29 per month.

ORDER

AND NOW, this day of September, 2000, for the foregoing reasons, the Family Court Order of September 16, 1999 is hereby modified to provide for a payment for the support of the parties' one (1) minor child in the amount of \$322.44 per month plus an additional \$77.29 per month contribution toward the cost of health insurance, for a total monthly payment of \$399.73.

As modified herein, the Order of September 16, 1999 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge