

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

WILLIAM BOYLES, Petitioner	:	NO. 97-20,442
	:	
VS	:	
	:	
DEANNA BOYLES, Respondent	:	

OPINION AND ORDER

Before the Court are Petitioner's Exceptions to the Family Court Hearing Officer's Order dated October 3, 2000. A hearing on the Exceptions was held December 4, 2000. Petitioner provided a transcript of the proceedings before the Family Court Hearing Officer, and presented argument on the exceptions. After reviewing the transcript and the arguments of the parties, the Court denies Petitioner's Exceptions.

Petitioner first alleges that the Master erred in determining his net monthly income. Petitioner argues that his income should have been based on the net monthly earnings from his business, rather than the amount of his monthly expenditures. A review of the Master's Order and the transcript indicates that Petitioner owns the master distributorship of Wise Potato Chips for this area. (N.T. 9/29/00, p. 3) Petitioner submitted his 1999 federal income tax return, which showed Petitioner's business suffered a loss for the year totaling \$2716.00. Petitioner testified that he also has a rental property in Montoursville that rents for \$500.00 per month, but has a mortgage of \$600.00 per month. Petitioner therefore has no net income from the property. (Id., p. 4)

Although Petitioner claimed he had no income, he did admit that he pays, and is current on all of his expenses detailed on the expense statement prepared for the purpose of the equitable distribution hearing. On the statement, Petitioner claimed

monthly expenses in the amount of \$5,587.00. Upon further questioning, Petitioner recanted some of the expenses claimed on the statement. The Hearing Officer gave him the benefit of the doubt with regard to the expenses, and only attributed to Petitioner those expenses he claimed he actually pays. The Hearing Officer found this amount to be \$3,757.00.

Petitioner now argues that the hearing officer erred by determining his net monthly income from the amount of his expenses. The Court disagrees. The Superior Court has held that “in computing income available for support when the payor owns his own business, income must reflect actual available financial resources and not the often times fictional financial picture which develops as the result of depreciation deductions taken against ... income as permitted by the federal income tax laws. Otherwise put, ‘cash flow’ ought to be considered and not federally taxed income.” [Heisey v. Heisey](#), 430 Pa.Super. 16, 633 A.2d 211 (1993) *citing* [McAuliffe v. McAuliffe](#), 418 Pa.Super. 39, 43, 613 A.2d 20, 22 (1992), (emphasis added).

In the instant case, the Petitioner testified that he is able to personally pay his monthly expenses. He further testified that the funds used to pay for the expenses come solely from the business. The Court would find that it was proper under these circumstances for the Hearing Officer to include the financial recourses available to Petitioner to pay for his expenses in his monthly income. The Court therefore denies Petitioner’s exception with regard to the calculation of his net monthly income.

Petitioner next alleges that the Master erred in determining his contribution to the health insurance premium paid by Defendant. Petitioner argues that instead of assessing him with one fourth of the premium, he should have been assessed in

proportion to his income. In the instant case, Petitioner's proportionate share of the health insurance premium would have been 141.37. (Petitioner makes 67% of the total income of the parties, which is \$5566.00. 67% of the health insurance premium of \$211.00 is \$141.00. The Master decided to give Petitioner a break since two additional adults are covered under the policy, and only assessed his with one fourth of the premium, or 52.83 per month. The Court finds the assessment of one fourth of the premium to be appropriate where additional adults are covered under the policy. The Court therefore denies this exception.

ORDER

AND NOW, this \_\_\_\_ day of January, 2001, based on the foregoing Opinion, Petitioner's Exceptions are DENIED. The Hearing Officer's Order dated October 3, 2000 is hereby affirmed.

By The Court,

Nancy L. Butts, Judge

cc: Christina Dinges, Esquire  
Janice Yaw, Esquire  
Family Court; Law Clerk; Judges  
Gary Weber, Esquire  
Honorable Nancy L. Butts