

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

JB, : NO. 00-20,656
Petitioner :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
LEK,II :
Respondent :

OPINION AND ORDER

Before the Court are Petitioner's exceptions to the Family Court Order of November 10, 2000 in which Respondent was directed to pay child support to Petitioner for the parties' one (1) minor child but Respondent was not required to contribute to the child's health insurance premium. Argument on the exceptions was heard February 21, 2001. In her exceptions, Petitioner contends the hearing officer should have assessed Respondent a higher than minimum wage earning capacity during the period of time prior to when he obtained full-time employment and that the hearing officer erred in failing to require Respondent to contribute to the child's health insurance costs.¹

With respect to Respondent's earning capacity, the hearing officer found that prior to obtaining his current full-time employment, Respondent was a full-time student working twenty (20) hours per week at \$7.00 per hour. The hearing officer assessed Respondent a full-time earning capacity, but based on minimum wage. The Court agrees with Petitioner that since Respondent was able to earn \$7.00 per hour, that full-time capacity should be based on his actual capability of \$7.00 per hour. The Court also believes that Petitioner should be assessed a full-time capacity as well, however. The hearing officer based Petitioner's income on her actual earnings for a 34.25 hour work

¹The remainder of Petitioner's exceptions were not pursued at argument.

week. The Court will therefore extrapolate those earnings and provide for an earning capacity based upon a forty (40) hour work week. Respondent's earning capacity is thus estimated at \$981.00 per month (\$280.00 per week gross but allowing for federal, state and local income taxes as well as social security and medicare tax). Petitioner's income/earning capacity is extrapolated from \$1,031.00 per month for a 34.25 hour work week to \$1,205.00 per month for a forty (40) hour work week.

With respect to the health insurance issue, the hearing officer found that the cost of the health insurance, \$355.00 per month, was an "unreasonable cost" "based upon Ms. B's income and Mr. K's income." The Court believes the hearing officer has misinterpreted the statute which provides that health insurance coverage shall be provided for a child if it is available at no cost or at a reasonable cost. The Court believes the term "reasonable" applies to the cost of the health insurance compared to what is being purchased, rather than compared to the incomes of the parties. \$355.00 per month for health insurance which covers both Petitioner and the child is not, in the Court's view, an unreasonable premium. Respondent will therefore be required to contribute to that premium in proportion to his net income.

Considering Petitioner's earning capacity of \$1,205.00 per month and Respondent's earning capacity of \$981.00 per month, for the time prior to August 21, 2000, when Respondent obtained his current full-time employment, the guidelines require a payment for the support of one (1) minor child of \$231.00 per month. A contribution of \$159.00 per month toward the health insurance premium is also required. Effective August 21, 2000, considering Petitioner's earning capacity of \$1,205.00 per month and Respondent's income of \$1,581.00 per month, the guidelines require a payment of child support of \$364.00 per month and a contribution toward health insurance of \$201.00 per month.

ORDER

AND NOW, this 27th day of February, 2001, for the foregoing reasons, the Family Court Order of November 10, 2000 is hereby modified to provide for a payment effective May 12, 2000 through August 20, 2000 of \$231.00 per month child support and \$159.00 per month health insurance contribution and, effective August 21, 2000, for a payment of \$364.00 per month child

support plus \$201.00 per month health insurance contribution. The percentage responsibility for excess unreimbursed medical expenses shall be modified in proportion to the parties' net incomes as found herein.

As modified herein, the Order of November 10, 2000 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

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