

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

LC : NO. 87-20,321  
JPO, :  
Petitioner :  
 :  
vs. : DOMESTIC RELATIONS SECTION  
 : Exceptions  
SEC, :  
Respondent :

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LC : NO. 95-20,393  
JPO, :  
Petitioner :  
 :  
vs. : DOMESTIC RELATIONS SECTION  
 : Exceptions  
EHC, :  
Respondent :

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CA, JR., : NO. 96-21,159  
Petitioner :  
 :  
vs. : DOMESTIC RELATIONS SECTION  
 : Exceptions  
EHC, :  
Respondent :

OPINION AND ORDER

Before the Court are SC's exceptions to the Family Court Order of February 27, 2001, in which Mr. C was directed to pay child support to the Juvenile Probation Office for the support of one (1) minor child in placement through that office. Argument on the exceptions was heard June 27, 2001. In his exceptions, Mr. C contends the hearing officer erred in calculating his income based upon an hourly rate of \$32.59 for the entire time period, in the assessment of taxes, in failing to

consider his work related expenses, and in making what was assumed to be a typographical error in paragraph 11 of the Order portion. These will be addressed seriatim.

With respect to Mr. C's income, although he did testify to earning \$32.59 per hour, he also indicated in his testimony that he began earning that wage on approximately February 6, 2001 and was previously earning \$27.66 per hour. He also testified to having been laid off from November 23, 2000 through January 3, 2001, but inasmuch as the period from December 15, 2000, the date of the Petition, through January 3, 2001, is not a substantial period of time, no adjustment for this time period will be made. Mr. C's obligation should be recalculated, however, for the period from December 15, 2000 through February 5, 2001, based upon his earnings of \$27.66 per hour.

With respect to the tax obligation calculated by the hearing officer, the Court agrees with Mr. C that his federal income tax has been under calculated. The hearing officer simply deducted 20% for all taxes but it appears that at his hourly rate, he will pay significantly more in taxes. At \$32.59 per hour, Mr. C is estimated to earn \$67,787.20 per year. Considering the standard deduction for a married tax payer, and one (1) exemption, and also deducting his hotel expense, discussed hereinafter, it is estimated that his federal taxes will be \$9,679.00. His social security/medicare tax is estimated at \$5,186.00 and his state and local taxes (after considering the hotel expense as well) are estimated at \$2,333.00. He will therefore have a net annual income of \$50,589.00 or \$4,216.00 per month. At \$27.66 per hour, his annual gross income is calculated at \$57,532.80. Applying the same deductions/exemptions and tax calculations, his net annual income is estimated at \$44,379.00 for a monthly net income of \$3,698.00.

With respect to the employment related expenses, Mr. C testified that he works in Washington, D.C., paying \$123.00 per week for hotel, \$30.00 per day for meals, \$70.00 per month for parking, and \$40.00 per week for gasoline, traveling 212 miles each way (he comes home on weekends) in a vehicle which gets 15 miles to the gallon of gasoline. The hearing officer failed to consider any of these expenses on the basis that Mr. C had no documentation to verify such. While the Court agrees that the hearing officer does have the discretion to disallow consideration of job related expenses for lack of proper documentation, it appears that since the notice of hearing did not specifically request Mr. C to bring such documentation, the hearing officer should have allowed a

certain period of time after the hearing in which Mr. C could have provided such. Based upon agreement of the Juvenile Probation Office, the Court will consider the job related expenses without documentation, based upon the understanding that anyone who works in Washington D.C. certainly has such job related expenses. The Court will allow reasonable deductions for such as follows: The hotel expense will be considered in its entirety, at \$533.00 per month. Of the \$30.00 per day Respondent claims to spend on meals, the Court will allow \$10.00 to consider the cost of eating out over and above the cost of eating at home, or \$216.00 per month. For parking, although Mr. C spends \$70.00 per month, \$20.00 per month is considered average for a parking expense in this area and therefore the Court will allow \$50.00 per month as an extra employment related expense. Finally, with respect to gasoline, the average commute in this area is considered to be 20 miles each way or 200 miles per week. As Mr. C travels 424 miles per week, he will be given consideration for 224 miles per week. He testified that his vehicle gets 15 miles to the gallon and at the cost of \$1.60 per gallon, he will be allowed consideration of \$104.00 per month for gasoline. His total job related expenses to be considered are, therefore, \$903.00 per month. His monthly net income of \$4,216.00 is thus reduced to \$3,313.00 and his monthly net income of \$3,698.00 is therefore reduced to \$2,795.00.

Finally, with respect to paragraph 11 of the Order, Mr. C was made responsible for the payment of any balance remaining "if her employer" is unable to deduct the total amount of child support. Obviously, the Order should have read "his employer" and that mistake will be rectified.

Considering Mr. C's monthly net income of \$2,795.00 and Ms. C's monthly net income of \$1,233.00, for the period from December 15, 2000 through February 5, 2001, Mr. C has an obligation for the support of one (1) minor child of \$548.18 per month and Ms. C has an obligation of \$241.82 per month. Also during this time period, Mr. C should be responsible for 69.39% of the child's excess unreimbursed medical expenses and Ms. C should be responsible for 30.61% of such. Effective February 6, 2001, considering Mr. C's income of \$3,313.00 per month and Ms. C's income of \$1,233.00 per month, Mr. C has an obligation for the support of one (1) minor child of \$629.68 and Ms. C's obligation is \$234.32 per month. Effective February 6, 2001, Mr. C's percentage responsibility for excess unreimbursed medical expenses for the child is 72.88% and Ms.

C's responsibility is 27.12%.

ORDER

AND NOW, this 6<sup>th</sup> day of July, 2001, for the foregoing reasons, the Order of February 27, 2001 is hereby modified such that effective December 15, 2000 through February 5, 2001 Mr. C shall pay for the support of one (1) minor child the sum of \$548.18 per month. Ms. C shall pay for that period of time the sum of \$241.82 per month. Effective February 6, 2001, Mr. C shall pay \$629.68 per month and Ms. C shall pay \$234.32 per month. Further, paragraph 5 of the Order of February 27, 2001 is hereby modified such that from December 15, 2000 through February 5, 2001, Mr. C shall be responsible for 69.39% of the child's excess unreimbursed medical expenses and Ms. C shall be responsible for 30.61% of such. Effective February 6, 2001, Mr. C shall be responsible for 72.88% of the child's excess unreimbursed medical expenses and Ms. C shall be responsible for 27.12% of such. Finally, paragraph 11 of the Order of February 27, 2001 is hereby amended to change the word "her" to the word "his".

As amended herein, the Order of February 27, 2001 is hereby affirmed.

By the Court,

Kenneth D. Brown, Judge

cc: Family Court  
Domestic Relations  
Juvenile Probation  
Janice Yaw, Esq.  
EC  
CA  
Stacy A. Griggs, Esq., Law Clerk