

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LRG,	:	NO. 95-20,113
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
GTF,	:	
Respondent	:	

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated January 17, 2002, in which Respondent was directed to pay child support to Petitioner for the parties’ two (2) minor children. Argument on the exceptions was heard June 5, 2002.

In his exceptions, Respondent contends the hearing officer erred in requiring him to contribute to a health insurance cost of \$189.00 per month, in basing Petitioner’s income on only her W-2’s, in requiring him to contribute to the cost of a YMCA day camp, and in adding a tax refund to his disability income in calculating his income for purposes of his child support obligation. These will be addressed seriatim.

With respect to the health insurance expense, the hearing officer found that Petitioner has the opportunity to add the two (2) children to her husband’s health insurance, carried through his business, at the cost of \$189.00 per month for the two (2) children. In his written exceptions, Respondent contends the cost of \$189.00 per month is not accurate, as the business is owned jointly by Petitioner and her husband. Respondent did not pursue this contention at argument, but indicated instead that the error was in the retroactive application of the contribution. The Court agrees that since Petitioner testified at the hearing that she had not yet obtained the coverage, Respondent’s contribution should not have been made retroactive to the date of his Petition in June 2001. At argument on exceptions, it

was further developed that Respondent has available to him through his wife's employment health insurance for the children at a much lower cost, and that he has in fact enrolled them on such insurance. Respondent will be therefore directed to provide Petitioner with information regarding the insurance and as long as it appears that such insurance adequately compares with the insurance carried by Petitioner's husband, Respondent will be responsible for carrying the insurance through his wife's employment, rather than Petitioner carrying such through her husband's business, effective July 1, 2002. Respondent will be directed to contribute to the cost of Petitioner's health insurance from February 1, 2002 through June 30, 2002 and Petitioner will be directed to contribute to the cost of Respondent's wife's coverage, effective July 1, 2002. It appears from information provided at argument that such insurance costs Respondent's wife \$44.42 bi-weekly, or \$96.24 per month. As such covers five (5) people, and Petitioner has an obligation in this instance to cover only the children, Petitioner's contribution is calculated at \$21.25 per month. Such will be deducted from Respondent's child support obligation, effective July 1, 2002, assuming Respondent provides the relevant information to Petitioner and Petitioner does not object to the coverage.

With respect to Petitioner's income, specifically Respondent contends that Petitioner and her husband are joint owners of the corporation through which Petitioner is employed. At argument Petitioner indicates that such is not the case. Petitioner's counsel has agreed to provide Respondent with the corporate book in order to document such. After receiving the book, should Respondent wish to pursue the matter, he may ask for further hearing.

With respect to the expense for the YMCA day camp, Respondent argues that such is not a necessary expense. As it appears that such is in lieu of child care, the Court finds it reasonable and necessary and therefore will deny the exception. It does appear, however, that the expenses may or may not be incurred and the time period for incurring such is at issue. Therefore, rather than simply add an annualized amount to Respondent's child support obligation, the Court will direct Petitioner to provide verification of the actual expense and Respondent shall be directed to contribute to that expense as verified.

Finally, with respect to Respondent's income tax refund, the Court agrees that the refund of

over paid federal income taxes should not be added to an income based upon disability income, from which no taxes are deducted. The Court notes that Petitioner's counsel agreed with the premise and therefore the Order will be adjusted accordingly.

Considering Petitioner's income of \$2,186.00 per month and for the period from June, 20, 2001 through September 30, 2001, Respondent's income of \$1,738.00 per month, Respondent has a child support obligation for the support of the parties' two (2) minor children of \$491.18 per month. Effective October 1, 2001, considering Respondent's income of \$1,774.00 per month, his obligation is \$502.21 per month.

With respect to the health insurance cost of \$189.00 per month incurred by Petitioner's husband from February 1, 2002 through June 20, 2002, Respondent's share is calculated at \$84.67 per month. He will therefore be directed to contribute a lump sum of \$423.36, to be added to the arrearage, in place of the monthly amount added to the support obligation in the Family Court Order.

ORDER

AND NOW, this 6th day of June, 2002, for the foregoing reasons, the Family Court Order dated January 17, 2002 is hereby modified to provide for a payment, effective June 20, 2001 through September 30, 2001, of \$491.18 per month, and effective October 1, 2001, in the amount of \$502.21 per month. The health insurance contribution provided for in the Order of January 17, 2002 is hereby vacated and instead Respondent's arrearage shall be increased by \$423.36 per month. Respondent shall provide to Petitioner by June 15, 2002 any pamphlets or booklets provided by the insurance company and the cards necessary to utilize the insurance. Should Petitioner believe the insurance is not comparable, such as justifies the savings in premiums, she may file a Petition with the Domestic Relations Office on or before June 30, 2002. Assuming that no Petition is filed, Respondent's coverage shall be recognized by the instant Order, effective July 1, 2002. Also effective that date, Petitioner shall contribute to the cost of that insurance the sum of \$21.25 per month, to be deducted from Respondent's child support obligation.

With respect to the cost of the YMCA camp, Petitioner shall provide to Respondent and to

the Domestic Relations Office verification of the cost and of the child/children's attendance at the camp. Upon receipt of such verification, Respondent shall contribute 44.8% of the cost, in the form of a lump sum payment made directly to the Domestic Relations Office, within 30 days of receipt of the verification.

Finally, the parties' percentage responsibility for excess unreimbursed medical expenses shall be modified in accordance with the income findings contained herein.

As modified herein, the Order of January 17, 2002 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Office
David Irwin, Esq.
Janice Yaw, Esq.
Dana Jacques, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson