

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

CH, : NO. 94-21,704  
Petitioner :  
:   
vs. : DOMESTIC RELATIONS SECTION  
: Exceptions  
CW, :  
Respondent :

OPINION AND ORDER

Before the Court are Petitioner’s exceptions to the Family Court Order dated January 24, 2002 in which her request for a modification of child support was denied. Argument on the exceptions was heard March 13, 2002.

Petitioner contends the hearing officer erred in finding no change in circumstances and in assessing her an earning capacity commensurate with her previous employment. It appears Petitioner was laid-off from Jessco Athletic through no fault of her own, where she had earned \$940.00 per month during the first four (4) months of 2001. Petitioner indicates that she has been looking for work since that time and is currently employed at Montgomery Sportswear earning \$5.15 per hour. Petitioner further indicates that she has not been able to find a job earning \$940.00 per month as assessed.

The Court believes Petitioner did show a substantial change of circumstances in the form of her involuntary layoff and further, that she has shown an inability to obtain a similar income. This is therefore not a case of Petitioner willfully failing to obtain appropriate employment. While she may have the capacity to earn that income, based upon her previously having done so, the Court must also consider the reality of whether such employment is available. Based on her search for such employment, and failure to find such, the Court believes Petitioner’s contention that it is not.

Considering an earning capacity of \$750.00 per month for Petitioner and Respondent's income of \$1,409.00 per month, the guidelines suggest a payment for the support of one (1) minor child of \$329.56 per month.

ORDER

AND NOW, this 19<sup>th</sup> day of March, 2002, for the foregoing reasons, the Order of January 24, 2002 is hereby vacated and effective November 9, 2001, the Order of June 26, 2001 is hereby modified to provide for a support payment of \$329.56 per month for the support of the parties' one (1) minor child. The percentage responsibility for excess unreimbursed medical expenses shall also be modified such that Petitioner shall be responsible for 34.74% of such and Respondent shall be respondent shall be responsible for 65.26% of such.

As modified herein, the Order of June 26, 2001 shall continue in effect.

Petitioner is ORDERED AND DIRECTED to provide to the Domestic Relations Office written verification of her earnings, in the form of a pay stub which shows year-to-date income or a printout from her employer, within ten (10) days after receiving the last pay check she receives in July 2002. Should that verification indicate income significantly higher than \$750.00 per month, the Domestic Relations Office is directed to schedule the matter for further review.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court  
Domestic Relations  
CH  
CW  
Gary Weber, Esq.  
Dana Jacques, Esq.  
Hon. Dudley N. Anderson