

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

IN RE: JAMES L. KUHN,

BK. NO. 92-23410

Debtor.

**COMMISSIONER OF SOCIAL SERVICES
OF THE COUNTY OF CHEMUNG OBO
PAMELA J. KUHN,**

Plaintiff,

AP NO. 93-2075

vs.

JAMES L. KUHN,

Defendant.

BACKGROUND

On December 30, 1992, the debtor, James L. Kuhn, (the "Debtor") filed a petition initiating a Chapter 7 case. On his schedules, the Debtor listed the Chemung County Support Collection Department as a creditor for \$6,998.29. This amount was described as being for Medicaid charges representing the hospital bill and other expenses incurred in 1991 in connection with the birth of the Debtor's child out of wedlock (the "Confinement Expenses") which had been paid by the Chemung County Department of Social Services. On March 2, 1993 the Debtor's trustee filed a no asset report, and on April 29, 1993 the Debtor received a discharge.

On April 16, 1993, prior to the entry of the Debtor's discharge, the Chemung County Commissioner of Social Services ("Chemung County") commenced an adversary proceeding to determine the dischargeability of the Debtor's obligation to pay the Confinement Expenses. Chemung County alleged that these Confinement Expenses were in the nature of support and were nondischargeable pursuant to Section 523(a)(5)(A).

Annexed as an exhibit to the Chemung County complaint was a copy of an April 6, 1992 order of the Chemung County Family Court modifying its December 5, 1991 order wherein the

Debtor was adjudged to be the father of Andrea L. Kuhn and chargeable with her support and was directed to pay Confinement Expenses and \$25.00 per month as ongoing additional child support. The April 6, 1992 order indicated that the Debtor and Pamela J. Kuhn, the child's mother, had married on February 28, 1992. This resulted in the forgiveness of support arrearages except for the Confinement Expenses then established by the Court to be in the amount of \$6879.54, which the Debtor was ordered to pay at the rate of \$25.00 per month.

Although Chemung County and the Debtor entered into a stipulated settlement of this adversary proceeding, Chemung County requested that the Court issue a written decision on the question of whether such Confinement Expenses payable to a County Commissioner of Social Services and required to be paid by Court order are nondischargeable pursuant to Section 523(a)(5)(A).

DISCUSSION

Since the 1986 amendment of Section 523(a)(5), courts have routinely found expenses incurred in connection with the birth of a debtor's child born out of wedlock when a court of competent jurisdiction has ordered them to be paid, whether assigned or not assigned to a governmental agency, to be nondischargeable support obligations. *Matter of Seibert*, 914 F.2d 102, 107 (7th Cir. 1990); *In re Oberley*, 153 B.R. 179, 183 (Bankr. N.D. Ohio 1993); *In re McCord*, 151 B.R. 915, 918 (Bankr. E.D. Mo. 1993). This Court agrees that such Confinement Expenses, when reasonable and required to be paid by a court order on a reasonable repayment basis to a governmental authority which paid such expenses or was otherwise assigned such obligation pursuant to state or federal law, are nondischargeable support obligations under Section 523(a)(5)(A).

