

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D24779
C/kmg

_____AD3d_____

Submitted - October 2, 2009

REINALDO E. RIVERA, J.P.
RANDALL T. ENG
CHERYL E. CHAMBERS
L. PRISCILLA HALL, JJ.

2008-02682

DECISION & ORDER

In the Matter of Andrew D. Jones, respondent,
v Beatrice Espinoza, appellant.

(Docket No. F-04020-03)

Beatrice Espinoza, Medford, N.Y., appellant pro se.

Dawn M. Shammas, Jamaica, N.Y., for respondent.

In a child support proceeding pursuant to Family Court Act article 4, the mother appeals, as limited by her brief, from so much of an order of the Family Court, Suffolk County (Budd, J.), dated March 5, 2008, as denied her objections to so much of an order of the same court (Rodriguez, S.M.), dated October 2, 2007, as, after a hearing, denied her petition for reimbursement of medical expenses.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

The mother had the initial burden of presenting prima facie evidence to show that the father had failed to reimburse her for their daughter's necessary medical expenses for which she had given the father 48 hours advance notice (*see Matter of Paccione v Paccione*, 57 AD3d 900, 902; *Matter of Biancanello v Russano*, 54 AD3d 853, 854; *Miller v Miller*, 18 AD3d 629, 630). However, the mother failed to meet her burden of demonstrating that the expenses were a medical necessity which fell within the purview of the parties' stipulation of settlement. Moreover, the

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evidence established that the mother did not provide the father with the required notice before incurring the expenses. Accordingly, the Family Court properly denied the mother's objections.

RIVERA, J.P., ENG, CHAMBERS and HALL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court