FOURTH DIVISION
December 29, 2016

No. 1-15-2956

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

MARTHA ZURITA, on behalf of MARINA ALICIA ZURITA-SPILLER, a Minor, Petitioner-Appellee, v. MARWIN JEROME SPILLER, Respondent-Appellant.	)))))))))	Appeal from the Circuit Court of Cook County. No. 10 D 80242 Honorable Daniel R. Miranda, Judge Presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice Ellis and Justice Howse concurred in the judgment.

O R D E R

Held: We affirm the trial court's judgment in part, reverse in part, and remand with directions. The court did not abuse its discretion by denying respondent's motion to modify child support and respondent forfeited his claim that the court erred by ordering him to pay for half of the minor's medical bills; however, the court erred by failing to take certain deductions into account when computing respondent's income. We also deny petitioner's motion to reinstate attorney's fees, pursuant to our authority under Illinois Supreme Court Rule 366(a)(5) (eff. Feb. 1, 1994).

¶ 1 Respondent, Marwin Jerome Spiller, *pro se* appeals from the trial court's order denying his motion to modify child support and ordering him to pay petitioner, Martha Zurita, $11,753.47 in child-support arrearage and outstanding medical bills for Zurita and Spiller's minor child. On appeal, Spiller argues the trial court (1) abused its discretion by denying his motion to modify

child support, (2) erroneously failed to take certain deductions into account when calculating the amount of his arrearage, and (3) erred by requiring him to pay the minor's medical bills.

¶ 2 For the reasons that follow, we affirm in part, reverse in part and remand with directions.

¶ 3 I. BACKGROUND

¶ 4 This is the third time this case has been before our court. We resolved Spiller's first appeal in *Zurita ex rel. Zurita-Spiller v. Spiller*, 2014 IL App (1st) 133873-U. We then dismissed Spiller's second appeal, pursuant to his motion. Our order in Spiller's first appeal contains a detailed discussion of the procedural history leading up to that appeal; accordingly, we set forth only the facts relevant to the issues presently before us.

¶ 5 Spiller and Zurita were never married. In August 2011, Zurita filed a complaint to determine the existence of a parent-child relationship pursuant to the Illinois Parentage Act of 1984 (Parentage Act) (750 ILCS 45/1 *et seq*. (West 2010)).[1] The following month, Zurita filed a petition for temporary custody and child support. In December 2011, the court ordered Spiller to pay $761.43 per month in child support and respond to Zurita's discovery requests. The court also ordered Spiller to enroll the minor in his health insurance plan and to pay 50% of all medical expenses that were not covered by insurance.

¶ 6 In March 2012, Zurita filed a petition for rule to show cause, asserting, *inter alia*, that Spiller failed to comply with Zurita's discovery requests and the court's child support order. Zurita requested that the court issue a rule to show cause as to why Spiller should not be held in indirect civil contempt of court. Zurita also requested that the court order Spiller to pay the attorney's fees and costs Zurita incurred preparing and presenting the rule to show cause.

[1] The legislature recently repealed the Illinois Parentage Act of 1984 and enacted the Illinois Parentage Act of 2015, located at 750 ILCS 26/101 *et seq.* See Pub. Act 99-85 (eff. Jan. 1, 2016).

¶ 7 In July 2012, the trial court ordered that Spiller be liable for all medical insurance premiums for the minor retroactive to December 6, 2011, until the minor was covered by Spiller's medical insurance.

¶ 8 In August 2012, the trial court entered an order finding Spiller in civil contempt. The court granted Zurita leave to file a petition for the attorney's fees she incurred due to Spiller's failure to comply with the court's orders and Zurita's discovery requests. The court also ordered Spiller to pay Zurita $7,442.36 by September 2012. This amount consisted of $322.86 for child support arrearage, $3,660.40 for insurance premiums, $512.25 for one-half of "swimming" costs, and $3,027.16 for miscellaneous bills.

¶ 9 In October 2012, Spiller filed a petition for modification of temporary child support. He asserted that he enrolled the minor in his health insurance plan in August 2012 and that his monthly child support payment should be reduced to account for the monthly insurance premiums he was now paying for himself and for the minor. Further, he asserted that he should have received a deduction for the amount he was paying for his own insurance from December 2011 through August 2012. Finally, Spiller posited, he was also "arguably" entitled to a deduction for the minor's medical insurance premiums for which he was liable from December 2011 through August 2012.

¶ 10 In June 2013, the trial court granted Spiller's petition and ordered the parties to determine the total amount Spiller owed Zurita based on the court's August 2012 order, the "credits allowed [to Spiller] based upon today's order," and any payments Spiller had made to Zurita.

¶ 11 In July 2013, Zurita filed a petition for the attorney's fees that she purportedly incurred preparing and presenting the rule to show cause.

¶ 12 In October 2013, Zurita filed a motion for entry of judgment. She claimed that Spiller's then-current monthly income was $3,607.90, and that pursuant to statutory guidelines, Spiller's child support payment should be $721.58 per month. Later that month, the trial court entered an order requiring Spiller to pay Zurita $4,110 in attorney's fees and continuing the matter for a hearing on Zurita's motion for entry of judgment.

¶ 13 In November 2013, Spiller filed a motion to reconsider the trial court's award of attorney's fees. Spiller argued that Zurita was not entitled to fees relating to the civil contempt order because the petition for rule to show cause upon which the contempt finding was entered was fatally defective.

¶ 14 On December 3, 2013, the trial court entered an order requiring Spiller to pay $721.58 per month in child support and finding his arrearage was $7,110.75. The court again ordered Spiller to pay Zurita $4,110 in attorney's fees. The court also ordered that Spiller be responsible for 50% of the minor's medical expenses that were not covered by insurance. Later that month, the court entered an amended order, which contained the same attorney's-fees and child-support-arrearage amounts.

¶ 15 Spiller filed a notice of appeal, arguing, *inter alia*, that the trial court's civil contempt order should be reversed because the underlying temporary child support order was void as it did not deduct Spiller's health insurance premiums from his income. *Zurita*, 2014 IL App (1st) 133873-U, ¶ 24. We agreed with Spiller that his health insurance premiums should have been deducted when calculating his net income. *Id.* ¶¶ 38-39. Accordingly, we reversed the portion of the contempt finding based on Spiller's failure to pay $761.43 in monthly child support. *Id.* ¶ 39. Spiller also argued that the contempt order requiring him to pay $322.86 in child support arrearage was improper because, since he was not receiving credit for his health insurance

premiums, he had overpaid in child support. *Id.* ¶ 43. We found the amount that Spiller was paying in child support unclear, but we agreed that any amount he was overpaying should be credited against the amount of any child support arrearage. *Id.* ¶ 44. Finally, we found the contempt order with regard to both the discovery violation and child support did not comport with the requirements of contempt law and was therefore void. *Id.* ¶ 45. Accordingly, we vacated the August 2012 finding of contempt and remanded "for a hearing to determine, consistent with this order, the appropriate amount of temporary child support that should have been ordered and the amount of arrearage, if any, given the temporary amount of child support that should have been ordered and the payments made by Spiller." *Id.* ¶ 49.

¶ 16 Zurita subsequently filed a motion to reinstate the case in the trial court. Zurita requested, *inter alia*, that in calculating child support and expenses, the court take into account income Spiller purportedly earned at Illinois Central College (Illinois Central) from 2011 through 2014, which he had not listed in his disclosure statements. Zurita also requested the court reinstate its judgment ordering Spiller to pay $4,110 in attorney's fees relating to the civil contempt order.

¶ 17 Spiller filed a response, denying that he received income from Illinois Central in 2011 through 2013 and claiming that he stopped working at Bradley University (Bradley) in December 2013 and started working at Illinois Central in January 2014. He also argued Zurita should not be awarded attorney's fees, as our decision clearly vacated the trial court's October 2013 order awarding Zurita those fees.

¶ 18 In June 2015, Zurita filed a motion to reinstate the October 2013 judgment order as to attorney's fees and motion to calculate arrearage. She again argued the attorney's fees order was neither vacated nor reversed by our court. Spiller filed a response, again arguing the attorney's fees were vacated.

¶ 19 A hearing took place on July 2, 2015. Following the hearing, the trial court continued the case for a hearing as to the calculation of arrearage. The court also entered judgment in favor of Zurita and against Spiller in the amount of $4,110, and a citation to discover assets was issued to Heartland Bank and Trust (Heartland). On July 24, 2015, Spiller filed a *pro se* notice of appeal, seeking to have the judgment reinstating the $4,110 award of attorney fees reversed and vacated. However, the trial court later told Spiller it had reread the appellate decision in Spiller's first appeal and realized it should not have reinstated the $4,110 attorney fee. Accordingly, the court told Spiller it would vacate the July 2, 2015, order and that Spiller no longer needed to appeal that order. The court entered an order stating it was modifying its judgment to deny Zurita's motion for judgment on attorney's fees. Spiller then filed a motion to voluntarily dismiss his appeal, which our court allowed on October 20, 2015.

¶ 20 While Spiller's second appeal was pending, additional proceedings took place in the trial court. In August 2015, Zurita filed a motion to modify child support, arguing Spiller should not have been receiving a deduction he was receiving for another child born during the pendency of the proceedings. Zurita also filed a motion for judgment on arrearage, asserting that Spiller was entitled to a credit of $2,499.32 against his $7,110.75 outstanding arrearage, for a total outstanding arrearage of $4,611.43. However, she argued, Spiller fraudulently concealed information concerning his income. Specifically, she posited Spiller received $8,636.50 in additional net income from Illinois Central in 2012 and $9,858.94 in 2013. She attached to her motion Spiller's 2012 and 2013 W-2 forms from Illinois Central. Zurita also argued that although Spiller claimed that he stopped working at Bradley in December 2013, he actually received $7,997.75 from Bradley in 2014. She attached a copy of Spiller's W-2 form and "Check Distribution Report" from Bradley for calendar year 2014. Zurita argued Spiller's outstanding

child support arrearages totaled $1,727.30 for Illinois Central in 2012; $1,971.88 for Illinois Central in 2013; and $1,599.26 for Bradley in 2014, for a total additional arrearage of $5,298.44. Adding this arrearage to Spiller's outstanding $4,611.43 arrearage, Zurita sought a judgment order against Spiller in the sum of $9,909.87.

¶ 21 A hearing commenced on August 13, 2015. As to Zurita's motion to modify child support, the trial court agreed the amount that Spiller was paying in support for a second child, who was born after Zurita and Spiller's child, should not have been deducted from his income when calculating his child support obligation. The court asked Spiller about the W-2 forms that Zurita had attached to her motion. Spiller told the court he did not work for Illinois Central in 2013 and only received payment for speaking engagements. The court instructed Spiller that this amount should have been included as Spiller's income for purposes of determining child support.

¶ 22 Following the hearing, the trial court entered an order finding Spiller's net income was $4,668.82 per month. The court set child support at $933.76 a month, and the matter was continued for another hearing to enter a finding as to Spiller's total arrearage.

¶ 23 On August 31, Spiller filed a motion to modify child support. He claimed that his income had "decreased dramatically" since February 2015, and the correct amount of child support should be $800.48 per month. This calculation was based on the average of Spiller's June and July 2015 income. He attached paystubs from Illinois Central for those months showing his gross earnings were $5,381.25 in June and $5,922.19 in July.

¶ 24 A hearing commenced in September 2015. Zurita's attorney[2] indicated he could not agree to Spiller's motion to modify child support because Spiller was "relying on summertime when he's not—when he's allegedly not teaching." Spiller responded, "That's not correct. I'm an

[2] The record indicates an "unidentified speaker" made these statements; however, from a review of the record as a whole, we can infer the "unidentified speaker" was Zurita's attorney.

administrator now." Spiller was then called as a witness and testified that as an administrator, he could teach if he wanted to, but he had been removed from the classroom because he was "traveling up here every month" and "missing class, so it was best for the students that [he] wouldn't teach until this—until this is over and until [his] schedule because [*sic*] more consistent." He said that "right now," he did not "know where [*sic*] that will be." The following colloquy then took place between Zurita's attorney and Spiller.

> "Q. Are you currently listed as a teacher in a class for this semester that's coming up, is that correct?
>
> A. Am I currently listed?
>
> Q. Yes.
>
> A. No. I—I oversee classes. I oversee classes, and I've taught classes before, but what I'm saying is that my current income—this is my current income.
>
> MR. UNIDENTIFIED SPEAKER: Your honor, my client just called the University and Mr.—Professor Spiller is listed teaching right now.
>
> THE PETITIONER: Sociology, yes.
>
> THE RESPONDENT: I teach sociology.
>
> THE COURT: Therefore, the motion to modify will be denied."

¶ 25 Turning to Zurita's motion for judgment on arrearage, the trial court found Spiller's outstanding arrearage totaled $9,990.97. Counsel for Zurita then told the court that Zurita had also calculated the minor's medical expenses, acknowledging the expenses were "not originally listed for today." The court indicated each parent would be responsible for $1,645, which amount

Zurita stated was only for the minor's therapist. Spiller told the court he was not "aware of those charges" or that the minor "was in counseling, and she goes—that's dating back to 2011. I have no record. No idea." The court stated, "Here's the accounting right here." The record contains a spreadsheet that lists each of the minor's therapy appointments, from September 2013 through March 2015, the cost of each appointment, and a check number that corresponds to each appointment. The record also contains a spreadsheet that lists the minor's visits at West Suburban Medical Center, dating back to September 2011, and the cost of each visit.

¶ 26 Spiller told the trial court that he had no way of verifying the accounting because "[t]here's no verification. There's no invoices." Counsel for Zurita stated he "tendered copies of all the canceled checks if that will help." Spiller did not respond, and the court entered an order finding Spiller's total arrearage was $11,753.47.

¶ 27 This appeal followed.

¶ 28 II. ANALYSIS

¶ 29 On appeal, Spiller argues the trial court (1) abused its discretion by denying his motion to modify child support, (2) erroneously failed to take certain deductions into account when calculating the amount of his arrearage, and (3) erred by requiring him to pay the minor's medical bills.

¶ 30 Before addressing Spiller's arguments, we note the trial court entered orders in this case while Spiller's second appeal, from the trial court's July 2015 order reinstating the $4,100 in attorney fees, was pending in our court. Accordingly, a review of the trial court's jurisdiction is warranted. See *Daewoo International v. Monteiro*, 2014 IL App (1st) 140573, ¶ 72 (an appellate court has a duty to consider its own jurisdiction whether or not the parties have raised it as an issue on appeal); see also *Kyles v. Maryville Academy*, 359 Ill. App. 3d 423, 431 (2005)

(appellate jurisdiction is affected where the trial court lacks jurisdiction, as appellate court may then consider only the lack of jurisdiction below and not the merits of the trial court's actions).

¶ 31 Generally, upon the filing of a notice of appeal, the appellate court's jurisdiction attaches *instanter* and the cause of action is beyond the jurisdiction of the trial court. *General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 173 (2011). Accordingly, a trial court is prohibited from entering an order that would change or modify the judgment or its scope or that would interfere with review of the judgment. *In re Marriage of Price*, 2013 IL App (4th) 120422, ¶ 11. Nonetheless, the trial court retains jurisdiction to determine matters that are "collateral or incidental to the judgment." *General Motors Corp.*, 242 Ill. 2d at 173-74. "Collateral or supplemental matters include those lying outside the issues in the appeal or arising subsequent to delivery of the judgment appealed from." (Internal quotation marks omitted.) *In re Marriage of Price*, 2013 IL App (4th) 120422, ¶ 11.

¶ 32 In Spiller's first appeal in this case, we found the contempt order upon which the attorney's fees were based was void. *Zurita*, 2014 IL App (1st) 133873-U, ¶ 45. Therefore, the attorney's fees upon which the order was based were invalid. On remand, the trial court initially re-imposed those attorney's fees, and Spiller filed a notice of appeal from the court's order assessing the fees. When the trial court correctly recognized that it should not have re-imposed the attorney's fees, it no longer had jurisdiction to vacate its order re-imposing the fees, because the nature of the court's order modified or changed the scope of the review of the then-pending notice of appeal—the only issue being appealed was whether the attorney's fees were properly ordered. See *In re Marriage of Price*, 2013 IL App (4th) 120422, ¶ 11 (a trial court cannot enter an order that would change or modify the judgment or its scope or that would interfere with review of the judgment). However, under Illinois Supreme Court Rule 366(a)(5) (eff. Feb. 1,

1994), the appellate court on review may "enter any judgment and make any order that ought to have been given or made." In this case on remand after Spiller's first appeal, the trial court should have denied Zurita's motion to reinstate the judgment order as to attorney's fees. Therefore, under the authority of Rule 366(a)(5), we deny Zurita's motion to reinstate the attorney's fees.

¶ 33 We turn to whether the trial court had jurisdiction to enter the parts of the September 2015 order from which Spiller has appealed. In its September 2015 order, the trial court made findings as to the amount of Spiller's arrearage and the amount he was obligated to pay in child support. These issues were collateral to the issue raised by Spiller in his July 2015 notice of appeal, *i.e.*, the propriety of the court's July 2015 order reinstating its October 2013 award of attorney's fees. Because they were collateral matters, the trial court had jurisdiction to address Spiller's child support arrearage and the amount of his child support payment.

¶ 34 Finally, as another initial matter, we observe that Zurita has not filed a brief in this case. However, as the record is simple and the issues before us can be easily decided without the aid of an appellee's brief, we will consider the merits of Spiller's appeal. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976); see also *In re Marriage of Earlywine*, 2013 IL 114779, ¶ 13. We turn now to Spiller's claims.

¶ 35 A. The Trial Court's Denial of Spiller's Motion To Modify Child Support

¶ 36 Spiller first argues the trial court abused its discretion by refusing to modify his child support payment amount. Specifically, Spiller argues the court should have averaged his income from prior years because his June and July 2015 paystubs demonstrated that his income fluctuates.

¶ 37 Provisions concerning child support under the Parentage Act are to be determined in accordance with the relevant factors set forth in the Illinois Marriage and Dissolution of

Marriage Act (Dissolution Act). See 750 ILCS 45/14(a)(1) (West 2010); see also *In re Tate Oliver B.*, 2016 IL App (2d) 151136, ¶ 16.[3] Section 505(a) of the Dissolution Act allows a trial court to order either or both parents to pay "an amount reasonable and necessary" for support of a child. *Mayfield v. Mayfield*, 2013 IL 114655, ¶ 16 (citing 750 ILCS 5/505(a) (West 2014)). To calculate this amount, the court must first determine the parties' income, and then apportion the income to set an amount of child support for the noncustodial parent. *Id.* A party may seek to have an initial child support order modified by showing a substantial change in circumstances. *In re Marriage of Eberhardt*, 387 Ill. App. 3d 226 (citing 750 ILCS 5/510(a)(1) (West 2006)). "A change in income is one of the grounds for modification." (Internal quotation marks omitted.) *In re Marriage of Moorthy and Arjuna*, 2015 IL App (1st) 132077, ¶ 40. Modification of child support lies within the trial court's discretion, and we will not disturb the court's decision absent an abuse of discretion. *Id.* ¶ 41.

¶ 38 In support of his argument that the trial court should have averaged his income from prior years, Spiller cites *In re Marriage of Carpel*, 232 Ill. App. 3d 806 (1992), and *In re Marriage of Freesen*, 275 Ill. App. 3d 97 (1995). In *Carpel*, the supporting parent was self-employed with a fluctuating gross income. *Carpel*, 232 Ill. App. 3d at 817, 819. The appellate court stated that "[i]n a case such as this, the trial court should consider the supporting parent's previous income when trying to determine his prospective income." *Id.* The *Carpel* court directed the trial court on remand to consider the last three years of the supporting parent's income. *Id.* at 819. Similarly, in *Freesen*, the supporting parent's yearly income varied. *Freesen*, 275 Ill. App. 3d at 104. The *Freesen* court recognized that a trial court's findings as to net income and child support awards are within the trial court's discretion. *Id.* at 103. However, finding *Carpel* to be "of

[3] The Parentage Act of 2015 similarly provides that child support is to be determined according to the Dissolution Act. 750 ILCS 46/802(a) (West 2016).

particular relevance," the *Freesen* court concluded the trial court should have averaged the supporting parent's income instead of limiting its consideration to only one year of income. *Id.* The court directed the trial court on remand to consider an average of at least three years of the parent's gross income to determine the parent's net income. *Id.*

¶ 39 Although the *Carpel* and *Freesen* courts found the trial courts should have used income averaging under the facts of those cases, our court recently explained that income averaging is not mandatory. In *In re Marriage of Evanoff and Tomasek*, 2016 IL App (1st) 150017, ¶ 29, the respondent argued the trial court should have taken into account the prior three years of the petitioner's income. *Id.* ¶¶ 27, 29. During oral argument, the respondent specifically contended that Illinois case law required such averaging. *Id.* ¶ 29. Our court concluded the respondent's argument was "misplaced" and that income averaging was left to the sound discretion of the trial court. *Id.*

¶ 40 Accordingly, we reject Spiller's assertion that the trial court was required to average his income. Instead, it was within the court's discretion to determine whether income averaging was appropriate. Spiller presented evidence showing only that his earnings decreased in June and July 2015. At the hearing on his motion, Spiller explained he was an administrator and could still teach classes but was not doing so due to the number of classes he had missed for court hearings. He represented he would not teach again until his schedule became more consistent and that he did not know when that would be. He denied that he was listed as teaching any classes in the upcoming semester, saying he "oversee[s] classes." However, after Zurita's attorney told the court that Spiller was listed as teaching sociology, Spiller stated, "I teach sociology." Given that Spiller's motion showed only that his income had declined for two months and Spiller's

statements at the hearing suggested this income reduction was temporary, we find no abuse of discretion in the court's denial of Spiller's motion to modify child support.

¶ 41 B. The Trial Court's Calculation of Spiller's Arrearage Obligation

¶ 42 Spiller next challenges the trial court's calculation of his child-support arrearage. Spiller contends that in calculating his net income, the court failed to take certain statutory deductions into account. Spiller also argues the court erroneously failed to credit him for the $1,625 that he paid toward the minor's health insurance. Finally, Spiller contends he is entitled to a $512.25 credit for the amount he paid in swimming costs.

¶ 43 Net income is defined as "the total of all income from all sources, minus" certain deductions including"[f]ederal income tax (properly calculated withholding or estimated payments), "[s]tate income tax (properly calculated withholding or estimated payments)," "[s]ocial security (FICA payments)" and "[d]ependent and individual health/hospitalization insurance premiums." 750 ILCS 5/505(a)(3) (West 2010). Generally, "'[t]he findings of the trial court as to net income and the award of child support are within its sound discretion and will not be disturbed on appeal absent an abuse of discretion." (Internal quotation marks omitted.) *In re Marriage of Moorthy*, 2015 IL App (1st) 132077, ¶ 41. However, we agree with Spiller that a *de novo* standard applies to his argument that certain statutory deductions should have been taken when calculating his "net income." See *In re Aaliyah L.H.*, 2013 IL App (2d) 120414, ¶ 11 (we review *de novo* a question of law involving interpretation of a statute); see also *Gay on Behalf of Gay v. Dunlap*, 279 Ill. App. 3d 140, 145 (1996) (reviewing *de novo* whether the trial court should have allowed certain deductions from the supporting parent's income, as this was a question of the legal effect of undisputed facts).

¶ 44 The trial court adopted Zurita's calculations as to Spiller's 2012 and 2013 Illinois Central income and his 2014 Bradley income, where were based on Spiller's W-2 forms. A review of those calculations shows that in computing Spiller's 2012 Illinois Central income, a $381.61 deduction was made for federal tax and a $144.41 deduction was made for state tax. However, Spiller's W-2 form shows the $144.41 that was withheld from his earnings was for Medicare tax. The W-2 form also lists $357.30 in state income tax. Deductions should have been made for both Medicare tax and state income tax, in addition to federal tax. See 750 ILCS 5/505(a)(3) (West 2010).

¶ 45 Similarly, in computing Spiller's 2013 Illinois Central income, a $514.70 deduction was made for federal income tax and a $166.12 deduction was made for state tax. However, the $166.12 listed on Spiller's W-2 form was for Medicare tax. The W-2 form shows $423.06 was withheld in state income tax. Again, deductions should have been made for both Medicare and state income tax, in addition to federal tax. See 750 ILCS 5/505(a)(3) (West 2010).

¶ 46 Finally, in computing Spiller's 2014 Bradley income, a $1,216.12 deduction was made for federal taxes and a $618.57 deduction was made for state taxes. Spiller's W-2 form shows the $618.57 that was withheld was for social security tax. An additional $144.67 was withheld for Medicare tax, and $481.14 was withheld for state income tax. These amounts should also have been deducted when determining Spiller's net income. See 750 ILCS 5/505(a)(3)(c) (West 2010).

¶ 47 Spiller also contends he was entitled to receive a $675.12 deduction for his "health insurance" based on box 12a of his Bradley W-2 form, which states "DD." Spiller does not explain or cite any authority for what code "DD" means; he simply instructs us to "See 12(a) Code." As Spiller has failed to further develop his argument or provide authority for what code "DD" means, we decline to consider his claim. See *Sexton v. City of Chicago*, 2012 IL App (1st)

100010, ¶ 79 (a reviewing court is entitled to have issues clearly defined and supported by pertinent authority and cohesive arguments, and the failure to develop an argument results in forfeiture).

¶ 48 Spiller next argues that in calculating his income for December 2011 through September 2012, the trial court failed to deduct the amounts the court ordered him to pay for the minor's insurance premiums during this time. See 750 ILCS 5/505(a)(3)(f) (West 2010) (defining "net income" as the total of all income minus deductions for, *inter alia*, "[d]ependent and individual health/hospitalization insurance premiums"). The court found Spiller owed Zurita $3,660.40 for the minor's insurance premiums from December 2011 through September 2012. Spiller thus maintains he was entitled to deduct $366 from his income for the months of December 2011 through September 2012 ($3,660.40/10 months).

¶ 49 The trial court found Spiller was not entitled to deduct the December 2011 through September 2012 insurance premiums from his income because he had not yet paid the premiums. However, we conclude that to the extent Spiller was ordered to reimburse Zurita for these insurance premiums, the premiums should have been deducted when calculating Spiller's income during that period. See *In re Marriage of Bradley*, 2013 IL App (5th) 100217, ¶¶ 16, 32-33 (the trial court should have deducted the amount the ex-husband was ordered to pay his ex-wife for the cost of health insurance for the couple's two daughters from the ex-husband's net income for purposes of determining child support). To hold otherwise would result in Spiller having to pay the minor's insurance premiums for December 2011 through September 2012 while also having to pay the same amount of child support for that period that he would have had to pay if he was not required to pay for the premiums.

¶ 50 Finally, Spiller posits "[t]he trial court made a finding that" he had paid $512.25 in swimming costs but the court failed to credit him for those payments. A review of the record, however, belies Spiller's claim that the court made such a finding. During the August 2015 hearing, the court discussed the recalculation of Spiller's child-support arrearage. The court noted that the order requiring Spiller to pay $512.25 for half of swimming costs was "still active." Spiller told the trial court, "[t]hat was paid," and the court responded, "Oh, good, glad to hear it." The court then noted Spiller had also been ordered to pay "$3,027.16 in miscellaneous bills for braces, etcetera, etcetera. I don't know if that has been paid or if it's outstanding." The following colloquy subsequently took place.

> "[ZURITA]: We're going to argue like [Spiller] saying he paid towards insurance, which is $3,000, which he hasn't paid all of it, so then how could you have paid towards—
>
> [SPILLER]: Remember we signed and I gave you a check?
>
> [ZURITA]: That was towards arrearage that you haven't been paying.
>
> THE COURT: I'm just saying that these orders are still outstanding, and we'll have to figure out what deductions or credits you can get or not get, and we'll figure out what has been paid and what has not been paid. I wanted to just bring that up.
>
> [ZURITA'S ATTORNEY]: Your honor, that's the 512—
>
> THE COURT: For half of swimming costs. *** He still owes for half of swimming. He said he's paid it. That's wonderful."

¶ 51 The trial court's statements in no way show it found Spiller paid the swimming costs. Instead, the court simply recognized that Spiller had stated he paid those costs. Presumably the September 2015 order does not credit Spiller for the swimming costs because he did not actually pay them. Further, we note, Spiller failed to raise any issue regarding the swimming costs at the September 2015 hearing when the court entered the final arrearage order. Accordingly, Spiller has forfeited his ability to make this argument on appeal. See *Mabry v. Boler*, 2012 IL App (1st) 111464, ¶ 15 (arguments not raised in the circuit court are generally forfeited and cannot be raised for the first time on appeal).

¶ 52 In sum, on remand, the trial court should (1) recalculate Spiller's net income from Illinois Central in 2012 and 2013 to include deductions for state income taxes, (2) recalculate Spiller's 2014 Bradley income to include deductions for state income taxes and Medicare taxes, and (3) recalculate Spiller's income for the months of December 2011 through September 2012 to deduct the amount Spiller was ordered to reimburse Zurita for the minor's health insurance.

¶ 53 C. The Minor's Medical Bills

¶ 54 Finally, Spiller asserts the trial court erred by ordering him to pay $1,843.60 toward the minor's unreimbursed medical bills when Zurita neither discussed the medical services nor provided Spiller with copies of the bills, which date back to September 2011. Spiller contends Zurita first brought the bills to his attention at the September 2015 hearing. He also claims the record is devoid of any medical bills or invoices from medical providers detailing the care the minor received.

¶ 55 Spiller recognizes the trial court has discretion to order the payment of uncovered and extraordinary medical expenses. See *In re Keon C.*, 344 Ill. App. 3d 1137, 1146 (2003). Nonetheless, he argues the doctrine of *laches* precludes Zurita from seeking payment of the

medical bills. *Laches* bars a litigant from recovering from another party where the litigant's unreasonable delay in bringing an action prejudices the rights of the other party. *Richter v. Prairie Farms Dairy, Inc.*, 2016 IL 119518, ¶ 51. "[I]t must appear that a plaintiff's unreasonable delay in asserting his rights has prejudiced and misled the defendant, or caused him to pursue a course different from what he would have otherwise taken." (Internal quotation marks omitted.) *Id.* The burden of pleading and proving the defense of *laches* is on the party claiming the defense. *Lozman v. Putnam*, 379 Ill. App. 3d 807, 822 (2008).

¶ 56 We find Spiller has forfeited his *laches* claim by failing to present a developed argument, with citation to authority. "[R]eviewing courts are entitled to have the issues clearly defined, to be cited pertinent authorities and are not a depository in which an appellant is to dump *** argument and research as it were, upon the court." (Internal quotation marks omitted.) *Northwestern Memorial Hospital v. Sharif*, 2014 IL App (1st) 133008, ¶ 20. Here, Spiller argues that Zurita's delay in seeking reimbursement of the bills has prejudiced him because Zurita is now able to receive payment from Spiller without having first discussed the minor's treatment or having provided him with the minor's medical bills. However, Spiller has not cited any authority or anything in the record suggesting Zurita would have been required to show Spiller the medical bills or discuss them with him if she had brought her claim sooner. Similarly, although Spiller argues Zurita never provided the trial court with invoices or medical bills, Spiller has cited no authority suggesting that such evidence was necessary. In light of his failure to develop his argument and cite relevant authority, we find Spiller has forfeited his claim.

¶ 57 III. CONCLUSION

¶ 58 For the reasons stated, we affirm the trial court's judgment in part, reverse in part, and remand with directions. We also deny petitioner's motion to reinstate attorney's fees, pursuant to our authority under Illinois Supreme Court Rule 366(a)(5) (eff. Feb. 1, 1994).

¶ 59 Affirmed in part and reversed in part; cause remanded with directions.