



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
)  
) ISCR Case No. 14-06905  
)  
Applicant for Security Clearance )

**Appearances**

For Government: David Hayes, Esq., Department Counsel  
For Applicant: *Pro se*

03/17/2016

**Decision**

CURRY, Marc E., Administrative Judge:

Applicant’s financial problems were largely caused by circumstances beyond her control. In response, she has meticulously identified delinquent debts and developed payment plans consistent with her budget. Under these circumstances, I conclude that she has mitigated the security concern. Clearance is granted.

**Statement of the Case**

On June 20, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006. On August 10, 2015, Applicant answered the SOR, admitting subparagraphs 1.a through 1.m, 1.p, 1.ff through 1.hh, and 1.jj, and denying the remainder. She requested a hearing, whereupon the case was assigned to me on

October 1, 2015. DOHA issued a notice of hearing on October 21, 2015, scheduling the hearing for November 19, 2015. The hearing was held as scheduled. At the hearing, I received four Government exhibits (GE 1 - GE 4), and two Applicant exhibits (AE A - and AE B). At the close of the hearing, I left the record open, at Applicant's request, to allow her the opportunity to submit additional exhibits. Within the time allotted she submitted 11 additional exhibits that I admitted and incorporated into the record as AE C through AE M. DOHA received the transcript (Tr.) on December 4, 2015.

### **Findings of Fact**

Applicant is a 34-year-old married woman with two children, ages 14 and 8. She has a high school diploma, and she has attended college over the years. She is currently enrolled and has nearly completed the requirements for a bachelor's degree in business administration. (Tr. 48) Since 2013, she has worked for a defense contractor as a front desk administrator. This is her first application for a security clearance.

Applicant is highly respected on the job. Her supervisor characterizes her as hardworking and conscientious. (Tr. 62)

In 2006, Applicant and her husband purchased a home for \$379,000. They financed the purchase with a subprime mortgage. Under the terms of the mortgage, the monthly payments were set to accelerate from \$2,600 monthly to \$3,200 monthly after the first two years. (Tr. 21-22; GE 1 at 34) Applicant knew that the original mortgage payments would be a struggle to afford under the best of circumstances, but anticipated that her in-laws would move into the home and help with them.

Applicant's in-laws did not move in, as promised. Moreover, at or about the time when the mortgage payments increased, the water system totally broke down, generating repair costs of \$10,000. (Tr. 23) Consequently, Applicant and her husband became overwhelmed with debt. In 2007, they filed for Chapter 7 bankruptcy protection. Their debt was discharged through the process in early 2008, and they lost the home through the foreclosure process, together with both of their cars.

In approximately 2010, Applicant's youngest child was diagnosed with a rare disease that affects growth. Monitoring of the disease required frequent genetic testing, and monitoring from cardiologists and endocrinologists. (Tr. 17, 28) Applicant's child's diagnosis overlapped with a one-year period when Applicant and her husband had no health insurance. Consequently, they had to pay out-of-pocket for all of her expensive treatment. (Tr. 29) Consequently, Applicant's financial problems recurred. By 2014, she had incurred approximately \$22,000 of delinquent debt, as alleged in the SOR.

SOR subparagraphs 1.a through 1.k, and 1.m are delinquent student loans. They total approximately \$5,600, and constitute multiple loans owed to the same creditor. Applicant owes approximately \$53,000 of additional student loan debt to the same creditor. There is no record evidence that these accounts were ever delinquent. Applicant requested that the creditor consolidate these debts and place them in

forbearance status. In November 2015, her request was approved. (AE K) Her payments are scheduled to resume in September 2016. (AE K at 1) She does not know the amount of monthly payments she will owe when the forbearance period ends. (Tr. 33)

The SOR alleges approximately \$8,000 of delinquent medical debt (subparagraphs 1.l, 1.o - 1.z, 1. ff; 1.ii - 1.jj). Only one of these medical bill allegations actually identifies a creditor. Nevertheless, Applicant researched all of the allegations and identified all of them except subparagraphs 1.o, 1.t, 1.z, 1.ii, and 1.kk. She denies these remaining unidentified ones. Per Applicant's research, her outstanding medical debt totals \$5,100. (AE G) She has satisfied one of these debts, totalling \$242, as alleged in subparagraph 1.x, in December 2015. (AE H at 5)

Applicant owes the remaining SOR debts to miscellaneous creditors (subparagraphs 1.n, 1.p, 1.q, 1.aa - ee, 1.gg - 1.hh, 1.mm - 1.pp). These debts total approximately \$11,600. Applicant admits the debt listed in subparagraph 1.p, totalling \$481, and has made a payment towards its satisfaction. (Answer at 2) Applicant admits subparagraph 1.hh, a daycare center debt totalling \$1,039. She plans to begin paying this debt, now that she has satisfied the \$242 debt, as listed in subparagraph 1.x. Subparagraph 1.pp, totalling \$897, was discharged in Applicant's 2007 bankruptcy. (Answer at 2) As for the remainder of the miscellaneous debts, Applicant either denies them (subparagraphs 1.n, 1.aa - 1. ee), or contends that they have been removed from her credit report (subparagraphs 1.q, 1.gg, 1.mm - 1.oo).

Since 2013, Applicant has consulted on two occasions with financial counselors and credit repair agencies. (AE I, AE J) Her most recent financial counselor helped her develop a budget. (Tr. 42) Applicant has approximately \$692 of monthly discretionary income. (AE F) She is currently executing a repayment plan on her own.

### **Policies**

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate,

or mitigate facts admitted by applicant or proven by department counsel. . . .” The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

## **Analysis**

### **Guideline F, Financial Considerations**

The Government did not identify any of the specific creditors for the allegations set forth in subparagraphs 1.o, 1.t, 1.z, 1.ii, and 1.kk. In light of Applicant’s denial of these debts, I resolve these allegations in her favor. As for the remainder of the SOR, the potential security ramifications must be evaluated under the financial considerations guideline. Specifically, it sets forth that “failure or inability to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified information.” (AG ¶ 18)

Applicant has been having trouble managing her finances since the mid-2000s. By 2014, six years after a Chapter 7 bankruptcy discharge, she had incurred \$22,000 of delinquent debt. AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” apply.

The following mitigating conditions under AG ¶ 20 are potentially applicable:

- (b) the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debt; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant’s first episode of financial difficulties leading to the bankruptcy filing occurred after the monthly payments on her subprime mortgage increased, rendering her unable to afford it, together with a major home-appliance breakdown. After the

bankruptcy discharge, her financial problems recurred largely because of medical expenses related to her infant daughter who was diagnosed with a serious illness.

Since 2013, Applicant has been actively attempting to get her finances under control, meeting with financial counselors, organizing her debts, and developing a budget, and a payment plan. Thus far, she has successfully obtained forbearance status for her delinquent student loans and she has satisfied one debt, as alleged in subparagraph 1.x., and made a payment towards another, as alleged in subparagraph 1.p.

The fact that several debts have been removed from Applicant's credit report has minimal probative value in assessing security worthiness. However, any negative inference that could be drawn from these debts being removed from Applicant's credit report is outweighed by the circumstances that caused her debts. I conclude that all of the mitigating conditions apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Circumstances largely beyond Applicant's control contributed to her financial problems. She has begun to address her delinquent debts by having her student loans placed in forbearance status, developing a budget, and identifying the current holders of several medical debts that were either unidentified on credit reports, or had been transferred to collection agencies. Conversely, her debt-reduction progress has been minimal thus far. On balance, however, I conclude that her steps thus far are sufficient for her to mitigate the security concern. In reaching this conclusion, I was particularly impressed with the meticulous manner in which she tracked down the unidentified creditors of several of the SOR debts, and the detailed, comprehensive budget that she prepared.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:

FOR APPLICANT

Subparagraphs 1.a-1.qq:

For Applicant

**Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

MARC E. CURRY  
Administrative Judge