



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



In the matter of:)
)
) ISCR Case No. 21-01877
)
Applicant for Security Clearance)

Appearances

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

01/21/2022

Decision

LYNCH, Noreen A., Administrative Judge:

Applicant mitigated the security concerns under the financial considerations guideline. She presented sufficient evidence to support her burden of proof. Eligibility for access to classified information is granted.

Statement of the Case

On September 7, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Adjudicative Guideline F (financial considerations). The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by DOD on June 8, 2017. Applicant responded to the SOR and elected to have her case decided on the written record in lieu of a hearing.

Department Counsel submitted the Government’s file of relevant material (FORM) on October 28, 2021. Applicant received the FORM on November 4, 2021, 2021. Applicant timely responded to the FORM (Item 5). The Government’s evidence,

included in the FORM and identified as Items 1 through 4, is admitted without objection. The case was assigned to me on January 6, 2022. Based on my review of the documentary evidence, I find that Applicant mitigated financial considerations security concerns.

Findings of Fact

In response to the SOR, Applicant admitted SOR allegations 1.a through 1.t, medical accounts, totaling about \$59,000, with explanations. (Item 1) She is 56 years old, and was divorced in 2008. She has two adult children. Applicant attended college courses in 1983 and 1984, but she did not obtain a degree. She reports no military service. She completed a security clearance application on October 15, 2020. (Item 2) She has held a security clearance for about 35 years. (Item 1) Applicant's work history with Federal employment dates back to 1986.

Financial

Applicant attributed her delinquent medical debts, incurred between 2013 and 2020, to unemployment, underemployment, lack of health insurance, and single parenthood. In August 2013, she lost employment and medical insurance due to the end of a contract. Specifically, she was employed from 2014 to April 2020 in low-paying jobs. She worked part time between 2017 through 2020 due to medical issues. She was furloughed due to COVID in 2020. (Item 2)

Applicant spent time as an in-patient and ER patient at a hospital for major medical issues such as bowel obstruction, migraines, and irritable bowel syndrome (IBS). She tried not to go to the hospital and visit urgent care facilities to lessen costs but that was not always possible. (Item 1) However, she maintained all other financial responsibilities. (Item 3) Each account listed in the credit bureau report (Item 3) reflects "pays as agreed." There were no delinquent debts except the medical accounts.

Applicant disclosed in her 2020 security clearance application that she had no medical insurance since August 31, 2013, nor could she afford health insurance. She had multiple hospital stays and multiple ER visits due to migraines which she could not pay. She stated that she had made sporadic payments whenever she could.

In her response to the FORM, Applicant revealed that she has been making payments of \$100 each month to the hospital, and in January 2022, will make bi-monthly payments. She produced the latest two receipts. (Item 5) She has raised \$500 from a Go-Fund me page and has received some money from family and friends. In the interim she paid two credit cards and those monthly payments will now go to the medical accounts. She is also selling items to raise money to pay her medical debts. (Item 5).

Applicant consulted with two debt consolidation companies, one of whom specializes in medical debt, but was told the medical debt was more than 50% of her

total debt and the other company, AMI, could not help because the medical account holder offered her 60% off the total loan amount. She plans to get a loan for the remainder \$24,000 she owes to the hospital. She continues to work toward paying the medical debts. She noted that she has remained loyal to the Government and suffered PTSD from the attack in the building where she worked in 2001.

Applicant has not ignored her medical debts and with the start of new employment with a higher salary, she now has health insurance. As noted above she can take a loan for \$24,000 (one- time payment – 60% reduction in the original debt). She investigated this loan and knows that she can afford the monthly payments. The other option offered to the Applicant is making monthly payments on the entire debt of \$59,000.

Applicant takes responsibility for the medical payments. She attempted to resolve the medical debts prior to the security clearance process. She disclosed her medical financial issues. Applicant tried to obtain the services of a debt consolidation company. She has taken concrete steps to resolve her medical delinquent accounts and provided documentation concerning some payments and her plan.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 national security eligibility will be resolved in favor of the 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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Exec. Or. 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F (Financial Considerations)

The concern under this guideline is set out in AG ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions, corroborated by her credit reports, establish two disqualifying conditions under this guideline: AG ¶¶ 19(a) (“inability to satisfy debts”), and 19(c) (“a history of not meeting financial obligations”).

The security concerns raised in the SOR may be mitigated by the following potentially applicable factors:

AG ¶ 20(a): the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

AG ¶ 20(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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

AG ¶ 20(c): the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant admitted, and her credit reports confirm, that she is responsible for the delinquent medical debts that started in 2013 when she lost her health insurance due to unemployment. Applicant has no other debts. Her credit report (Item 3) shows that every account is paid as agreed. She supported her children as a single parent and paid her bills.

Based on the evidence produced by Applicant, it is concluded she made a sufficient good-faith effort to resolve her medical debts. She is beginning a meaningful track record of financial responsibility. She has met her burden under some of the mitigating conditions, including situations beyond her control, adhering to a good-faith effort to repay the medical debts, and it is unlikely that this will recur.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence presented shows that Applicant has worked for the Federal Government with a security clearance for 35 years, and has had no other financial issues other than the medical problems. Eligibility is granted.

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.t: 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's eligibility for a security clearance. Eligibility for access to classified information is granted.

Noreen A. Lynch
Administrative Judge