



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



In the matter of:)	
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)	ISCR Case No. 20-00024
Applicant for Security Clearance)	

Appearances

For Government: Aubrey M. De Angelis, Esq., Department Counsel
For Applicant: *Pro se*

10/04/2022

Decision

KATAUSKAS, Philip J., Administrative Judge:

Applicant has not provided evidence sufficient to mitigate the national security concern arising from his problematic financial history. Applicant’s eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted his security clearance application (SCA) on February 18, 2019. The Department of Defense Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR) on September 23, 2021, detailing security concerns under Guideline F, financial considerations. The DOD CAF acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry 1960*), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and Security Executive Agent Directive 4, *National Security Adjudicative Guidelines*, effective within the DOD as of June 8, 2017.

Applicant submitted an undated answer (Answer) to the SOR and elected a decision on the written record by an administrative judge of the Defense Office of Hearings and Appeals (DOHA). Department Counsel submitted the Government’s

undated file of relevant material (FORM), including documents identified as Items 1 through 7. DOHA sent the FORM to Applicant on May 2, 2022, who received the FORM on May 18, 2022. He was afforded 30 days after receiving the FORM to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not respond to the FORM. The SOR and the Answer (Item 1) are the pleadings in the case. (The SOR and the Answer are combined in Item 1. Therefore, they will be cited as “SOR” and “Answer.”) Items 2 through 7 are admitted without objection. The case was assigned to me on August 4, 2022.

Findings of Fact

After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact:

Applicant is 34 years old, never married, and has no children. He is a college graduate. According to Applicant’s February 18, 2019 SCA, since November 2017, he has been employed continuously by a defense contractor. (Item 2.) According to his April 25, 2019 Personal Subject Interview (PSI), however, Applicant had two surgeries in March 2018. He was in recovery for several months and had difficulty returning to work. As a result, Applicant left his employment in June 2018. (Item 3.) Notwithstanding this discrepancy, as of September 26, 2022, he was sponsored by the most recent employer identified in his SCA.

The SOR alleged nine delinquent debts, three student loans totaling \$42,079 and six medical debts totaling \$3,798. (SOR.) All three student loans were reported delinquent in February 2019. (Item 4.)

Student Loans

SOR ¶ 1.a. is a federal student loan for \$23,328. Applicant admitted this allegation but said: “[It] is in good standing and up to date in payments.” He provided no documents in support of his answer. (Answer.) The record shows this loan to be in collection and “PERMANENTLY ASSIGNED TO GOVERNMENT.” (Item 4.) In subsequent credit reports, there are no federal student loans with an account number or a balance due that match this account. All federal student loans that are reported show zero amounts due. (Items 5 and 6.)

SOR ¶ 1.b. is a federal student loan for \$10,288. Applicant denied this debt and said: “I believe this was part of the [private lender] account that I paid off.” He provided no documents in support of his answer. (Answer.) The record shows this loan to be in collection and “PERMANENTLY ASSIGNED TO GOVERNMENT.” (Item 4.) The next credit report shows the loan charged off for \$8,463. (Item 5.) The last credit report shows this loan charged off for \$8,463. (Item 6.)

SOR ¶ 1.c. is a private student loan for \$8,463. Applicant admitted this allegation and said: “[Was] paid off with a settlement with a balance of \$0.00.” He provided no

documents in support of his answer. (Answer.) The record shows that this private loan was made by the same private lender noted in Applicant's answer to SOR ¶ 1.b. In the March 2019 credit report, the balance was \$10,158, and the loan was charged off for \$8,463 in October 2016. (Item 4.) The next credit report (January 2020) shows this loan charged off for \$8,463. (Item 5.) The last credit report (April 2022) shows the loan was charged off for \$8,463. (Item 6.)

There appears to be some relationship between SOR ¶ 1.b. and SOR ¶ 1.c. On this record, however, it is not clear what that relationship is.

Medical Debts

The SOR alleges six delinquent medical debts, SOR ¶¶ 1.d. through 1.i. totaling \$3,798. Applicant admitted these debts, with varying comments such as: "[Is] in good standing with paying this off"; "[Has] been paid and closed out"; "[In] good standing in making payments and is paying off." (Answer.) Applicant provided no documents in support of his answers. The March 2019 credit report shows all of these debts in collection. (Item 4.) The January 2020 and April 2022 credit reports do not report on these debts.

In her FORM Brief, Department Counsel notes two delinquent debts that are not alleged in the SOR, one an auto loan for \$69 and one a medical judgment for \$1,115. (FORM Brief at 3, citing Items 4, 6, and 7.) Only the medical judgment is material here. Applicant did not respond to the FORM, so he did not address those unalleged allegations. They are, therefore, deemed to have been denied. The record supports the medical judgment. (Item 7.)

Law and Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines. These guidelines are flexible rules of law that apply together with common sense and the general factors of the whole-person concept. An administrative judge must consider all available and 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, then 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 in seeking a favorable security decision.

Guideline F, Financial Considerations

The security concern relating to Guideline F for financial considerations 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 an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Guideline F notes conditions that could raise security concerns under AG ¶ 19. The following condition is applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

The SOR debts are established by Applicant's admissions and the Government's credit reports. AG ¶¶ 19(a) and 19(c) apply.

Guideline F also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating condition under AG ¶ 20 is potentially applicable:

- (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.

Applicant's three student loans were reported delinquent in February 2019. That is not that long ago. Nor were the delinquencies infrequent, as proven by the record's three credit reports. As the record stands, Applicant's first student loan is in collection, and his second and third loans have been charged off. Although he claims that those debts have been resolved, Applicant has not provided any documents supporting that assertion. The Appeals Board has routinely held that it is reasonable to expect applicants to produce documentation supporting their efforts to resolve debts. See, e.g., ISCR Case No. 20-00615 at 2 (Jun. 7, 2021). Applicant has not satisfied that requirement. AG ¶ 20(a) does not mitigate his student loans. No other mitigating conditions appear to be applicable on this record.

Applicant's medical debts for \$4,913 (which includes the unalleged medical judgment) stand on a different footing. I have given little weight to the seven delinquent medical accounts that remain unresolved. Medical debt is unlike other types of debt. First, it is presumed that medical debt is incurred for necessary medical care and treatment, as opposed to frivolous irresponsible spending, or otherwise living beyond one's means. Second, medical debt is usually unplanned, unexpected, and nondiscretionary. Third, it can add hundreds if not thousands of dollars in debt in a short period, which can be overwhelming for a debtor. Finally, the record shows that Applicant lost time from work due to two surgeries in March 2018. In my view, having less than \$5,000 in unresolved medical accounts does not fatally undermine Applicant's suitability. Accordingly, the allegations in SOR ¶¶ 1.d. through 1.i. are decided for Applicant.

The Whole-Person Concept

Under AG ¶ 2(a), 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. AG ¶¶ 2(a) and (d)(1)-(9) (explaining the "whole-person" concept and factors). The unalleged medical judgment was considered in my whole-person analysis. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006). In my analysis, I considered the potentially disqualifying and mitigating conditions and the whole-person concept in light of all the facts and circumstances surrounding this case.

Applicant leaves me with questions about his eligibility and suitability for a security clearance. Therefore, I conclude that Applicant has not provided sufficient evidence to mitigate the security concerns arising under Guideline F, financial considerations.

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:

AGAINST APPLICANT

Subparagraphs 1.a. – c.:

Against Applicant

Subparagraphs 1.d. – i.:

For Applicant

Conclusion

In light of all of the circumstances presented, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Philip J. Katauskas
Administrative Judge