



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



In the matter of: )  
)  
) ISCR Case No. 21-00737  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Michelle P. Tilford, Esq., Department Counsel  
For Applicant: *Pro se*

12/13/2022

**Decision**

COACHER, Robert E., Administrative Judge:

Applicant has not mitigated the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 18, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued Applicant a statement of reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DCSA CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective on June 8, 2017.

Applicant answered the SOR (her SOR receipt document listed a date of May 25, 2021, which is erroneous, given the date of the SOR), and requested a hearing before an administrative judge. The scheduling of this hearing was delayed because of the COVID-19 pandemic. The Defense Office of Hearings and Appeals (DOHA) issued a notice of

hearing on July 5, 2022, and the hearing was convened as scheduled on August 24, 2022, using video teleconferencing capabilities. The Government offered exhibits (GE) 1 through 6, which were admitted into evidence without objection. Applicant testified, but she did not offer any exhibits at the hearing. The record remained open after the hearing, and Applicant timely submitted exhibit (AE) A (pp. 1 to 20), which was admitted without objection. DOHA received the hearing transcript (Tr.) on August 15, 2022.

### **Findings of Fact**

In her SOR answer, Applicant admitted all of the allegations, with explanations, except for SOR ¶¶ 1.f and 1.l, which she denied. Her admissions are adopted as findings of fact. After a review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is a 48-year-old employee of a federal contractor performing administrative duties. She began working for a federal contractor in October 2016. She has worked in the medical administration field in some form since she was 16 years old. She is a high school graduate who was taken some college courses. She was widowed within the last year. She has two children, ages 24 and 17. She has been a Girl Scout leader for 12 years. (Tr. 6, 18, 20, 30; GE 1)

The SOR alleged 12 delinquent accounts (two debts arising from repossessed cars, a debt from an unexpired lease, and nine medical debts) totaling approximately \$42,476. The debts are established by credit reports from January 2020, October 2020, and July 2022; Applicant's personal subject interview (PSI) with an investigator in February 2020; her June 2020 answers to interrogatories; and her SOR admissions. (SOR ¶¶ 1.a – 1.l) (GE 2-6; Answer to SOR)

Applicant's financial difficulties began in January 2016 when she was terminated by her employer. She was told her termination was because of management changes. She was earning approximately \$60,000 at the time of her termination. She was given six weeks' severance pay by her former employer. She was unemployed from January 2016 until October 2016 when she was hired by a federal contractor. When she was hired in October 2016, her annual salary was approximately \$20,000. She voluntarily surrendered two cars and moved to a cheaper home (described in detail below) to reflect her changed circumstances. (Tr. 20-22)

Applicant was without health insurance while unemployed and when she became reemployed, the health insurance she could afford required payment of high deductibles. She underwent emergency surgery in 2017 when she was uninsured. When her husband passed away in 2021, she received the proceeds of two life insurance policies totaling approximately \$50,000. After funeral expenses she received approximately \$37,000. She used some of this money to pay her medical debts (\$10,000). She also gave some to her son (\$6,000) and daughter (\$2,000), paid cash for a second car (\$3,500), put some into her savings account (\$3,500), helped her mother, and bought things for herself. (Tr. 22-23, 25-26, 61, 64)

The status of the SOR debts is as follows:

**SOR ¶ 1.a-\$18,058.** This debt resulted from the deficiency balance owed after the voluntary surrender and sale of Applicant's car. The debt was assigned in September 2015, it was voluntarily surrendered in 2017, and it was charged off by the creditor in March 2019. As of the hearing date, Applicant had not made any payment arrangements. She provided a handwritten note on AE A3, indicating that she would begin making \$100 payments on the 26<sup>th</sup> of each month. She documented making one payment in August 2022. This debt is unresolved. (Tr. 22, 35-36; GE 2-4; AE A2-A3, A6)

**SOR ¶ 1.b-\$10,314.** This debt resulted from the deficiency balance owed after the voluntary surrender and sale of Applicant's car. The debt was voluntarily surrendered in 2016, it was assigned in September 2017, and it was charged off by the creditor in October 2019. As of the hearing date, Applicant had not made any payment arrangements. She provided a handwritten note on AE A3, indicating that she would begin making \$100 payments on the 26<sup>th</sup> of each month. She documented making one payment in August 2022. This debt is unresolved. (Tr. 33; GE 2-4; AE A4-A6)

**SOR ¶ 1.c-\$4,000.** Applicant admitted this debt. She incurred this unexpired-lease debt when she vacated an apartment before the lease was up in 2017 because of health concerns. She believed there was mold in the apartment that was affecting her family's health. She talked to management about moving to another apartment but nothing else was available. She complained to the building owner but received no relief. She felt she had to break the lease and leave for the safety of her family. She did not pursue legal action against the apartment complex. Applicant documented actions she took in August 2022 to contact the apartment complex to learn the status of this debt. She failed to present documentation supporting her assertion of an inhabitable apartment due to mold. This debt is reflected as a third-party collection in her July 2022 credit report. This debt is unresolved. (Tr. 36-38; GE 6; AE A7)

**SOR ¶ 1.d-\$3,259.** Applicant admitted this medical debt. She incurred this debt as a result of 2017 surgery when she was without insurance coverage. She contacted the creditor in June 2020. The creditor told Applicant that the minimum payment plan was \$50 per month. Applicant could not pay that amount, but sent the creditor a \$10 money order on June 11, 2020. There is no further evidence of payment until August 11, 2022, when Applicant documented a \$50 payment. She also stated that she would continue \$50 monthly payments to this creditor. This debt is unresolved. (Tr. 38; GE 3 (pp.4-5); AE A8; Answer to SOR)

**SOR ¶¶ 1.e-1.f, 1.i-\$1,285; \$250; \$295.** Applicant admitted these medical debts. She documented making semi-regular payments on these accounts in February, April, May, and June 2020. She further documented that she had a zero balance to this creditor as of August 12, 2022. These debts are resolved. (Tr. 38; GE 3 (pp.8-10, 14-17); AE A11-A12, A16; Answer to SOR)

**SOR ¶ 1.g-\$248.** Applicant admitted this medical debt. Applicant stated in her SOR response that she overlooked this debt and indicated that she would reach out to the creditor to start making monthly payments. There is no documentation in the record showing that she has been any payments on this debt. This debt is unresolved. (Tr. 38; GE 3-4; AE A1-A20; Answer to SOR)

**SOR ¶ 1.h-\$1,944.** Applicant admitted this medical debt. She documented making two \$10 payments in June 2020. There is no record evidence of any additional payments. She noted in her post-hearing documentation that she contacted the creditor in September 2022. The creditor was reviewing the account. No further information was provided. This debt is unresolved. (Tr. 38; GE 3, 5 (p. 13); AE A9; Answer to SOR)

**SOR ¶ 1.i-\$1,306.** Applicant admitted this medical debt. She documented settling the debt with a successor-collection company in September 2022. This debt is resolved. (Tr. 38; AE A13; Answer to SOR)

**SOR ¶ 1.i-\$834.** Applicant admitted this medical debt. She documented settling the debt with a successor-collection company in August 2022. This debt is resolved. (Tr. 38; AE A14; Answer to SOR)

**SOR ¶ 1.k-\$683.** Applicant admitted this medical debt. She documented resolving the debt with the creditor in February 2022. This debt is resolved. (Tr. 38; AE A15; Answer to SOR)

Applicant documented paying several other medical debts that were not alleged in the SOR. Those payments efforts will be considered as they might relate to mitigation. (GE 3 (pp. 18, 20-21, 25-29, 31); AE A17-19)

Applicant testified that her annual income is approximately \$26,000. She recently moved in with her boyfriend and no longer has housing expenses. She provided a monthly financial statement in June 2020 that showed a negative cash flow of \$120 at the end of the month. She has approximately \$3,500 in a savings account. She has not received financial counseling. (Tr. 24-25, 48)

## **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 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, these guidelines are applied 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.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

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

AG ¶ 18 expresses the security concern for financial considerations:

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. Affluence that cannot be explained by known sources of income is also a

security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns. I have considered all of them under AG ¶19 and the following potentially apply:

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

Applicant incurred 12 delinquent debts, with the highest-balanced accounts remaining unpaid. I find both disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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;
- (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;
- (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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; 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 debts are recent because they are ongoing and, although she paid six of the SOR-listed medical debts and some other medical debts, she failed to document any payments toward the remaining debts, except for two \$100 payments toward the repossessed cars in August 2022. AG ¶ 20(a) is not applicable.

Applicant's unemployment and subsequent pay reduction were circumstances beyond her control. However, she did not act responsibly concerning the debts when she

failed to attempt to resolve them in a timely fashion. Rather than using some of the proceeds of her husband's insurance policies to pay the larger accounts, she used the money for other things. She used some of the insurance proceeds to pay some medical debts. None of her payments were made in a timely fashion. AG ¶ 20(b) is not fully applicable.

Applicant presented no evidence of financial counseling. Moreover, her track record to date does not support a good financial picture and her financial worksheet shows a negative monthly balance. While she paid six medical debts, established a payment plan for one other medical debt and made two payments towards the car debts in August 2022, she has done very little to resolve her car debts or broken-lease debt. Her payment actions are too little, too late. Applicant's financial problems are not under control. AG ¶ 20(c) does not apply. AG ¶ 20(d) applies only to SOR ¶¶ 1.e, 1.f, and 1.i-1.l.

Applicant did not provide written documentation to support her breaking her apartment lease because of inhabitable conditions. AG ¶ 20(e) does not apply.

### **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 the 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 guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

I considered Applicant's necessary medical procedures when she was without insurance, her unemployment, her reduced income when she was reemployed, and her civic contribution to the Girl Scouts program. However, I also considered that she has not adequately addressed her large-balanced delinquent debt. She has not established a

