



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



In the matter of:)	
)	
)	ISCR Case No. 21-01790
)	
Applicant for Security Clearance)	

Appearances

For Government: Patricia Lynch-Epps, Esq., Department Counsel
For Applicant: *Pro se*

03/23/2023

Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On September 3, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under 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 (Answer) on September 4, 2021, and she requested a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on October 21, 2022, scheduling the hearing for November 17, 2022. I convened the hearing as scheduled, but then granted Applicant's request for a continuance. She was not prepared to proceed because she was unaware of her right to be represented by an attorney or a personal representative, and she needed time to explore that option. DOHA issued an amended notice of hearing

on January 9, 2023, rescheduling the hearing for January 26, 2023. I convened the hearing as rescheduled.

At the hearing, I admitted Government Exhibits (GE) 1 through 5 and Applicant Exhibits (AE) A and B without objection. Applicant testified. At her request, I left the record open until February 16, 2023, for additional documentation. Applicant timely submitted additional documentation, which I collectively marked as AE C and admitted without objection. DOHA received the hearing transcripts on December 1, 2022 (Tr. 1) and February 1, 2023 (Tr. 2).

Findings of Fact

Applicant admitted all the SOR allegations. She is 34 years old. She married in 2015 and separated in January 2019. She has three minor children, all of whom reside with her; the eldest child is from a previous relationship and the two younger children are from her marriage. She obtained her general educational development (GED) certification in 2006, and a dental assistant certification in 2010. Her employer also paid for her to attend an apprenticeship program from 2019 to 2020, but she was unable to complete it. She worked at a grocery store part time from January 2008 to April 2009, and then she was unemployed until October 2009. She then worked at a pizzeria part time until April 2014, and then she was unemployed for a second time until September 2014. She has worked for her employer, a DOD contractor, since February 2018. She was first granted a security clearance in approximately 2020. (Answer; Tr. 2 at 5, 7-9, 25-31, 62-67, 69-73, 86-87; GE 1-2)

The SOR alleged that Applicant filed Chapter 7 bankruptcy in October 2018, and her bankruptcy case was dismissed in December 2018. (SOR ¶ 1.a) It also alleged that she had four delinquent consumer debts totaling \$14,069 (SOR ¶¶ 1.b, 1.e, 1.i, 1.l), and nine delinquent medical debts totaling \$4,375 (SOR ¶¶ 1.c-1.d, 1.f-1.h, 1.j-1.k, 1.m-1.n) The SOR allegations are established by Applicant's admissions in her Answer, her December 2020 security clearance application (SCA), her January 2021 interview with a background investigator, two credit bureau reports from 2020 and 2021, and a bankruptcy court record. (Answer; GE 1-5)

Applicant attributed her financial difficulties to her financial illiteracy; her periods of underemployment and unemployment; being the sole provider for her children after she separated from her spouse; her health issues; and her lack of health insurance. The first time she had health insurance was during a three-month probationary period through her employer between 2017 and 2018. She unsuccessfully attempted to work with her creditors, and then she made a hasty decision to file Chapter 7 bankruptcy to try to resolve her debts. She withdrew her petition after her mother advised her that proceeding with bankruptcy could negatively affect her ability to purchase a home in the future. She sought help from Credit Karma in 2019, but she elected to apply the money she would have paid for their services to her debts. Her income increased and she obtained health insurance through her current employer, and she was working to resolve her financial issues. In November 2022, she entered into an agreement with a consumer advocacy law firm, to whom she paid \$60 monthly, for help with verifying her debts and repairing her credit.

She intended to resolve all her debts. (Tr. 2 at 31-35, 42, 47, 57, 59-61, 69-73, 87, 89-93, 96-99; GE 1-5; AE B)

SOR ¶ 1.b is a \$6,588 charged-off account for the balance due on Applicant's vehicle. She purchased this vehicle in approximately 2016, and it was involuntarily repossessed in 2019 because she failed to make her payments. In approximately 2022, she settled this debt for approximately \$1,800. She has since made monthly payments of \$100, and her updated balance as of January 2023 was \$757. Once she pays this debt, she intends to apply the money she used to pay this debt to tackle her remaining debts. (Answer; Tr. 2 at 35-41, 44, 49, 53; GE 2-4; AE A, C)

SOR ¶¶ 1.c-1.d, 1.f-1.h, 1.j-1.k, and 1.m-1.n are Applicant's delinquent medical debts, which total \$4,375. The most recent credit bureau report from 2021 lists only SOR ¶¶ 1.c and 1.d. She made a payment towards her medical debts in January 2022, but the amount of her payment is not in the record. She testified that she paid SOR ¶¶ 1.c, 1.d, 1.k, 1.m and 1.n between January and March 2022, through a \$1,500 loan she received from her mother that she has since repaid. In early 2022, she also spoke with the creditor for SOR ¶¶ 1.f, 1.g, and 1.h, and she informed the creditor that she intended to pay these debts as soon as she had the financial means to do so. (Answer; Tr. 2 at 41-51, 56, 59, 74; GE 2-4; AE C)

SOR ¶ 1.e is the \$6,878 balance due on Applicant's second vehicle, which was also involuntarily repossessed in 2019 because she failed to make her payments. She purchased this vehicle after her first one was repossessed, as discussed above, because she needed another vehicle. Her wages are being garnished since approximately November 2022 to resolve this debt. (Tr. 2 at 51-55, 67-68, 88-89; GE 2-4)

SOR ¶ 1.i is a \$400 account in collection. The 2020 credit bureau report does not reflect the type of account this is. Applicant did not know what this debt was for. She unsuccessfully attempted to locate this creditor online. She was unaware that she could try to locate the creditor's contact information through her credit bureau reports, and she intended to do so to resolve this debt. (Tr. 2 at 47, 55-58; GE 4)

SOR ¶ 1.l is a \$203 insurance account in collection. Applicant did not know what this debt was for, but she learned when she contacted the creditor that it was incurred before she married. She testified that she paid this debt in early 2022. (Tr. 2 at 43, 58-59; GE 4)

Applicant was initially a shipboard handler when her employer hired her in 2018, and her annual salary was \$25,000. She has been promoted annually, and she was promoted to a technician several months before the hearing date. Her annual salary as of the date of the hearing was \$41,000. Her net monthly income was approximately \$2,600. She also received \$700 monthly in Social Security benefits from her eldest child's father. She has around \$23,000 in a retirement savings account. She utilized her bank's mobile application to track her expenses. She has not received credit counseling, but she intended to determine whether her employer offered such counseling and a financial literacy program. She was current on filing her federal and state income tax returns. She

incurred approximately \$9,000 in student loans when she obtained her 2010 certification, but they had been deferred and she intended to contact the creditor to discuss repayment options. Her manager of three years attested to her trustworthiness and reliability. He noted that she was his “go to person,” and she was recently nominated for shipyard worker of the year for her outstanding work ethic and work quality. (GE 1; Tr. 2 at 29-31, 34, 62-88, 93-96, 99; AE C)

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 security concern 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 . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

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

Applicant has a history of not being able to pay her debts. The evidence is sufficient to raise AG ¶¶ 19(a) and 19(c).

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are 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;
- (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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Conditions beyond Applicant's control contributed to her financial problems. The first prong of AG ¶ 20(b) applies. For the full application of AG ¶ 20(b), she must provide evidence that she acted responsibly under her circumstances. Before she received the SOR, she unsuccessfully attempted to work with her creditors. She then filed Chapter 7

bankruptcy to try to resolve her debts but elected against proceeding after the advice she was given by her mother. Since she began working for her current employer in 2018, her wages have been garnished to resolve SOR ¶ 1.e. She sought help from Credit Karma in 2019 and chose instead to apply the money she would have paid for their services to her debts.

In 2022, Applicant settled SOR ¶ 1.b and then made monthly payments of \$100 that decreased her balance to \$757 as of January 2023. She also paid a number of her medical debts. A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). The adjudicative guidelines do not require that an individual make payment on all delinquent debts simultaneously, pay the debts alleged in the SOR first, or establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). She does not have any other delinquent debts. She has demonstrated a good-faith effort to address her debts, and the money she has utilized to resolve SOR ¶ 1.b will provide her with the means to continue to resolve her remaining debts. I find that Applicant's finances do not cast doubt on her current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), and 20(d) are established.

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 leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that Applicant mitigated the financial considerations security concerns.

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.n:	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.

Candace Le'i Garcia
Administrative Judge