



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00804
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Karen Moreno-Sayles, Esq., Department Counsel  
For Applicant: *Pro se*

08/07/2023

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**Decision**

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Curry, Marc E., Administrative Judge:

Applicant failed to meet her burden of proving that her financial problems are under control. Clearance is denied.

**Statement of the Case**

On June 8, 2022, the Department of Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DCSA CAS took the action under Executive Order (EO) 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 National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On July 7, 2022, Applicant answered the SOR admitting all of the allegations except SOR subparagraph 1.y, and requested a hearing, whereupon the case was assigned to me on April 28, 2023. On June 5, 2023, DOHA issued a notice of video teleconference hearing, scheduling the hearing on June 21, 2023. The hearing was held as scheduled. At the

hearing, I considered Applicant's testimony, together with five Government Exhibits (GE), marked and incorporated into the record as GE 1 through GE 5. At Applicant's request, I enlarged the record through July 21, 2023 to afford her the opportunity to submit exhibits. On July 26, 2023, she submitted four exhibits. Department did not object to their late submission or their admissibility, whereupon, I marked and incorporated them into the record as AE A through AE D. The transcript (Tr.) was received on July 3, 2023.

### **Findings of Fact**

Applicant is a 43-year-old woman with two adult children and one teenage child from a previous relationship. (Tr. 21; GE 1 at 24-25) She was married from 2016 until her divorce in April 2023. (Tr. 14) She has a high school diploma and she has taken a few semesters of college courses. (GE 2 at 2) Since June 2022, she has been working for a defense contractor as a facility security officer. (Tr. 18)

Applicant has a history of financial problems. She attributes them primarily to low wages, lack of money management skills, and difficulty affording to raise children without adequate child support. (GE 2 at 3) Her financial problems were later exacerbated by her troubled marriage, as her ex-husband often opened charge accounts in her name without her knowledge. Moreover, after their separation, Applicant's husband failed to abide by the separation agreement to pay some of the bills. (GE 2 at 3; Tr. 15) Applicant's difficulties paying for medical care also strained her finances.

Applicant's delinquent debt, as alleged in the SOR, totals approximately \$45,000, Approximately \$26,000 of this debt is composed of medical bills, as alleged in SOR subparagraphs 1.a, 1.h, 1.j, 1.l, 1.m - 1.o, and 1.t through 1.v. (Tr. 46) Applicant incurred these bills before she began working at her current job. At that time, she received Medicaid health benefits. She was unaware that Medicaid did not cover her bills in their entirety. (GE 2 at 5; Tr. 35) Some of these medical bills are nearly 25 years old. (Answer at 1) She intends to call these treatment providers and apply for a medical debt relief program to help her satisfy the debts. (Answer) She has not yet begun paying any of these debts and she provided no evidence that she has applied for a medical debt relief program.

Approximately \$14,500 of Applicant's delinquent debt constitutes federal government student loans, as alleged in SOR subparagraphs 1.b through 1.f., 1.i and 1.p. They were in COVID-related forbearance through August 2022 . (Tr. 32) Applicant has not made any payments since the forbearance ended. (Tr. 33) She was supposed to pay the creditors \$5 per month, the amount she was paying before the pandemic. (Tr. 33)

Approximately \$2,500 of Applicant's delinquent debt constitute private student loan accounts, as alleged in SOR subparagraphs 1.p and 1.q. Currently, they are in forbearance, and will remain so until October 2023. (AE A)

The remaining miscellaneous debts, as alleged in subparagraphs 1.g, 1.k, 1.r, 1.s, and 1.w through 1.aa, total approximately \$5,100. Applicant confirmed that the debt alleged in subparagraph 1.r, as duplicated in subparagraph 1.z, totaling \$468, is now in current

status. (AE B) She satisfied the debt alleged in subparagraph 1.y, totaling \$1,008, in 2020. (AE C) The others remain outstanding.

In approximately 2018, Applicant retained a debt resolution company to help her with her financial problems. (Tr. 27) She contends that they disputed all of her delinquent debts on her behalf, and helped her resolve debts that were not alleged in the SOR. (Tr. 28) She did not provide a copy of any retainer agreement or any evidence of the work they accomplished. (Tr. 27-28)

In July 2023, Applicant consulted a credit repair company. It is researching her credit, identifying bills, and advising her on which bills that she should dispute. (AE D)

Applicant earns \$72,000 per year. (Tr. 22) She has nominal monthly income and lives “paycheck to paycheck.” (Tr. 25)

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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 overall 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 ¶ 1(d) 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, 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 to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). 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.

## **Analysis**

### **Guideline F: Financial Considerations**

Under this concern, "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." (AG ¶ 18) The student loan accounts alleged in subparagraphs 1.p and 1.q are back in forbearance. Applicant caught up on payments to the creditor alleged in subparagraph 1.r, as duplicated in subparagraph 1.z. She satisfied the debt alleged in subparagraph 1.y, three years ago in 2020. I resolve these allegations in her favor. As for the remainder, her history of financial problems, and continuing inability to resolve the majority of her debt trigger the application of AG ¶ 19(a), "inability to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations."

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, 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; and

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

Applicant's financial problems originally stemmed from difficulty making ends meet as a single mother, and they were exacerbated years later after the man whom she married began abusing her credit towards the end of their marriage. Conversely, she has not taken any appreciable steps to resolve her medical bills, despite the fact that some are more than 25 years old, and she did not outline a plan for satisfying the federal student loan debts now that they are out of forbearance. Under these circumstances, AG ¶ 20(b) is only partially applicable.

Although Applicant worked with a debt resolution company several years ago, she provided no evidence of the work that it accomplished. Although Applicant recently retained a credit repair agency, she did so more than a year after the issuance of the SOR, and one month after the hearing. Moreover, she has not provided a plan for paying the delinquent student loans, nor has she presented evidence that she has applied for assistance to pay her medical debts, as she testified that she was going to do. Under these circumstances, I cannot conclude that either AG ¶ 20(c), or AG ¶ 20(d) apply. In sum, I conclude that Applicant has not mitigated the financial considerations security concern.

### **Whole-Person Concept**

Applicant's financial problems were not caused by reckless or irresponsible spending. Instead, they were caused by lack of income needed to make ends meet without using credit cards, and they were exacerbated by a divorce. Nevertheless, Applicant still has the burden of demonstrating steps she has taken to alleviate these problems. Although Applicant presented some evidence, it was insufficient to provide a clear picture that she has gotten her troubled finances under control. Under these circumstances, I conclude Applicant has failed to mitigate 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:	AGAINST APPLICANT
Subparagraphs 1.a – 1.o:	Against Applicant
Subparagraphs 1.p – 1.r:	For Applicant
Subparagraphs 1.s – 1.x::	Against Applicant
Subparagraphs 1.y – 1.z:	For Applicant
Subparagraph 1.aa:	Against Applicant

## **Conclusion**

Considering the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Marc E. Curry  
Administrative Judge