



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



In the matter of: )  
)  
) ISCR Case No. 23-01095  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Brian Farrell, Esq., Department Counsel  
For Applicant: *Pro Se*

07/22/2024

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**Decision**

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BORGSTROM, Eric H., Administrative Judge

Although Applicant experienced some circumstances beyond her control that contributed to her financial problems, she has not established that she has acted responsibly to address and resolve her delinquent accounts. She has not developed or implemented a reasonable plan for repayment or taken steps to effectuate that plan. She has not provided any evidence to corroborate her identity-theft claims. None of the financial considerations mitigating conditions apply. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 6, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The DCSA CAS 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 implemented by the DOD on June 8, 2017.

In Applicant's July 10, 2023 response to the SOR (Answer), she admitted the delinquent debts in SOR ¶¶ 1.b.-1.k. She neither admitted nor denied the debt in SOR ¶ 1.a, but she acknowledged the debt and claimed that it had been charged off. She attributed her delinquent accounts to a layoff, identity theft, and significant medical expenses. She did not attach any documents to her response. She requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge.

On August 4, 2023, the Government was ready to proceed to hearing. I was assigned this case on March 8, 2024. On April 5, 2024, DOHA issued a Notice of Hearing, scheduling a hearing by video teleconference for April 23, 2024. The hearing proceeded as scheduled. The Government proffered five exhibits, which I admitted as Government Exhibits (GE) 1 through 5 without objection. Applicant testified and proffered four character-reference letters, which I admitted as Applicant Exhibit (AE) A without objection. At Applicant's request, I held the record open until May 23, 2024, to provide her an opportunity to supplement the evidentiary record. DOHA received the hearing transcript (Tr.) on May 2, 2024. Applicant timely provided two emails with four total attachments, which I admitted as AE B through G. The evidentiary record closed on May 23, 2024.

### **Findings of Fact**

Applicant is 46 years old. She has attended some college-level courses. She married in 1997 and divorced in 2008. She has two daughters, ages 21 and 24. (GE 1)

From October 2012 to September 2019, Applicant was employed full time for two successive DOD contractors. She was laid off in September 2019 and remained unemployed until December 2019. From December 2019 to November 2021, she was employed full time as a documentation specialist with a DOD contractor, earning approximately \$25 an hour without medical insurance. Since November 2021, she has been employed with a different DOD contractor, currently as a forklift operator earning approximately \$43 an hour. (GE 1; Tr. 25-32)

On September 28, 2022, Applicant completed and submitted an Electronic Questionnaire for Investigations Processing (e-QIP). Under Section 26 - Financial Record - Delinquency Involving Routine Accounts, she reported several delinquent medical accounts, including SOR ¶¶ 1.a., 1. b., and 1. h. (GE 1)

On January 5, 2023, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). She confirmed that she had been unemployed from September 2019 to December 2019. She attributed her financial delinquencies to her layoff. She disputed several medical accounts, including SOR ¶¶ 1.e., 1.h., and 1.i, because she believed that someone was using her personal identifying information to fraudulently receive medical care. She also discussed her own significant medical expenses beginning in 2018 due to a chronic condition. During the interview, she admitted the debts alleged in SOR ¶¶ 1.a.-1.d., 1.f., 1.g., 1.j., and 1.k. (GE 4)

The SOR alleges 11 delinquent accounts totaling approximately \$22,669. Although Applicant disputed SOR ¶¶ 1.e., 1.h., and 1.i. during her OPM interview, she did not dispute any of the 11 accounts in her Answer. The accounts are detailed below; however,

more generally, she has not initiated any contacts with these creditors, made any payment arrangements, or made any payments on these alleged and admitted accounts. She does not have a plan to address and resolve these delinquent accounts. (Tr. 55, 60-61)

**SOR ¶ 1.a.** According to Applicant's credit reports, this personal loan was incurred in January 2020, became delinquent in August 2021, and was charged off in the approximate amount of \$13,006. At the hearing, Applicant testified that she had obtained this personal loan prior to 2014 to consolidate and pay several medical bills. She further testified that, after payment of these bills, she learned that some of the accounts may have been fraudulently incurred in her name through identity theft. Applicant did not provide any evidence to corroborate her identity-theft claims or the timing of when the loan was incurred. She has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2, GE 5; Tr. 41-43, 49, 55-56, 60-61)

**SOR ¶ 1.b.** This charge account was opened in September 2011, became delinquent in April 2020, and was charged off in the approximate amount of \$2,727. Applicant has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2, GE 5; Tr. 49-51, 66, 60-61)

**SOR ¶ 1.c.** This credit-card account was opened in September 2016, became delinquent in June 2019, and was charged off in March 2020 in the approximate amount of \$1,685. Applicant has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2, GE 3, GE 5; Tr. 51, 55, 60-61)

**SOR ¶ 1.d.** This charge account was opened in March 2010, became delinquent in June 2019, and was charged off in December 2019 in the approximate amount of \$1,150. Applicant has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2, GE 3, GE 5; Tr. 51, 55, 60-61)

**SOR ¶ 1.e.** This medical account became delinquent in July 2018 in the approximate amount of \$1,041. Applicant's credit report reflects that she disputed this debt through the credit-reporting agency; however, she remains liable. She has not filed an identity-theft complaint with law enforcement or with the medical provider. Applicant has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2, GE 5; Tr. 55, 60-61)

**SOR ¶ 1.f.** This credit-card account was opened in November 2016, became delinquent in June 2019, and was charged off in January 2020 in the approximate amount of \$1,026. Applicant has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2, GE 5; Tr. 55, 60-61)

**SOR ¶ 1.g.** This credit-card account was opened in November 2021, became delinquent in January 2022, and was charged off in July 2022 in the approximate amount of \$870. Applicant has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2, GE 5; Tr. 55, 60-61)

**SOR ¶ 1.h.** This medical account became delinquent in June 2021 in the approximate amount of \$798. Applicant's credit report reflects that she disputed this debt through the credit-reporting agency; however, she remains liable. She has not filed an identity-theft complaint with law enforcement or with the medical provider. Applicant has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2, GE 5; Tr. 55, 60-61)

**SOR ¶ 1.i.** This medical account was placed for collection in the approximate amount of \$179. Although Applicant disputed this account during her security interview, there is no evidence of steps undertaken by her to formally dispute this account or file an identity-theft complaint. She has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2; Tr. 55, 60-61)

**SOR ¶ 1.j.** This medical account was placed for collection in the approximate amount of \$137. Applicant has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2; Tr. 55, 60-61)

**SOR ¶ 1.k.** This medical account was placed for collection in the approximate amount of \$50. Applicant has not contacted this creditor, made payment arrangements, or made payments on this account. **This debt is not resolved.** (GE 2; Tr. 55, 60-61)

Applicant attributed her financial problems to her September 2019 layoff, identity theft, and significant medical expenses. She claimed that she was laid off following inappropriate conduct and advances by her supervisor. She liquidated her retirement savings, which she estimated at approximately \$10,000, to pay her mortgage and monthly expenses while unemployed. She applied for many positions and for unemployment compensation, but purportedly only received \$250 in unemployment compensation. (Answer; Tr. 32-33, 46, 48)

In her Answer and during her security interview, Applicant attributed some of her medical collections to identity theft, noting one debt was incurred simultaneous to when she visited her daughter in a hospital elsewhere. She specifically identified SOR ¶¶ 1.e., 1.h., and 1.i as fraudulent debts, and she disputed SOR ¶¶ 1.e. and 1.h. with the credit-reporting agency. She has not filed identify theft complaints with law enforcement or the medical providers. She further claimed that some of the debts consolidated and paid by the personal loan (SOR ¶ 1.a.) had been fraudulent medical accounts; however, they had already been paid by her. Applicant did not provide any evidence to corroborate her claims of identity theft or that she has taken steps to formally dispute these medical debts. (Answer; GE 4; Tr. 58-59)

At the hearing, Applicant explained that she is paid \$43 an hour, to include payment for "health and welfare." She is responsible for her own medical insurance. She purportedly pays \$300 monthly in insurance premiums, but then pays \$1,000 monthly for prescription medications, \$120 per doctor visit, and \$150 per urgent care visit. She testified that she had been to the emergency room and urgent care several times since 2020 due to migraines and other health issues. She provided a monthly budget with her estimated monthly expenses including the premium and medication expenses; however,

she did not provide any corroborating evidence as to her expenses. The monthly budget listed her income as \$5,400 and expenses as \$5,185. (Answer; GE 4; AE B; Tr. 27-29, 36-38)

During the hearing, Applicant testified that she contacted a credit-repair company (CRC) after she received the. SOR. She sought a debt-consolidation loan or program, and, after a few communications, she concluded that she could not afford the CRC's proposed monthly payment. She did not hire the CRC, and she has not developed a plan to address and resolve her delinquent accounts. A few years ago, she consulted her tax accountant to create a monthly budget, but she has not participated in any credit counseling. She receives some financial advice and financial support from her father. (Tr. 52-53, 62-63)

At the hearing, Applicant testified that she owed Federal income taxes for tax years (TY) 2021, 2022, and 2023, which her father has paid annually on her behalf. After the hearing, she provided her Federal income tax returns for these three tax years. In 2021, she earned approximately \$58,800, and she owed approximately \$3,800 in Federal income taxes. In 2022, she earned \$86,800, and she owed approximately \$3,800 in Federal income taxes. In 2023, she earned approximately \$87,700, and she owed approximately \$3,100 in Federal income taxes. Having purchased her health insurance through the Affordable Care Act Marketplace, she had applied for Premium Tax Credits to reduce her monthly insurance premiums. Those tax credits are calculated on a sliding scale based on income and household size. Applicant's income has increased and her daughters moved out in 2020, but Applicant continues to receive the tax credits. As a result, she has a year-end Federal income tax liability until she adjusts her tax credits. (AE E-G; Tr. 35, 40, 63-64)

Applicant's April 2024 credit report lists her current vehicle loan as three-months delinquent. She explained that she does not have any income to address her delinquent accounts. She currently does not have a debt-resolution plan as she awaits the outcome of her clearance determination and whether she retains employment. (Tr. 65, 67, 69)

## **Whole Person**

Applicant submitted three character-reference letters in support of her clearance eligibility. A long-time co-worker attested to Applicant's work performance, work ethic, and her character. He praised her perseverance and dedication as a single mother of two daughters. A second long-time colleague noted Applicant's dedication to safeguarding classified materials and indicated that Applicant may have experienced identity theft that impacted her finances. A third long-time colleague attested to her work performance and volunteerism. A former colleague praised Applicant's work performance, dedication, and professionalism, and she recommended Applicant's clearance application "without reservation." (AE A)

## **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 sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive information.

Section 7 of EO 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* EO 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's 11 delinquent accounts total approximately \$22,700, and they became delinquent between about July 2018 and August 2021. AG ¶¶ 19(a) and 19(c) apply.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable in this case:

- (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 has 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 bears the burdens of production and persuasion in mitigation. An applicant is not held to a standard of perfection in his debt-resolution efforts or required to be debt-free. "Rather, all that is required is than an applicant act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the

plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). See, e.g., ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014).

Applicant's 11 delinquent accounts remain delinquent. She is behind on her vehicle loan payments, and she relies upon her father to pay her annual Federal tax liability. She has not contacted her creditors or undertaken any steps to address her delinquent accounts, to include her \$50 medical collection (SOR ¶ 1.k.). She has not adjusted her Premium Tax Credit to reduce her annual Federal tax liability. She has not consulted a credit counselor, and there is no evidence that she has explored how to reduce her out-of-pocket medical expenses. Although she experienced a layoff and continues to have significant medical expenses, she has not established that she has acted responsibly to address and resolve her delinquent accounts. She has not developed and implemented a reasonable plan for repayment or taken steps to effectuate that plan. She has not provided any evidence to corroborate her identity-theft claims. None of the financial considerations mitigating conditions apply. At this time, she has not presented sufficient evidence to mitigate the financial considerations security concerns.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a position of trust 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 and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant is very well regarded by her co-workers, who praised her work performance, work ethic, dedication, and volunteerism. Notwithstanding this favorable evidence, Applicant has not overcome the concerns raised by her unaddressed delinquent accounts. Her inaction raises concerns as to her judgment and reliability. She did not mitigate the financial considerations security concerns.

### **Formal Findings**

