



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



In the matter of:)	
)	
)	ISCR Case No. 14-02227
)	
Applicant for Security Clearance)	

Appearances

For Government: Alison O’Connell, Esq., Department Counsel
For Applicant: *Pro se*

05/27/2015

Decision

CURRY, Marc E., Administrative Judge:

Applicant’s inability to keep current with her debts occurred during an 18-month period when her ex-husband stopped paying child support. His resumption of child support payments in 2012, together with a reduction of her health expenses in 2015, has enabled Applicant to get her finances under control. I conclude Applicant has mitigated the security concern. Clearance is granted.

Statement of the Case

On September 2, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued an SOR to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006. On October 9, 2014, Applicant answered the SOR, admitting the allegations and requesting a hearing. The case was assigned to me on January 16, 2015. DOHA issued a notice of

hearing on February 19, 2015, scheduling the hearing for March 13, 2015. The hearing was held as scheduled. At the hearing, I received five Government exhibits (GE 1 through GE 5), three Applicant exhibits (AE A through AE C), together with the testimony of Applicant and one character witness. Also, I took administrative notice of Department Counsel's discovery letter to Applicant (Hearing Exhibit I).

At the close of the hearing, I left the record open, at Applicant's request, to allow her to submit additional exhibits. Within the time allotted, she submitted six additional exhibits that I made part of the record as AE H through AE I. DOHA received the transcript (Tr.) on March 23, 2015.

Findings of Fact

Applicant is a 33-year-old woman with two 12-year-old twin boys. She was married previously from 2002 through 2005. The marriage ended in divorce. Applicant has a high school diploma and has attended college, earning several credits before dropping out in December 2009.

For the past six years, Applicant has worked for a contractor on an Army base as a data collector. (Tr. 18) Her duties include reporting and recording information on various military test vehicles, including tracking data and ballistics data. (Tr. 53) She is highly respected on the job. According to her supervisor, Applicant goes "above and beyond" what is required of her. (Tr. 51)

Applicant retained physical custody of her children after her divorce. Initially, she received \$980 of monthly child support from her ex-husband. Over the next few years, the child support payments that Applicant received became smaller and more erratic. (Tr. 26) By approximately 2011, Applicant was not receiving any child support payments, and did not receive any for the next year and a half. (Tr. 26-27)

Consequently, Applicant began to struggle financially. By January 2013, multiple student loan accounts totalling approximately \$40,000, together with several miscellaneous bills totalling approximately \$3,300 became delinquent. (GE 2 at 19)

Applicant originally had 15 student loan accounts, as set forth in subparagraphs 1.a and 1.b. (AE B) In August 2013, Applicant began making monthly payments on seven of the accounts through a wage garnishment. (GE 5; Tr. 43) Per the garnishment, Applicant paid 15 percent of her bimonthly pay to the student loan creditor. Over the years, this payment has ranged between \$173 and \$336. (AE C) To date, Applicant has reduced the debt on these seven accounts by \$5,700. (AE C) The balance is approximately \$21,000.

Applicant obtained a payment deferment through April 2015 for the remaining student loan accounts. (AE F) She has consolidated them and negotiated a payment plan with the lender. Under the payment plan, she will satisfy the loan balance, currently

totalling \$23,000, through monthly \$125 payments. The first payment was scheduled to begin on April 26, 2015, after the close of the record. (AE F)

Subparagraph 1.c, totalling \$1,313, is a delinquent credit card account. In February 2015, Applicant contacted the collection agent and arranged a payment plan. That month, she made a \$200 payment (AE H), and the following month, she made a \$182 payment. (AE D at 1; Tr. 31, 39) She plans on continuing the payments until the debt is satisfied.

Applicant does not recognize the debt listed in subparagraph 1.d, totalling \$1,755. (Tr. 34) She suspects that it is a student loan debt, but does not understand why it was not consolidated with the student loan accounts listed in subparagraph 1.a. She has not yet taken any steps to identify this debt. (Tr. 33)

Subparagraphs 1.e and 1.f are medical bills totalling \$270. On March 23, 2015, Applicant paid both bills. (AE E at 2; AE I at 2)

Subparagraph 1.g is a medical bill, totalling \$28, owed to an unidentified creditor. Applicant does not recognize this account. (Tr. 34)

Applicant maintains a budget. (Tr. 34) Her net monthly income is \$2,400, and she has approximately \$600 of monthly discretionary income. (Tr. 36) Her ex-husband resumed his child support payments approximately three years ago. (Tr. 26) Also, her medical insurance monthly premium expenses decreased substantially in January 2015 after she switched plans. Previously, her monthly premium was unusually high because both her children have a chronic medical condition. In an effort to lower her health insurance costs, Applicant accessed the state health exchange, created as part of the *Affordable Care Act*, and enrolled in a plan that provided the same coverage at one-third the cost of her previous plan, resulting in monthly savings of \$600. (Tr. 22-23)

Policies

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. According to AG ¶ 2(c), 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 access to classified information will be resolved in favor of 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 applicant or proven by department counsel. . . .” The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

Analysis

Guideline F, Financial Considerations

Under this guideline, “failure or inability 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 information.” (AG ¶ 18) Between 2011 and 2013, Applicant incurred \$43,000 of delinquent debt. AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” apply.

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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control; and
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant’s financial problems coincided with the 18-month period when her ex-husband failed to pay child support. She has been receiving child support payments for the past three years. Also, she has switched health insurance plans, finding a plan with a monthly payment of only one-third the cost of her previous plan.

In an effort to save money, Applicant searched for and discovered a health insurance plan that was significantly less expensive than her previous plan. The reduction of health care expenses together with the resumption of child support income has enabled Applicant to implement payment plans toward the satisfaction of the student loans listed in subparagraph 1.a and the credit card listed in subparagraph 1.c, and to pay the medical bills listed in subparagraphs 1.f and 1.g. AG ¶¶ 20(b) through 20(d) apply.

Applicant’s student loans, though no longer delinquent, are high in comparison to her modest salary. Also, she has not yet taken any steps to identify the creditors listed

in subparagraphs 1.d and 1.g. On balance, however, considering the cause of her financial problems, the steps she has taken to reduce her monthly expenses, the progress she has made in debt reduction, and her exceptional work performance, I conclude her finances no longer pose a security risk.

Whole-Person Concept

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). 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.

I considered the whole-person factors in my resolution of the financial considerations security concerns in Applicant's favor. Applicant has mitigated the security concern.

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.g: | 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 eligibility for a security clearance. Eligibility for access to classified information is granted.

MARC E. CURRY
Administrative Judge

