



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



In the matter of: )  
)  
) ISCR Case No. 11-00070  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Braden Murphy, Esquire, Department Counsel  
For Applicant: *Pro se*

02/21/2012

**Decision**

CURRY, Marc E., Administrative Judge:

Applicant’s financial difficulties were caused by circumstances beyond her control. Currently, she is satisfying her delinquencies consistent with a payment plan, and she has ample disposable income to continue adhering to the payment plan. Clearance is granted.

**Statement of the Case**

On July 20, 2011, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (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 Department of Defense on December 1, 2006.

Applicant answered the SOR on August 20, 2011, admitting subparagraphs 1.a through 1.c, 1.g, 1.h, 1.j, 1.l, 1.o through 1.q, 1.s, 1.v, and 1.y. She denied the remainder. Also, she requested a hearing. The case was assigned to me on November 4, 2011. A notice of hearing was issued on November 30, 2011, scheduling the case for January 25, 2012. I held the hearing as scheduled and received six Government exhibits, marked as Government Exhibits (GE) 1 through 6, and 14 Applicant Exhibits (AE) marked as AE A through N. Also, I considered the testimony of Applicant.

At the close of the hearing, I left the record open, at Applicant's request, for the submission of additional exhibits. Within the time allotted, she submitted eight additional exhibits. Department Counsel had no objection, and I admitted them as AE O through V. DOHA received the transcript (Tr.) on January 11, 2012.

### **Findings of Fact**

Applicant is a 33-year-old single woman. She has a high school diploma and has earned two and a half years of college credit. (Tr. 28)

Applicant is the oldest of five children. She had a difficult childhood. Both of her parents were "in and out of the penitentiary," her father was an alcoholic, and a brother was diagnosed with paranoid schizophrenia. Although the family received public assistance, they were seldom able to make ends meet. Applicant and her siblings constantly feared that the local social services agency would remove them from the home and place them in foster care. (Tr. 23-25)

Determined to keep the family intact and stay "below the radar," Applicant gradually became the *de facto* head of the household. (Tr. 90) At age 12, she obtained her first job, working at a neighborhood bakery. Although she was two years younger than the state minimum working age, the proprietor, empathizing with her plight, paid her "under the table," and often gave her food to take home to the family. By the time Applicant was 16 years old, she was the sole manager of her family's finances. By then, she was working part-time at a fast-food restaurant. (Tr. 23-25, 89-91) When Applicant turned 18, she assumed legal responsibility for the lease on the family's home. (Tr. 106)

While struggling to support her family, Applicant was also dealing with major health problems. At age 16, she was diagnosed with thyroid cancer. Subsequently, she underwent a series of radiation treatments culminating in the removal of her thyroid gland approximately a year later. Shortly after Applicant's thyroid gland was removed, she was diagnosed with breast cancer. She again underwent surgery and a series of radiation treatments. (Tr. 90-92)

Despite these challenging issues that Applicant faced during childhood, she did well in school. In approximately 1994, she participated in a special program through her high school that offered students a chance to take courses at local colleges and matched students with professional mentors from local corporations. Through the

program, she met the vice president of a major defense contractor at a banquet and asked to be hired. He was so impressed with her initiative, that he “set [her] up for an internship” the following week. (Tr. 31) Through the internship, Applicant became exposed to information technology product management. (Tr. 97)

Applicant graduated from high school in 1995 and entered college. Although she continued to work with the defense contractor over breaks, she pursued a pre-med curriculum. (Tr. 94-97) Applicant struggled in college because “the financial burden of being a student and supporting [her]self completely, plus the medical procedures [she] kept having to [undergo] began to be a burden on [her] GPA.” (Tr. 94) In approximately 1997, Applicant met with the college dean. He suggested that she quit school and focus on her health because she would not get into medical school if she continued to get C grades. (Tr. 25)

Applicant took her advisor’s advice, dropped out of school, and began working full-time for the defense contractor with whom she had been interning. In 1998, she was granted her first security clearance. She has remained in this field since then. When she began, she earned eight dollars per hour. By 2011 when she began her current job, she was earning \$125,000 per year. (Tr. 110) Currently, she works as an information technology knowledge manager. (Tr. 127)

Although Applicant’s salary successively increased after she began working full-time in the defense contracting industry, she continued to be hampered with financial issues generated by her health problems. Also, the financial burden of her family increased after her mother’s health began deteriorating. Applicant gradually became unable to balance her medical expenses with her mother’s medical expenses. (Tr. 35-37)

In December 2001, Applicant filed for Chapter 7 bankruptcy protection. In April 2002, the court discharged approximately \$36,000 of debt, including the debt listed in subparagraph 1.b. (Tr. 34)

Shortly before filing for bankruptcy protection, Applicant got married. Her husband was not forthcoming about his personal finances and failed to disclose that he had children for whom he owed child support. These issues strained the marriage and ultimately led to their separation in 2005 and divorce in 2007. (Tr. 27, 35) Although their finances were separate and her husband did not abuse her finances during the marriage, she incurred the unanticipated cost of renting an apartment and managing it on her own after they separated. (Tr. 35-37; 112)

After separating from her husband, Applicant experienced another period of major illnesses. Treatment required, among other things, three uterine surgeries over the next three years. (Tr. 108) As Applicant struggled with various ailments involving her reproductive organs, she began experiencing trouble with one of her knees, and was also diagnosed with reflexive sympathetic dystrophy (RSD), a sensory abnormality that, among other things, periodically causes one’s limbs to malfunction. When Applicant’s

RSD flares up, she is unable to walk without either a cane or a walker. These problems led to two more surgeries. (Tr. 100-102)

Burdened with health problems and mounting medical bills, Applicant gradually began falling behind on her debts again. Her financial problems were compounded in March 2010 when she had to pay her mother's funeral expenses after her mother died unexpectedly. By mid-2010, Applicant had accrued approximately \$61,000 of delinquent debt, as the chart below indicates:

Debt Type	Amount	SOR Subparagraph(s)
Student Loans	\$30,000	1.m, 1.n
Federal Income Tax	\$9,000	unlisted
Apartment Rent	\$14,900	1.c - 1.f
Medical Bills	\$1,300	1.g-1.i,1.k, 1.l
Bank Loans	\$3,600	1.r, 1.w
Utilities	\$1,438	1.t-1.v
Credit Card	\$1,049	1.q
Miscellaneous	\$1,825	1.j, 1.o, 1.p, 1.s, 1.x, 1.y

SOR subparagraphs 1.m and 1.n. are duplicates. (AE F, V) Applicant has been making \$210 monthly payments, as agreed, since January 2011. It is no longer in delinquent status. (AE V)

Applicant's federal income tax delinquencies stem from tax years 2002 through 2005. In August 2010, she voluntarily submitted an IRS Payroll Deduction Agreement form to her employer's payroll department and requested that \$75 be deducted each pay period from her account. (GE 4) Applicant made these payments through these automatic payroll deductions through December 2011. (GE 4) She then switched to the IRS automatic payment system. Through this system, she will make \$150 payments once monthly. (AE S) She made her first payment as scheduled in January 2012. (AE S at 2) The balance of the delinquency is approximately \$8,000. (Tr. 74)

Applicant accrued the rental delinquency listed in subparagraph 1.c after she separated from her husband. The delinquency represents costs she incurred for breaking the lease by moving before its expiration. Applicant moved because she could not afford a rent increase. Her attempts at negotiating a payment arrangement failed, and the landlord is demanding the entire amount (\$3,390) in a lump sum. (Ex. C)

Subparagraph 1.d, totaling \$2,041, is a rental delinquency her sister accrued. Applicant is jointly responsible because she cosigned the lease. Applicant satisfied this delinquency in January 2011. (AE E)

Subparagraph 1.e, a duplicate of subparagraph 1.f, is a rental delinquency Applicant accrued approximately two years after separating from her husband. As of January 2011, the balance was \$8,166. (AE A) That month, Applicant contacted the collection agency and negotiated a payment plan. Since then, she has been making \$500 monthly payments. (AE A, B)

Applicant has not yet paid any of the delinquent medical bills. As for the bank loans, she successfully disputed subparagraph 1.r (AE N), and satisfied subparagraph 1.w, consistent with a settlement she negotiated in December 2010. (AE I) Per the settlement agreement, the debt was satisfied by January 2011 with two monthly installments. (AE I, J)

Applicant suspects that one of her sisters accrued two of the utility bills (subparagraphs 1.t, 1.u) listed in the SOR. The disputed amount totals approximately \$800. She has contacted both creditors. (AE C) Applicant is currently attempting to settle the utility bill listed in subparagraph 1.v, totaling \$412. (AE C at 2)

Subparagraph 1.q is an ongoing dispute Applicant has with a former employer regarding what she contends were reimbursable business expenses charged to a company credit card. (Tr. 53) Applicant decided to stop disputing this bill and pay it. Accordingly, she contacted the creditor and agreed to satisfy it in six monthly installments beginning in February 2012. (AE O at 2)

As for the miscellaneous debts, Applicant paid subparagraph 1.s, a \$300 debt owed to a municipality for back parking tickets, in December 2011. (AE U) She is disputing subparagraph 1.x, totaling \$536, through a complaint filed with the Better Business Bureau. (AE T) She admits the other miscellaneous debts, but has not yet begun satisfying them.

In sum, Applicant has satisfied approximately \$15,000 of delinquent debt since October 2011. Currently, she is working with a representative from her credit union to help manage her debt repayment plan (Tr. 121). Per the plan, all of her outstanding debts except the federal income tax debt and the student loan are scheduled to be satisfied by August 2012. (AE O).

Since 2008, Applicant's annual salary has increased by \$35,000. (Tr. 90, 110) Moreover, she no longer supports two households because her mother is deceased, her schizophrenic brother is being completely supported through federal and state assistance, and her remaining siblings are adults. (Tr. 65) Applicant has approximately \$1,500 of discretionary monthly income. (Tr. 81)

Since the SOR, Applicant underwent another major surgery after one of her Fallopian tubes ruptured. (Tr. 83) After the surgery, she was out of work for a month. Because she is a temporary employee, she did not have any sick leave benefits, and did not earn any money during this time. Consequently, her debt payment plans were temporarily sidetracked. Applicant contends that because she no longer has to support any family members, she still will have enough to satisfy her delinquencies on schedule. (Tr. 103)

## **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). After obtaining a discharge of \$35,000 through the Chapter 7 bankruptcy process, Applicant, over the next nine years, accrued approximately \$61,000 of additional delinquent debt. AG ¶¶ 19(a), “inability or unwillingness to satisfy debts,” and 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;

(d) the individual initiated 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 financial problems were primarily caused by major health problems, and exacerbated by the added responsibility of providing for her indigent family. Although her then-husband did not abuse her finances, the failure of their marriage was nevertheless a financial setback because she had to accrue an unanticipated increase in her apartment rental expenses when they separated.

Applicant has been steadily paying down her debt since October 2011, reducing it by \$15,000. Currently, she is working with a representative from her credit union to help her manage her debt repayment plan (Tr. 121). The plan provides that all of her outstanding debts except the federal income tax debt and the student loan are scheduled to be satisfied by August 2012. (AE O).

Applicant successfully disputed several debts. Although she did not provide documentary evidence supporting the basis of some of the disputed debts, she has promised to pay them if the respective creditors resolve them against her. I conclude that all of the mitigating conditions 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 relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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.

Over the past 15 years, Applicant has cultivated a successful, lucrative career in the defense contracting industry. In doing so, she overcame a childhood characterized by abject poverty and family dysfunction, and a young adulthood characterized by a series of grave illnesses. Although she overcame these challenges, they impeded her ability to manage her finances and caused her to accrue delinquent debt.

Currently, Applicant is no longer responsible financially for her family. Also, her income has steadily increased over the years. She has been satisfying her delinquent debts through a well-organized payment plan, and she has ample disposable income to continue adhering to the plan in the future.

Applicant's health remains fragile, and another downturn may stall her debt-reduction progress. However, if this were to occur, it would be indicative of bad fortune, rather than bad character or bad money-managing abilities. Upon evaluating Applicant's case in the context of the whole-person, I conclude she has mitigated Guideline F 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.y:	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