



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 15-01597

Appearances

For Government: Andre M. Gregorian, Esq., Department Counsel

For Applicant: *Pro se*

08/16/2016

Decision

LOUGHRAN, Edward W., Administrative Judge:

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

Statement of the Case

On October 2, 2015, 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 (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 adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

Applicant responded to the SOR on November 3, 2015, and elected to have the case decided on the written record in lieu of a hearing. The Government's written case was submitted on December 28, 2015. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant

received the FORM on January 7, 2016. As of March 21, 2016, she had not responded. The case was assigned to me on March 29, 2016. The Government exhibits included in the FORM are admitted in evidence.

Findings of Fact

Applicant is a 43-year-old employee of a defense contractor. She has worked in security for her current employer since February 2011. She worked as a security officer for a different company at the same location from 2008 until she accepted her current position. She seeks to retain a security clearance, which she has held since about 2008. She attended college for a period without earning a degree. She is married for the fourth time after her first three marriages ended in divorce. She has two children from her first marriage, ages 23 and 19, and two adult stepchildren.¹

Applicant has had medical-related financial problems for years. One of her children has had significant medical issues since birth, resulting in at least ten operations. Applicant and her other child also had medical problems and their own surgeries. Her first husband was required by court order to have medical insurance for their two children. He did not always maintain insurance. Applicant was also without medical insurance at times due to unemployment. Her husband apparently filed a bankruptcy case and had his debts discharged in about 2006, after which the creditors looked to Applicant for reimbursement.²

Applicant has had medical insurance that covered the children for a number of years. While her first husband apparently had medical insurance, he refused to provide the insurance information to Applicant or her children. Applicant's insurance provider would not always pay the bills because the father's insurance was the primary carrier.³

The SOR alleges 42 delinquent medical debts totaling \$9,110. The October 2014 combined credit report listed 39 of the debts, as reported by Experian, TransUnion, or both credit reporting agencies. The remaining three debts, totaling \$111, were listed on the September 2015 Equifax credit report without identifying the creditor.⁴

The two credit reports do not list any non-medical accounts with balances. None of the medical debts were accrued more recently than September 2014. Applicant's children are now adults, and Applicant is no longer responsible for their medical expenses. Applicant attempted to resolve the debts through her insurance, her ex-husband's insurance, or a combination of the two. With that apparently not working, she

¹ Items 2-5.

² Items 2-5.

³ Items 1, 4.

⁴ Items 6, 7.

indicated that her husband was attempting to obtain a loan to pay the debts. She is also considering payment plans and using her income tax refunds to pay the debts.⁵

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(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 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 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).

⁵ Items 1, 4, 6, 7.

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

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. An individual who is financially overextended is at risk of having to engage in illegal 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 or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Two credit reports list that Applicant had delinquent medical debts. The evidence is sufficient to raise the above disqualifying conditions.

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; and
- (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.

One of Applicant's children has had significant medical issues since birth, resulting in at least ten operations. Her other child had at least one surgery. Her first husband was court-ordered to have medical insurance for their two children. He did not always maintain insurance, and when he did, he would not provide the insurance information to Applicant or her children, resulting in unpaid medical bills. The SOR alleges 42 delinquent medical debts totaling about \$9,100. Applicant does not have a high-paying job, but it is telling that she does not have any non-medical accounts with balances. She thus far has been unsuccessful in her attempts to resolve the debts through her insurance, her first husband's insurance, or a combination of the two. If she

is unable to do so, she assured that she would pay the debts through a loan obtained by her husband, payment plans, or income tax refunds.

Under the limited facts of this case, I find that Applicant's financial problems were beyond her control and she has acted responsibly under the circumstances. Her medical debts do not cast doubt on her reliability, trustworthiness, and good judgment. Financial considerations security concerns are mitigated.

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(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.

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 this 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 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.pp:	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 continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Edward W. Loughran
Administrative Judge