



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



In the matter of:

ISCR Case No. 18-00108

Applicant for Security Clearance

Appearances

For Government: Tara Karoian, Department Counsel

For Applicant: *Pro se*

July 18, 2018

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of the Case

On January 24, 2018, 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 (EO) 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) effective for cases after June 8, 2017.

Applicant answered the SOR on February 20, 2018, and requested a hearing before an administrative judge. The case was assigned to me on April 10, 2018. DOHA issued a notice of hearing on April 17, 2018, and the hearing was convened as scheduled on May 9, 2018. The Government offered seven exhibits, referred to as Government Exhibits 1 through 7, which were admitted without objection. The Applicant offered eighteen exhibits at the hearing, referred to as Applicant's Exhibits A through R, which were admitted without objection. Applicant called two witnesses and testified on

her own behalf. The record remained open until close of business on May 21, 2018, to allow the Applicant the opportunity to submit additional supporting documentation. Applicant submitted one Post-Hearing Exhibit, referred to as Applicant's Post-Hearing Exhibit A, which was admitted without objection. DOHA received the transcript of the hearing (Tr.) on May 17, 2018.

Findings of Fact

Applicant is 61 years old. She is divorced, and has one son. She has a high school diploma and some college. She holds the position of Administrative Assistant for a defense contractor. She seeks to obtain a security clearance in connection with her employment in the defense industry.

Paragraph 1 Guideline F – Financial Considerations The Government alleges that the Applicant is ineligible for clearance because she is financially overextended and at risk of having to engage in illegal acts to generate funds.

The SOR alleges that Applicant is indebted to seventeen separate creditors totaling approximately \$23,000, consisting of consumer and medical debt and an outstanding tax lien in the amount of \$1,451. In her Answer, Applicant admits each of the allegations. Credit reports of the Applicant dated February 17, 2016; November 24, 2017; and March 27, 2018, reflect that these debts were at one time owing. (Government Exhibits 5, 6, and 7.) Applicant has been working for her current employer since January 2016.

While working for her prior employer, another defense contractor, Applicant held a security clearance, both secret and SCI, from 1980 through 2011. She was then laid off, and in 2012, she turned 55 years old, and took an early retirement. During that twenty year period, she had no security violations or warnings.

Applicant has suffered from a chronic illness since the age of 17, which has affected her ability to work from time to time during flare-ups. Specifically, Applicant has had Crohn's disease since the age of 17. Instead of filing for disability, over the course of her life, she has chosen to work as much as possible. In 2012, she was laid off from her previous job, unrelated to her disease, and Applicant began to have financial problems. She received a severance package of \$8,000, which she used to pay bills and help her son go to college. In 2013, Applicant moved out of state and temporarily lived with her ex-husband. At this point, Applicant was living on her retirement check of \$2,000 monthly. While still unemployed and not receiving unemployment benefits, her COBRA medical insurance ran out, and she was faced with back surgery to have a cyst removed, which caused additional medical costs and other unexpected bills. (Tr. p. 65.) Applicant was also paying \$1,000 monthly for her son's college tuition. Applicant then moved to another state to help take care of her mother.

In July 2015, Applicant relocated back to her home state. Applicant's illness is now in remission, and she has been working for her current employer since January 2016. She does not anticipate any time away from work due to medical issues.

Applicant became delinquent indebted to the creditors listed in the SOR as a result of her illness. In January 2018, after receiving the SOR, Applicant hired a debt resolution company to assist her in resolving her delinquent debts above \$500. Since then she has been receiving debt counseling, and debt consolidation to resolve her debts. (Applicant's Exhibit B.) Since March 2018, Applicant has been making regular monthly payments of \$354 for debt resolution services. The debt company is currently working to resolved the debts listed in 1.a. 1.b., and 1.n., of the SOR. Their policy does not allow Applicant to include any debts under \$500. (Tr. p. 92.) In regard to the debts that are less than \$500, Applicant has set up payment plans with each of the creditors that she is following.

1.a. A delinquent debt owed to a creditor was charged off in the amount of about \$12,365. This was Applicant's car loan. She needed \$3,000 in repairs and could not afford to make the car payment and repairs. Applicant defaulted on the loan and the car was repossessed. This creditor is being paid through the debt resolution program. (Applicant's Post-Hearing Exhibit A.)

1.b. A delinquent debt owed to a creditor was placed for collection in the amount of about \$3,724. Applicant co-signed for an apartment for her god son and he did not pay the rent. This creditor is being paid through the debt resolution program. (Applicant's Post-Hearing Exhibit A.)

1.c. A delinquent debt owed to a creditor was placed for collection in the amount of about \$833. This was dental work for Applicant's son. She plans to set up a payment plan of \$20 monthly to begin in June 2018. (Tr. p. 93.)

1.d. A delinquent debt owed to a creditor was placed for collection in the amount of about \$442. Applicant settled the debt for \$176.63, and it has been paid in full. (Tr. p. 94.)

1.e. A delinquent medical debt was placed for collection in the amount of about \$346. Applicant's payment agreement with the creditor is \$20 monthly that she is following until the debt is paid in full. (Applicant's Post-Hearing Exhibit A.)

1.f. A delinquent medical debt owed to a creditor was placed for collection in the amount of about \$330. Applicant's payment agreement with the creditor is \$20 monthly that she is following until the debt is paid in full. (Applicant's Post-Hearing Exhibit A.)

1.g. A delinquent medical debt owed to a creditor was placed for collection in the amount of about \$88. Applicant's payment agreement with the creditor is \$20 monthly that she is following until the debt is paid in full. (Applicant's Post-Hearing Exhibit A.)

1.h. A delinquent medical account was placed for collection in the amount of about \$471. Applicant's payment agreement with the creditor is \$20 monthly that she is following until the debt is paid in full. (Applicant's Post-Hearing Exhibit A.)

1.i. A delinquent debt was placed for collection in the amount of about \$171. Applicant's payment agreement with the creditor is \$28.52 monthly that she is following until it is paid in full. (Applicant's Exhibit C.)

1.j. A delinquent medical debt owed to a creditor was placed for collection in the amount of about \$534. Applicant's payment agreement with the creditor is \$25 monthly that she is following until the debt is paid in full. (Applicant's Post-Hearing Exhibit A.)

1.k. A delinquent medical debt owed to a creditor in the amount of about \$26. Applicant made a payment of \$38 that resolved the debt in full. (Tr. p. 82, and Applicant's Exhibit D.)

1.l. A delinquent debt was placed for collection the amount of about \$464. Applicant settled the debt for \$227.37 and her payment agreement with the creditor is \$38.51 monthly that she is following until the debt is paid in full. (Applicant's Post-Hearing Exhibit A.)

1.m. A delinquent debt was placed for collection the amount of about \$199. Applicant's payment agreement with the creditor is \$20 monthly that she is following until the debt is paid in full. (Applicant's Post-Hearing Exhibit A.)

1.n A delinquent debt was placed for collection in the amount of about \$2,522. This debt is included in the debt resolution program, and will be paid off in full by November 29, 2021. (Applicant's Post-Hearing Exhibit A.)

1.o. A delinquent medical debt was placed for collection in the amount of about \$453. Applicant's payment agreement with the creditor is \$20 monthly that she is following until the debt is paid in full. (Applicant's Post-Hearing Exhibit A.)

1.p. A delinquent debt was placed for collection in the amount of about \$266. Applicant settled the account for \$159.37, and her payment agreement with the creditor is \$54.13 monthly that she is following until the debt is paid in full. (Applicant's Exhibit E, and Tr. p. 83.)

1.q. A delinquent state tax lien entered against the Applicant in May 2016 in the amount of about \$1,451, increased to \$1,684. In December 2017, Applicant set up a payment plan with the creditor and is paying \$53.17 monthly until the debt is resolved. (Tr. p. 68, Applicant's Exhibit A and Applicant's Post-Hearing Exhibit A.)

Two witnesses, including her son and a past coworker, testified on Applicant's behalf. They both confirm her hardworking, responsible, and trustworthy nature, as well as her strong dedication to her family and her job. (Tr. pp. 30-41.)

Letters of recommendation from professional colleagues, coworkers, and friends of the Applicant that attest to her hardworking nature, high degree of integrity, good judgment and reliability. Applicant is highly recommended for a security clearance. (Applicant's Exhibit F.)

Applicant's performance evaluation for 2017 is satisfactory. (Applicant's Exhibit G.)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 national security eligibility will be resolved in favor of 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 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to 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).

Analysis

Guideline F, Financial Considerations

The security concern for Financial Considerations is set out in AG ¶ 18, as follows:

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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant's chronic illness has caused her to miss work and she has incurred delinquent debts that she has been unable to pay. The evidence is sufficient to raise the above disqualifying conditions.

Five Financial Considerations Mitigating Conditions under AG ¶ 20 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;

(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, 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.

Since getting back to work in 2016, Applicant has obtained financial counseling and has hired a debt resolution company to assist her in resolving her larger debts. In regard to her smaller debts, she has contacted each of her creditors and set up payment plans that she is following. Her illness is in remission, and she is doing her best to be a reliable employee. She is commended for her hardworking nature and continued desire, to be a part of the workforce and take care of herself and her family, even when facing a chronic illness. Her finances are now stable and she is able to pay her debts. She has demonstrated that she is financially responsible. She has acted reasonably and responsibly under the circumstances. She has demonstrated good judgment, reliability and trustworthiness. The Financial Considerations concern has been 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(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 in my whole-person analysis.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has 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
Subparagraph 1.a.:	For Applicant
Subparagraph 1.b.:	For Applicant
Subparagraph 1.c.:	For Applicant
Subparagraph 1.d.:	For Applicant
Subparagraph 1.e.:	For Applicant
Subparagraph 1.f.:	For Applicant
Subparagraph 1.g.:	For Applicant
Subparagraph 1.h.:	For Applicant
Subparagraph 1.i.:	For Applicant
Subparagraph 1.j.:	For Applicant
Subparagraph 1.k.:	For Applicant
Subparagraph 1.l.:	For Applicant
Subparagraph 1.m.:	For Applicant
Subparagraph 1.n.:	For Applicant
Subparagraph 1.o.:	For Applicant
Subparagraph 1.p.:	For Applicant
Subparagraph 1.q.:	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 national security eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson
Administrative Judge