

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

In re: ) AWG Docket No. 09-0157  
Elizabeth Mortimer, )  
)  
Petitioner )  
) **DECISION AND ORDER**

Elizabeth Mortimer filed a petition to contest the efforts of the Respondent, USDA/Rural Development, to garnish her wages in order to collect part of the rental assistance it provided her because she failed to list the income of an alleged member of her household. I held a hearing by telephone, on December 22, 2009, to decide the issues raised by the petition. Ms. Mortimer was duly sworn, and testified as her only witness. USDA/Rural Development also had only one witness: Esther McQuaid, Financial Specialist, USDA/Rural Development, Office of the Deputy Chief Financial Officer in St. Louis, MO. Ms. McQuaid, who was duly sworn, identified records maintained as official government records, to show that when Ms. Mortimer's wages were combined with those of her boyfriend, Randy Bracken, the alleged member of her household, her household income was higher than the amounts she listed on the application forms she had filed when she applied for and received rental assistance from USDA/Rural Development. The amount of her present alleged debt for receiving higher rental assistance than she should have received is \$2,607.67. Ms. Mortimer gave sworn testimony that her present income is limited to wages received from a part time job that pays \$ [REDACTED] an hour, and averages [REDACTED] a month. Ms. Mortimer testified that she has not lived with Mr. Bracken for a long time, and that her normal, monthly expenses are: \$ [REDACTED] rent; \$ [REDACTED] electricity; \$3 [REDACTED] groceries; and [REDACTED] gas for her car. Her

combined expenses exceed her income and she needs outside help to get by. The evidence received at the hearing supports Ms. Mortimer's testimony that she is unable to pay any amount at this time, and that any repayment schedule would cause her financial hardship. Ms. Mortimer has therefore met her burden of proof under 31 C.F.R. §285.11(f)(8) and has produced evidence that the garnishment of any part of her salaried income would cause her financial hardship.

Accordingly, the petition is hereby granted and the pending garnishment proceedings against Ms. Mortimer are dismissed for reason of financial hardship.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's Office.

December 22, 2009

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Victor W. Palmer  
Administrative Law Judge