

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 10-0256
Theresa C. Darden)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was scheduled for August 18 and August 23 and eventually held August 31, 2010. Ms. Theresa C. Darden, also known as Theresa Darden, the Petitioner (“Petitioner Darden”), participated, representing herself. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and was represented by Mary E. Kimball and John Weaver.
2. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

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Summary of the Facts Presented

3. Petitioner Darden owes to USDA Rural Development a balance of **\$20,034.76** (as of June 27, 2010) in repayment of an unsecured loan made in 1990 (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed July 2, 2010), which are admitted into evidence.
4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$20,034.76** would increase the current balance by \$5,609.73, to \$25,644.49. *See* USDA Rural Development Exhibits, esp. RX-4.

5. Petitioner Darden's testimony and exhibits (filed July 22, 2010), which are admitted into evidence, prove that she is paid \$[REDACTED] per hour, working as a care provider for a disabled young adult about 40 hours per week in her home. Petitioner Darden testified that she will undergo abdominal hernia surgery on September 13, 2010, and that she has no health insurance or any other benefits. Thus, she will miss work and earnings, in addition to incurring the medical expenses. Petitioner Darden testified that she has substantial past due medical and hospital bills, including those for several surgeries, including abdominal hernia surgery last year, intestinal surgery in Sentara Norfolk General Hospital the year before that, and emergency uterine surgery the year before that, without which she might have bled to death. In addition to owing Sentara Norfolk, Petitioner Darden testified that she owes Lakeview Medical Center and Southampton Memorial Hospital (in Franklin, Virginia) and is being threatened with garnishment on account of at least one of those debts. Petitioner Darden testified that her dependent daughter, who is in college, is likely to undergo surgery, and Petitioner Darden will be responsible to pay.

6. Petitioner Darden's disposable pay does not support garnishment, which would create hardship. 31 C.F.R. § 285.11.

7. Petitioner Darden is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

8. Through August 31, 2011, NO garnishment is authorized. *See* paragraphs 5 and 6. I encourage **Petitioner Darden and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Darden, this will require **you** to telephone the collection agency about two to three weeks after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Darden, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less.

9. Petitioner Darden has made substantial progress repaying, primarily through her income tax refunds. RX-3.

Findings, Analysis and Conclusions

10. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Darden and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

11. Petitioner Darden owes the debt described in paragraphs 3 and 4.

12. **Through August 31, 2011, NO garnishment is authorized.** 31 C.F.R. § 285.11.
13. This Decision does not prevent repayment of the debt through *offset* of Petitioner Darden's **income tax refunds** or other **Federal monies** payable to the order of Ms. Darden.

Order

14. Until the debt is repaid, Petitioner Darden shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).
15. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment **through August 31, 2011**.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 1st day of September 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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