

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0085

In re: DOROTHY CRAWFORD,

Petitioner

DECISION AND ORDER

This matter is before the Office of Administrative Law Judges (“OALJ”) upon the request of Dorothy Crawford (“Petitioner”) for a hearing to address the existence or amount of a debt alleged to be due to the United States Department of Agriculture, Rural Development (“Respondent”; “RD”), and if established, the propriety of imposing administrative wage garnishment. By Order issued on April 15, 2011, the parties were directed to provide information and documentation concerning the existence of the debt and deadlines were set for the submissions. In addition, the matter was set for a telephonic hearing to commence on May 17, 2011.

The Respondent filed a Narrative, together with supporting documentation¹ on April 21, 2011. Petitioner did not file any responsive documents or statement. Respondent’s submissions are hereby admitted to the record. At the scheduled date of the hearing, attempts were made to contact Petitioner at the telephone number she provided in her petition. No one responded to phone calls, and the hearing was commenced after several attempts to reach Petitioner proved futile. Respondent was represented by Mary E. Kimball, Accountant for the New Program

¹ References to Respondent’s exhibits herein shall be denoted as “RX-1 through RX-8”.

Initiatives Branch of RD, Saint Louis, Missouri. Petitioner and M s. Kimball testified at the hearing.

In determining whether wage garnishment would constitute a hardship, I have considered the sworn testimony, Petitioner's petition, Treasury Standard Form SF 329C (Wage Garnishment Worksheet), and standard geographical allowable per diem expense rates (www.irs.gov; www.opm.gov). On the basis of the entire record before me, the following Findings of Fact, Conclusions of Law, and Order will be entered:

FINDINGS OF FACT

1. On January 29, 2007, the Petitioner signed a promissory note for a home mortgage loan in the amount of \$64,200.00 from Mortgage One for residential real property located in Arcadia, Louisiana. RX-1.
2. On January 2, 2007, Petitioner requested a Single Family Housing Loan Guarantee from the United States Department of Agriculture (USDA), Rural Development (RD). RX-3.
3. On January 30, 2007, the promissory note was assigned to JP Morgan Chase. RX 2.
4. Petitioner subsequently defaulted on the loan and the loan was foreclosed on August 1, 2008. RX 5.
5. On July 24, 2009, the home was sold for \$39,100.00. RX 5.
6. On September 18, 2009, USDA paid JP Morgan Chase \$37,136.38, which included taxes, interest, and attorney fees pursuant to the guarantee. RX 5.
7. Petitioner's account with USDA was credited with \$418.00, in the form of six payments intercepted by Treasury as offsets from social security payments made to Petitioner. RX 7.
8. The balance of the debt of \$37,718.98 was referred to the U.S. Department of Treasury ("Treasury") for collection as required by prevailing statutes and regulations. RX 7.

9. The total indebtedness is \$47,000.30, including Treasury fees of \$10,281.32. RX-8.
10. Treasury, through its agent, issued a notice to Petitioner of intent to garnish wages.
11. Petitioner timely requested a hearing, and advised that garnishment would represent a financial hardship, as her income did not meet her expenses, which included the cost of cancer treatment.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. Petitioner is indebted to USDA Rural Development in the amount of \$37,718.98 plus potential fees of \$10,281.32, for a balance due of \$47,000.30 on the mortgage loan extended to her.
3. All procedural requirements for administrative wage offset set forth at 31 C.F.R. §285.11 have been met with respect to Petitioner.
4. Although Petitioner failed to appear at the hearing and did not present specific evidence regarding her monthly income, I infer from the fact that she is being paid social security payments² and undergoing treatment for cancer that she is not working.
5. The record contains sufficient information to conclude that garnishment would present a financial hardship, as that term is recognized by law.
6. Treasury shall remain authorized to undertake any and all other appropriate collection action except garnishment.

ORDER

For the foregoing reasons, any wages which Petitioner may be earning shall **NOT** be subjected to administrative wage garnishment at this time. Petitioner is encouraged in the

² Petitioner was born on [REDACTED] and is not yet eligible for retirement benefits; therefore, I infer that her social security benefits represent disability benefits.

interim to attempt to negotiate repayment of the debt with the representatives of Treasury. The toll free number for Treasury's agent is **1-888-826-3127**.

Petitioner is advised that this Decision and Order does not prevent payment of the debt through offset of any federal money payable to Petitioner.

Petitioner is further advised that a debtor who is considered delinquent on debt to the United States may be barred from obtaining other federal loans, insurance, or guarantees. See, 31 C.F.R. § 285.13.

Until the debt is satisfied, Petitioner shall give to USDA RD or those collecting on Treasury's behalf, notice of any change in address, phone numbers, or other means of contact.

Petitioner may direct questions to RD's representative Mary Kimball, c/o:

USDA New Program Initiatives Branch
Rural Development Centralized Servicing Center
4300 Goodfellow Blvd. F-22
St. Louis, MO 63120
314-457-5592
314-457-4426 (facsimile)

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

So Ordered this 18th day of May, 2011 in Washington, D.C.

Janice K. Bullard
Administrative Law Judge