

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 10-0300
Rita Buchanan)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held October 5, 2010. Rita Buchanan, the Petitioner (“Petitioner Buchanan”), 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 Marsha Moore.

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

mary.kimball@stl.usda.gov 314.457.5592 phone
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Summary of the Facts Presented

3. Petitioner Buchanan owes to USDA Rural Development a balance of **\$9,682.19**, in repayment of a \$38,000.00 United States Department of Agriculture Farmers Home Administration loan made in 1985 for a home in Florida, the balance of which is now unsecured (“the debt”). See USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed August 12, 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 **\$9,682.19** would increase the current balance by \$2,711.01, to \$12,393.20. See USDA Rural Development Exhibits, esp. RX-4.

5. Petitioner Buchanan's payments on her loan stopped in 1998. A \$58,207.60 foreclosure judgment was entered in 2002. By that time, \$21,144.94 in interest had accrued. The \$58,207.60 included the following:

\$ 32,954.20 principal
21,144.94 accrued interest
<u>4,108.46</u> subsidy recapture, fees
 \$58,207.60
<u>=====</u>

6. The foreclosure sale in December 2002 yielded \$47,000.00, plus \$59.68 escrow surplus funds. These funds reduced the \$58,207.60 to \$11,147.92. There was additional interest (\$508.72) and fees (\$570.00), which increased the debt to \$12,226.64. Treasury Offsets in 2005 and 2010 have reduced Petitioner Buchanan's balance owed to \$9,682.19. *See* RX-3.

7. Petitioner Buchanan is paid [REDACTED] per hour, gross, working on average 60 to 65 hours every two weeks. She provides support for her daughter, in addition to providing for herself. *See* Petitioner Buchanan's exhibits (filed September 16 and 17, 2010), which are admitted into evidence, plus her testimony, plus her Hearing Request statements made in April 2010. This evidence proves that Petitioner Buchanan's disposable pay does not support garnishment, which would create hardship. 31 C.F.R. § 285.11.

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

Discussion

9. Through at least October 31, 2011, NO garnishment is authorized. *See* paragraphs 7 and 8. I encourage **Petitioner Buchanan and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Buchanan, 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 Buchanan, 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.

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

Findings, Analysis and Conclusions

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

12. Petitioner Buchanan owes the debt described in paragraphs 3 and 4.

13. **Through at least October 31, 2011, NO garnishment is authorized.** 31 C.F.R. § 285.11.

14. This Decision does not prevent repayment of the debt through *offset* of Petitioner Buchanan's **income tax refunds** or other **Federal monies** payable to the order of Ms. Buchanan.

Order

15. Until the debt is repaid, Petitioner Buchanan 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).

16. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment **through at least October 31, 2011**.

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

Done at Washington, D.C.
this 5th day of October 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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