

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWG Docket No. 10-0342

In re: Brenda I. Cruz,

Petitioner

Decision and Order

This matter is before the Administrative Law Judge upon the request of Brenda I. Cruz for a hearing to address the existence or amount of a debt alleged to be due, and if established, the terms of any repayment prior to imposition of an administrative wage garnishment. On August 30, 2010, a Prehearing Order was entered to facilitate a meaningful conference with the parties as to how the case would be resolved, to direct the exchange of information and documentation concerning the existence of the debt, and setting the matter for a telephonic hearing on November 10, 2010.

The Respondent previously filed a Narrative together with supporting documentation on July 28, 2010. The Petitioner filed her documentation, including information concerning her financial condition with the Hearing Clerk's Office on September 20, 2010. At the time that she requested a hearing, she argued that West Virginia law precludes collection of this debt.

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 October 28, 1992, the Petitioner received a home mortgage loan in the amount of \$61,200.00 from Farmers Home Administration (FmHA), United States Department of Agriculture (USDA), now Rural Development (RD) for property located in Lost Creek, West Virginia. RX-1. The loan was subsequently reamortized with a principal balance of 64,286.17 on November 28, 1999 to allow her to become again current.
2. The property was sold at a foreclosure sale on July 12, 2002 with proceeds realized by USDA from that sale in the amount of \$43,083.15, leaving a balance due of \$29,671.69. RX-3.
3. Since the sale proceeds were received, USDA has received \$2,125.51 in offsets from Treasury. RX-3.
4. The remaining unpaid debt is in the amount of \$27,546.18 exclusive of potential Treasury fees. RX-4.
5. The Petitioner's current wages and expenses are approximately the same.

Conclusions of Law

1. Brenda I. Cruz is indebted to USDA Rural Development in the amount of \$27,546.18 exclusive of potential Treasury fees exclusive of potential Treasury fees for the mortgage loan extended to her.
2. West Virginia law does not preclude administrative collection of this debt.
3. The Petitioner is under a financial hardship at the present time.
4. The Respondent is **NOT** entitled to administratively garnish the wages of the Petitioner at this time.

Order

For the foregoing reasons, the wages of the shall **NOT** be subjected to administrative wage garnishment at this time, but may be reviewed after six months to a year determine whether the Petitioner's financial condition has improved.

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

Peter M. Davenport
Chief Administrative Law Judge

Date: November 10, 2010

Copies to: Cheryl Patterson
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