

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) **AWG Docket No. 10-0353**
Linda S. Becerra,)
)
Petitioner) **Decision and Order**

1. The hearing by telephone was held on November 9, 2010. Ms. Linda S. Becerra, also known as Linda Sue Becerra, the Petitioner (“Petitioner Becerra”), participated, representing herself (appearing *pro se*). 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.

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
314.457.4426 FAX

Summary of the Facts Presented

3. Petitioner Becerra owes to USDA Rural Development, formerly USDA Farmers Home Administration, a balance of **\$48,272.55** in repayment of a loan that she borrowed in 1986. Petitioner Becerra borrowed to buy a home in Texas, and the **\$48,272.55** balance is now unsecured (“the debt”). *See* USDA Rural Development Exhibits, plus Narrative, Witness & Exhibit List (filed in September 2010), which are admitted into evidence, together with the testimony of Mary Kimball.

4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$48,272.55** would increase the current balance by \$13,516.31, to \$61,788.86. *See* USDA Rural Development Exhibits, esp. RX-5.

5. Admitted into evidence are the testimony of Petitioner Becerra, and Petitioner Becerra's documents (filed in November 2010), including Paycheck details, Consumer Debtor Financial Statement, past-due bills, and divorce documents; and Petitioner Becerra's Hearing Request documents and statements.

6. The amount borrowed from USDA Farmers Home Administration was \$33,165.00 in 1986. By the time of the foreclosure sale in 1998, that debt had grown (the last payment made was in April 1991):

\$ 31,704.13	Principal Balance prior to sale
\$ 20,984.23	Interest Balance prior to sale
<u>\$ 11,319.62</u>	Fee Balance prior to sale
\$ 64,007.98	Total Amount Due prior to sale

From the foreclosure sale, \$15,200.00 was applied toward paying the Amount Due.

RX-4.

7. Petitioner Becerra works full time as a customer service representative - bookkeeper and is paid [REDACTED] per hour, gross. I calculate Petitioner Becerra's gross pay to be [REDACTED] per month; and her disposable pay (gross pay minus withheld taxes and minus withheld health insurance contributions) to be [REDACTED] per month. Petitioner Becerra testified that she supports herself and helps support her adult son, who lives with her and who works part-time. Petitioner Becerra's reasonable and necessary living expenses are greater than her disposable pay each month.

8. Further, Petitioner Becerra's medical challenges have at times interfered with her work and have left her with overdue medical bills, including some bills marked "seriously past due." Her knees swell and hurt; she testified that she has cortisone-like injections and needs knee replacements and that she had knee surgery in 2000 and 2001. Her grandchild, a baby, required open heart surgery and did not survive. She also had lost a baby, in December 1986. She and her former husband lost not only the home involved here, but also a subsequent home that they rented out when family obligations took them to Mexico to care for her in-laws. Petitioner Becerra has other health challenges besides her knees and has numerous financial challenges, including not only the unpaid medical bills (roughly [REDACTED]), but also payments to Nuvel Financial Services for a 2007 Pontiac Vibe that was repossessed, and some other borrowing.

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

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

Discussion

11. Through December 31, 2011, NO garnishment is authorized. *See* paragraphs 7, 8 and 9. I encourage **Petitioner Becerra and the collection agency to negotiate promptly** the disposition of the debt. Petitioner Becerra, this will require **you** to telephone the collection agency after you receive this Decision. Petitioner Becerra, you may want to request that the debt be apportioned between you and your former husband, the co-borrower. You may choose to offer to compromise the debt for an amount you are able to pay, to settle the claim for less. The toll-free number for you to call is **1-888-826-3127**.

Findings, Analysis and Conclusions

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

13. Petitioner Becerra owes the debt described in paragraphs 3 and 4.

14. **Through December 31, 2011, NO garnishment is authorized.** 31 C.F.R. § 285.11.

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

Order

16. Until the debt is repaid, Petitioner Becerra 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).

17. USDA Rural Development, and those collecting on its behalf, are **NOT** authorized to proceed with garnishment **through December 31, 2011**.

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

Done at Washington, D.C.
this 30th day of November 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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