



4. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$8,312.13** would increase the balance by \$2,327.40, to \$10,639.53. *See* USDA Rural Development Exhibits, esp. RX 7.

5. The amount Petitioner Loredo borrowed from USDA Rural Housing Service in 1998 was \$41,400.00, and USDA Rural Housing Service was the *second* lien holder. About 3-1/2 years later, the *first* lien holder, Chase Manhattan Mortgage Corporation, obtained a Final Judgment of Mortgage Foreclosure (dated September 5, 2001). The amount recited in that Judgment was \$37,547.00. *See* RX 5. That Judgment was for the benefit of Chase Manhattan Mortgage Corporation. The public sale occurred about 6 weeks later, on October 22, 2001. From that sale, Chase Manhattan Mortgage Corporation was paid, and \$11,644.49 was left over to apply on the USDA Rural Housing Service Loan. That left \$30,613.47 still to be paid. *See* RX 6, both page 1 and page 2. Since then, \$22,301.34 in payments have been applied to the loan (primarily from income tax refunds that were intercepted and applied to the loan - - called *offsets*). That leaves the balance of **\$8,312.13** (excluding potential collection fees), as of November 22, 2010.

6. Now that I have determined that Petitioner Loredo owes the debt, I consider the evidence to determine whether Petitioner Loredo's disposable pay supports garnishment without creating hardship. 31 C.F.R. § 285.11. During the first segment of the hearing, Petitioner Loredo's boss Deborah Lytle stated that she would send Petitioner's Loredo's pay information, but that did not happen. So, Petitioner Loredo read from her pay stub during the second segment of the hearing, so that I could calculate Petitioner Loredo's current disposable pay (after subtracting income tax, social security, Medicare, health insurance, and any other "eligible" withholding from her gross pay). Petitioner Loredo's completed "Consumer Debtor Financial Statement" was filed on November 26, 2010, and is admitted into evidence, together with the testimony of Petitioner Loredo. Petitioner Loredo's reasonable and necessary living expenses cannot be calculated with precision. She shows no medical expenses because she is not paying them. But, she owes for them. She showed no expenses for clothing or incidentals, because her income covers only the basics (housing, utilities, food, transportation). Her husband's landscaping income is sporadic.

7. Petitioner Loredo testified that she earns \$8.50 per hour; that she typically works 30 to 31 hours per week (sometimes 40 hours per week when she fills in for another, but never more than 40 hours per week); and that nothing other than Social Security and Medicare is withheld. The pay stub she was reading from covered a 2-week period (61.5 hours) and showed \$522.75 gross and \$493.21 net, with two deductions: \$21.96 Social Security and \$7.58 Medicare. Based on that testimony, I calculate Petitioner Loredo's *monthly* disposable pay to range from about \$1,050.00 (based on 132 hours per month) to about \$1,380.00 (based on 173 hours per month). The approximate amount that could be garnished in repayment of the USDA Rural Development debt, 15% of disposable pay, could be roughly \$157.00 to \$207.00 per month (roughly \$72.00 to \$96.00 every 2 weeks).

In evaluating the factors to be considered under 31 C.F.R. § 285.11, I find that Petitioner Loredo probably cannot withstand garnishment in that amount without hardship.

8. To prevent hardship, potential garnishment to repay “the debt” (*see* paragraph 3) must be limited to zero per cent (0%) of Petitioner Loredo’s disposable pay through March 2012; and no more than 3% of Petitioner Loredo’s disposable pay thereafter. 31 C.F.R. § 285.11.

9. Petitioner Loredo is responsible and willing and able to negotiate the repayment of the debt with Treasury’s collection agency.

#### Discussion

10. Through March 2012, NO garnishment is authorized. Thereafter, garnishment up to 3% of Petitioner Loredo’s disposable pay is authorized. *See* paragraphs 6, 7 and 8. I encourage **Petitioner Loredo and the collection agency to negotiate promptly** the repayment of the debt. Petitioner Loredo, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Loredo, 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.

#### Findings, Analysis and Conclusions

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

12. Petitioner Loredo owes the debt described in paragraphs 3, 4 and 5.

13. **Through March 2012, NO garnishment is authorized.** Thereafter, garnishment **up to 3%** of Petitioner Loredo’s disposable pay is authorized. 31 C.F.R. § 285.11.

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

#### Order

15. Until the debt is repaid, Petitioner Loredo 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 March 2012**. Thereafter, USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment, **up to 3%** of Petitioner Loredo's disposable pay. 31 C.F.R. § 285.11.

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

Done at Washington, D.C.  
this 14<sup>th</sup> day of March 2011

s/ Jill S. Clifton

Jill S. Clifton  
Administrative Law Judge

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