

prove that she works as a meat cutter, currently for 30 hours per week (Petitioner Whitt testified that her hours working have been cut to 30 hours per week), and she is paid \$13.64 per hour. Petitioner Whitt's health insurance and medications are vital, especially the two pills for her blood pressure. Her monthly payments for her refrigerator and her car will hopefully be completed by the end of this year.

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

Discussion

7. I encourage **Petitioner Whitt and the collection agency to negotiate promptly** the repayment of the debt. Meanwhile, **through January 31, 2011, NO garnishment is authorized.** See paragraph 5. Petitioner Whitt is commended for maintaining a relatively debt-free and frugal budget, except for this debt, the remaining real estate loan, which Petitioner Whitt has made substantial progress repaying, primarily through her income tax refunds.

8. The loan that has been completely repaid was originally (in April 1994) \$9,620.00. The larger loan was originally (in April 1994) \$33,660.00.

9. Petitioner Whitt's loans, including unpaid principal, unpaid accrued interest, and fees, totaled \$47,456.25 when the real estate was sold in July 1999. See the USDA Rural Development exhibits filed by Ms. Kimball (which are hereby admitted into evidence) and Ms. Kimball's testimony. The real estate was sold for \$17,000.00, in a "short sale," in that the lien against the real estate was released so that the sale could occur, even though the sale proceeds were not adequate to extinguish the loan. See USDA Rural Development Exhibits.

10. Once the real estate sale proceeds (\$16,646.10), plus the subsidy credit, had been applied to the loans, Petitioner Whitt's loan balances totaled \$30,769.16.

11. Petitioner Whitt testified that when the real estate was sold, she was told, by the real estate agent, by the lawyer who handled the real estate closing, or by both, that "everything was clear" - - that "she owed nothing from the house - - no bills from the house." Although there are short sales after which the lender forgives the remaining debt, there are also short sales after which the remaining balance is still due. Here, Petitioner Whitt still owed the remaining balance, \$30,769.15.

12. Petitioner Whitt's income tax refunds collected by Treasury (and any other amounts collected by Treasury) during 2002 through 2009, after fees were subtracted, have repaid in full the smaller of the two loans (\$9,300.36), plus \$8,256.44 of the larger loan, resulting in a current balance of \$13,212.36, still due. See USDA Rural Development Exhibits, esp. RX-

4.

Findings, Analysis and Conclusions

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

14. Petitioner Whitt owes the debt described in paragraphs 3 and 4.

15. **Through January 31, 2011, NO garnishment is authorized.** 31 C.F.R. § 285.11.

Order

16. Until the debt is repaid, Petitioner Whitt 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 January 31, 2011**.

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

Done at Washington, D.C.
this 12th day of July 2010

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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