



**Office of Appeals
U.S. Department of Housing and Urban Development
Washington, D.C. 20410-0001**

In the Matter of:

DIANNE B. BOONE,

Petitioner

HUDOA No. 10-M-NY-LL35
Claim No. 7-710493730A

Dianne B. Boone
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Newton, N.C. 28366

Pro se

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For the Secretary

DECISION AND ORDER

On or about January 27, 2010, Petitioner was notified that, pursuant to 31 U.S.C. §§ 3716 and 3720A, the Secretary of the U.S. Department of Housing and Urban Development ("HUD") intended to seek administrative offset of any federal payments due to Petitioner in satisfaction of a delinquent and legally enforceable debt allegedly owed to HUD.

On February 17, 2010, Petitioner filed a request for a hearing concerning the existence, amount or enforceability of the debt allegedly owed to HUD. The administrative judges of this Office have been designated to conduct a hearing to determine whether the debt allegedly owed to HUD is legally enforceable. 24 C.F.R. §§ 17.152 and 17.153. As a result of Petitioner's hearing request, referral of the debt to the U.S. Department of the Treasury for administrative offset was temporarily stayed by this Office on February 22, 2010.

Discussion

Petitioner does not deny the existence or delinquency of the debt that is the subject of this proceeding, but Petitioner contends that the alleged debt is unenforceable because the repayment of the debt would cause financial hardship for Petitioner. Petitioner states, "I'll have nowhere to go except my mom that live[s] on public housing when I try to get in public housing. My heat is so high based on my income and if you take this money[,] th[e]y will base my rent on what I gross[,] not what I receive whe[n] HUD take[s] about [\$]200.00 . . . I'm going to en[d] up homeless[.]" (Petitioner's Request for Hearing, filed February 17, 2010.)

On two separate occasions, this Office ordered Petitioner to file documentary evidence to prove that the debt in this case is not enforceable or not past due. (Notice of Docketing, Order and Stay of Referral, dated February 22, 2010; Order, dated June 30, 2010.) The June 30th Order stated, "Failure to comply with this Order may result in a decision based upon the documents in the record of this proceeding." Petitioner failed to respond to all two Orders.

Even if Petitioner has filed sufficient documentary evidence to prove her claim of financial hardship, unfortunately, evidence of financial hardship, no matter how compelling, cannot be taken into consideration in determining whether the debt is past-due and enforceable in administrative offset cases such as this. *Thelma Smith*, HUDBCA No. 00-A-NY-AA8 (June 19, 2000) (*citing Della Coleman*, HUDBCA No. 99-C-SE-Y73 (Feb. 23, 2000)). Financial adversity does not invalidate a debt or release a debtor from a legal obligation to repay it. *Raymond Kovalski*, HUDBCA No. 87-1681-G18 (Dec. 8, 1986). Furthermore, this Office is not authorized to extend, recommend, or accept any payment plan or settlement offer on behalf of the Department. Should Petitioner wish to initiate, continue, or renew discussion regarding settlement terms, Petitioner may wish to discuss this matter with counsel for the Secretary in this proceeding, or to file a HUD Title I Financial Statement (HUD Form 56142) with Lester J. West, Director, HUD Albany Financial Operations Center, 52 Corporate Circle, Albany, NY 12203-5121. Mr. West's telephone number is 1-800-669-5152, extension 4206.

Petitioner has, therefore, not met her burden to prove that the debt in this case is not past due or legally enforceable. In the absence of documentary evidence to support Petitioner's position, I find the debt that is the subject of this proceeding to be legally enforceable against Petitioner as set forth in the Notice of Intent to Collect by Treasury Offset.

ORDER

For the reasons set forth above, I find the debt that is the subject of this proceeding to be legally enforceable against Petitioner in the amount claimed by the Secretary. The Order imposing the stay of referral of this matter to the U.S. Department of the Treasury for administrative offset is **VACATED**. It is

ORDERED that the Secretary is authorized to refer this matter to the U.S. Department of the Treasury for administrative offset of any federal payment due Petitioner.

H. Alexander Manuel

H. Alexander Manuel
Administrative Judge

October 8, 2010