



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

In the Matter of:

Wendy Whitehead,

Petitioner

HUDOA No. 11-H-NY-AWG137
Claim No. 7800735880B

Windy Whitehead
312 Westwood Drive
Statesville, NC 28677

Pro se

Julia Murray, Esq.
US Department of Housing and
Urban Development
Office of Assistant General Counsel
for New York/New Jersey
26 Federal Plaza, Room 3237
New York, New York 10278

For the Secretary

RULING ON SECRETARY'S MOTION TO DISMISS

Petitioner filed a timely request to present evidence that an alleged past-due, legally enforceable debt of Petitioner to the U.S. Department of Housing and Urban Development ("HUD") should not be collected by the Secretary by means of administrative wage garnishment.

Pursuant to 24 C.F.R. §§ 17.170, 20.4(b), and 31 C.F.R. § 285.11(f), the administrative judges of the HUD Office of Appeals are authorized to determine whether certain debts exist and are legally enforceable and whether they can be collected by means of administrative wage garnishment. As a result of Petitioner's request, referral of the debt to the U.S. Department of the Treasury was temporarily stayed by this Office on August 30, 2011. (Notice of Docketing, Order, and Stay of Referral.)

On September 13, 2011, the Secretary filed a Motion to Dismiss in which he states that "Based on a review of Petitioner's financial statement, HUD has determined that an Administrative Wage Garnishment will create a financial hardship for her, therefore, HUD will not seek to collect this debt at the present time." (See also Declaration of Brian Dillon at ¶ 3 – Exhibit A). The Secretary also requests that "this matter be dismissed without prejudice to renew the application at such time as Petitioner should become eligible for wage garnishment." (Motion, p. 1.)

Upon due consideration, the Secretary's Motion to Dismiss is **GRANTED**. It is hereby

ORDERED that the Secretary shall not seek collection of this outstanding obligation by means of administrative wage garnishment of any federal payment due Petitioner because the Secretary has recalled the case from servicing.

The Stay of Referral of this matter to the U.S. Department of the Treasury issued by this Office on August 30, 2011 shall remain in place indefinitely.

However, the Secretary shall not be prejudiced from renewing his application to seek an administrative wage garnishment if, in the future, Petitioner becomes eligible for wage garnishment.

This matter is **DISMISSED** without prejudice.



Vanessa L. Hall
Administrative Judge

September 27, 2011