

UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF HEARINGS AND APPEALS

In the Matter of:

**KATIE L. CRISP,**

Petitioner

HUDOHA No. 13-AM-0050-AG-016

Claim No. 780742638-0B

May 13, 2013

**RULING AND ORDER UPON RECONSIDERATION**

The initial Decision and Order in this case was entered on April 10, 2013. *In re Katie L. Crisp*, HUDOHA No. 13-AM-0050-AG-016 (April 10, 2013) ("Decision"). On April 16, 2013, Petitioner Katie L. Crisp ("Petitioner") filed a letter with this Office. That letter is deemed to be a Motion for Reconsideration of the Decision. In the initial Decision, the Court imposed a 15% administrative wage garnishment against Petitioner and found that garnishment in that amount would not create a financial hardship for Petitioner. (Decision, at 3.) Consequently, the Court ruled that the subject debt was due and payable, and that the Secretary of the U.S. Department of Housing and Urban Development was authorized to seek administrative garnishment of up to 15% of Petitioner's disposable income in order to satisfy the debt. (*Id.* at 3-4.)

Generally, reconsideration of a prior decision is within the discretion of the administrative judge and will not be granted "in the absence of compelling reasons, e.g., newly discovered material evidence or clear error of fact or law." *See Paul Dolman*, HUDBCA No. 99-A-NY-Y41 (Nov. 4, 1999); *Anthony Mesker*, HUDBCA No. 94-C-CH-S379 (May 10, 1995); *William G. Grammer*, HUDBCA No. 88-3092-H607 (Mar. 7, 1988). Further, "it is not the purpose of reconsiderations to afford a party the opportunity to reassert contentions that have been fully considered and determined." *See Seyedahma Mirhosseini*, HUDBCA No. 95-A-SE-2615 (Jan. 13, 1995); *Charles Waltman*, HUDBCA No. 97-A-NY-W196 (Sept. 21, 1999).

In the Motion for Reconsideration of April 16, 2013, Petitioner alleges that the garnishment amount authorized in the Decision will "create a substantial [financial] hardship." Moreover, Petitioner respectfully requests the Court to revisit its financial hardship analysis because the amount in question was based on an inaccurate estimate of her spouse's income. Petitioner, who initially failed to file documentation that would have allowed the Court to accurately determine her spouse's income, has filed several of her spouse's pay statements. This new evidence is crucial when deciding whether any garnishment would create a substantial financial hardship on Petitioner. As a result, the Court will reconsider Petitioner's case in light of the recent pay statements filed by Petitioner.

Disposable income is defined as “that part of the debtor’s compensation from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld...[including] amounts for deductions such as social security taxes and withholding taxes.” 31 C.F.R. § 285.11(c). Payments for essential monthly household expenses are then considered against the disposable income figure prior to determining if a wage garnishment will create financial hardship.

An averaging of Petitioner’s pay statements indicates that Petitioner’s bi-weekly disposable income is \$922.81, or \$1,845.62 per month. (*See* Pet’r’s Financial Docs.) Additionally, Mr. Crisp’s pay statements reflect a bi-weekly gross income of \$1,153.85, or \$2,307.70 per month. Moreover, these pay statements also show that Mr. Crisp has periodically earned an average bonus of \$1,052.02 per month, which makes Mr. Crisp’s monthly gross income \$3,359.72. Considering Mr. Crisp’s pay statements from January (without the bonus) and November (with the bonus), Mr. Crisp is responsible for \$1,284.86 per month in state and federal taxes and withholdings, including insurance (health, dental, vision). With Mr. Crisp’s disposable income of \$2,074.86 per month, the total household income is \$3,920.48.

Petitioner seeks credit for several household expenses, but did not indicate whether this economic burden is shared between Petitioner and her spouse, or falls solely on one of them. (*Id.*) Given that Petitioner’s disposable monthly income (\$1,845.62) amounts to 47% of the total household disposable monthly income (\$3,920.48), this Court will assume that Petitioner is responsible for 47% of the reported expenses. The expenses discussed below reflect this view.

The following essential monthly household expenses offset Petitioner’s disposable monthly income of \$1,845.62: rent, \$658; electricity, \$81.78; natural gas, \$55.93; student loans, \$86.94; health insurance, \$152.75; and cellphone, \$46.95. (*Id.*) Other essential expenses also include: car insurance, \$124.55; and tolls for work purposes, \$54.98. (Pet’r’s Hr’g Req.) However, the following are not necessary expenses and will not be credited as such: cable television; life insurance; student loans that have been deferred until June 2013; and unsubstantiated credit card debt. (Pet’r’s Hr’g Req; Pet’r’s Financial Docs.)

Petitioner also claims monthly expenses of \$117.50 for food, and \$176.25 for gasoline. (Pet’r’s Financial Docs.) While Petitioner’s bank statements show multiple purchases at grocery stores, they do not show with particularity what products were purchased, or that those products constitute essential household goods. However, this Court has held that credit may be given for certain essential household expenses, despite insufficient documentation, when the financial information submitted by Petitioner is found to be generally credible. *Elva and Gilbert Loera*, HUDBCA No. 03-A-CH-AWG28 (July 30, 2004). Petitioner’s claimed costs for food are generally consistent with price and consumption patterns, and so will be given full credit. Moreover, given that Petitioner’s record is generally credible, the Court will credit gasoline costs. As a result, Petitioner’s household expenses will therefore be reduced to a total of \$1,555.63

After deducting all allowable expenses, Petitioner is left with \$289.99. Garnishments of 15% and 10% would leave Petitioner with a deficit of \$263.70 and \$79.13, respectively. I therefore find that a garnishment of 15% or 10% would create a substantial financial hardship for

Petitioner. Moreover, a garnishment of 5% would leave Petitioner with a surplus of \$105.43. As a result, I find that a 5% garnishment would not create a substantial financial hardship for Petitioner.

The Secretary has successfully established that the debt that is the subject of this proceeding is legally enforceable against Petitioner. Consequently, I find that administrative wage garnishment would be appropriate at this time.

### **ORDER**

For the reasons set forth above, Petitioner's Motion for Reconsideration is **GRANTED**.  
It is

**ORDERED** that the administrative wage garnishment order authorized by the Decision and Order, *In re Katie L. Crisp*, HUDOHA No. 13-AM-0050-AG-016, dated April 10, 2013, **IS HEREBY MODIFIED** to authorize the Secretary to seek collection of this outstanding obligation by means of administrative wage garnishment in the amount of 5% of Petitioner's disposable income. An order of refund for amounts that may have been collected pursuant to the initial Decision is expressly not entered. Petitioner did not file additional evidence supplementing her financial hardship claim until after the initial Decision was entered. Petitioner is therefore not entitled to a refund for amounts that may have been collected in the interim.



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H. Alexander Manuel  
Administrative Judge