

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

In the Matter of:

Marinela Villejo,

Petitioner.

HUDOHA 13-VH-0081-AG-032
Claim No. 721006828

September 12, 2013

DECISION AND ORDER ON PETITIONER'S MOTION TO REOPEN

On July 17, 2013, this Court issued a Decision and Order in which the Secretary was ordered "to seek collection of this outstanding obligation by means of administrative wage garnishment in the amount of \$180.00 per month, or 15% of the Petitioner's disposable monthly income."

Petitioner filed a letter on August 7, 2013 in which she stated that "...I am also unemployed as of June 28, 2013 so wage garnishment is not feasible." Pursuant to 31 C.F.R. §285.11 (j), "The agency may not garnish the wages of a debtor who it knows has been involuntarily separated from employment until the debtor has been reemployed continuously for at least 12 months. *The debtor has the burden of informing the agency of the circumstances surrounding an involuntary separation from employment.* (emphasis added.) While Petitioner informed the Court about her unemployment status, she had failed to produce evidence of the circumstances surrounding her alleged unemployment status.

As a result, Petitioner's Motion to Reopen was HELD IN ABEYANCE. On August 14, 2013, the Court then ordered Petitioner to file documentary evidence on or before August 30, 2013 that: 1) proved the effective date of her alleged unemployment status; and, 2) substantiated Petitioner's current unemployment status. (*Ruling on Motion to Reopen and Order*, ("August 14 Order"), dated August 14, 2013.) Petitioner complied with the Court's Order on August 27, 2013. Petitioner's Motion to Reopen is now **DENIED**.

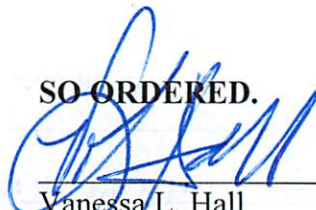
Petitioner filed, as documentary evidence of her unemployment, an email of resignation she submitted to the CEO of Seasons Healthcare Management dated May 24, 2013, that she also noted was revised on June 12, 2013. (*Petitioner's Documentary Evidence*, ("Pet'r's Docs."), filed August 27, 2013.) In the email, Petitioner stated, "As you are aware, Mom's health has declined rapidly. Being the nurse in the family, I have chosen to quit employment and remain at her bedside."

As noted previously, 31 C.F.R. § 285.11 (j) does not permit garnishment of wages of a debtor who it knows has been "*involuntarily separated* from employment," not *voluntarily* separated or upon resignation. (emphasis added.) The evidence submitted by Petitioner is insufficient to meet the standards required under § 285.11 (j) because the email indicates that

Petitioner voluntarily quit her job by resigning. Therefore, Petitioner has failed to meet her burden of proof by a preponderance of the evidence that her separation from employment was an involuntary one, and thus she remains legally obligated to pay the subject debt.

The Decision and Order issued on July 17, 2013 **SHALL NOT BE MODIFIED** and shall remain in **FULL FORCE AND EFFECT** in this case. It is

SO ORDERED.



Vanessa L. Hall
Administrative Judge