

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

In the Matter of:

TENNILLE HIXON,

Petitioner.

23-AM-0090-AG-052  
(Claim No. 721019359)

December 6, 2024

**ORDER GRANTING PETITIONER’S REQUEST FOR RECONSIDERATION**

On October 11, 2024, Tennille Hixon (“Petitioner”) filed a request for reconsideration (“*Request*”) concerning the amount, enforceability, or payment schedule of a debt allegedly owed to the U.S. Department of Housing and Urban Development (“HUD” or “the Secretary”).<sup>1</sup>

**PROCEDURAL HISTORY**

Petitioner’s *Request* follows the decision in *In re Tennille Hixon*, HUDOHA No. 23-AM-0090-AG-052 (Oct. 10, 2024) (hereinafter “Hixon”), wherein the Tribunal found Petitioner’s debt legally enforceable and past due. Although Petitioner claimed garnishment would cause financial hardship, the Tribunal further found that Petitioner had not met her burden, because she failed to submit evidence in support thereof. As such, the Hixon decision authorized the Secretary to garnish 15% of Petitioner’s disposable pay each month to repay the debt.

Petitioner’s *Request* contests that outcome and suggests that the financial hardship documentation that she submitted was not taken into consideration. Thus, Petitioner’s *Request* is considered a motion to reconsider Hixon and the resulting garnishment.<sup>2</sup>

**LEGAL STANDARD**

A motion for reconsideration must state specific grounds to reconsider the Tribunal’s decision and shall be granted upon a showing of good cause. *In re Lilieth Garcia*, HUDOHA

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<sup>1</sup> The Debt Collection Improvement Act of 1996, as amended (31 U.S.C. § 3720D), authorizes federal agencies to use administrative wage garnishments as a mechanism for the collection of debts allegedly owed to the United States government. The Secretary has designated the administrative law judges of this Office of Hearings and Appeals to adjudicate contested cases where the Secretary seeks to collect debts by means of administrative wage garnishment. This hearing is conducted in accordance with procedures set forth at 31 C.F.R. § 285.11, as authorized by 24 C.F.R. § 17.81.

<sup>2</sup> Petitioner provided documentation showing she and HUD previously discussed entering into a repayment agreement for \$100 per month, but the paperwork was never executed. Petitioner did not timely submit the paperwork. This Tribunal is not authorized to extend, recommend, or accept any payment plan or settlement offer on behalf of HUD. This Tribunal lacks the authority to approve or implement the previously discussed repayment agreement. On reconsideration, this Tribunal is considering if the 15% garnishment imposes financial hardship.

No. 21-VH-0067-AG-038 (Mar. 30, 2022). The standard for granting a motion for reconsideration is strict and the motion is generally denied unless the moving party can point to something that might reasonably alter the conclusion reached by the court. Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995) (citations omitted). This Tribunal has previously held that reconsideration of a previous decision may be warranted when there exists, “newly discovered evidence, a patent error such as an error in mathematical computation or a clear error of fact or law, a need for clarification of the decision, or other good cause such as evidence that the debt has become legally unenforceable since the issuance of the previous decision.” In re Steve Moran, HUDOHA 20-AM-0116-AO-023, at 2 (Dec. 11, 2023).

Here, Petitioner submitted proof that she attempted to timely submit financial hardship documentation to the Tribunal, but for unknown reasons, that documentation was not received. If Petitioner’s financial hardship documents are analyzed, it may alter the outcome of the case and lead the Tribunal to issue a new order. As Petitioner is proceeding *pro se* and the Secretary will not be prejudiced if the Tribunal considers evidence that it should have received before the Decision was issued, good cause exists to grant Petitioner’s request for reconsideration of her financial hardship claim.

## FINDINGS OF FACT

In or around February 2021, Petitioner was threatened with foreclosure. HUD prevented foreclosure when it advanced funds to Petitioner’s lender to bring the mortgage current. In exchange for that relief, on February 9, 2021, Petitioner executed a promissory note (“Note”) for \$6,096.00 in favor of the Secretary. The Note stated that the debt would become due upon full payment of the mortgage. On or about November 15, 2021, the Note came due when Petitioner sold her home and paid off the mortgage.

After Petitioner failed to pay off the Note, the Secretary notified Petitioner of her intent to garnish her wages. Petitioner appealed to this Tribunal, acknowledging her debt but contesting the amount due and arguing she thought it was paid off prior to learning that the Note remains recorded in the county in which she resides. This Tribunal then issued the decision in Hixon, finding that: 1) Petitioner did not meet her burden to prove the amount of debt is incorrect, and 2) Petitioner remains indebted to the Secretary for the full amount of the debt. Accordingly, this Tribunal authorized the Secretary to garnish 15% of Petitioner’s disposable pay.<sup>3</sup>

Thereafter, on October 11, 2024, Petitioner submitted documentation in support of her financial hardship claim. Petitioner’s submission is deemed to be a request for reconsideration and included credible evidence such as a copy of her pay stub and a signed financial statement listing her monthly expenses with accompanying proofs of payment.

## DISCUSSION

This Tribunal will consider whether the documentation submitted by Petitioner, including her Consumer Debtor Financial Statement and supporting expense documentation, establishes

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<sup>3</sup> Petitioner raised the issue of financial hardship during In re Hixon, but it was not considered at the time. This Tribunal will consider Petitioner’s financial hardship claim with the additional documentation that was not previously received. See 31 C.F.R. § 285.11(k).

that the 15% garnishment previously authorized by Hixon would impose a financial hardship on Petitioner.

Financial adversity does not invalidate a debt or release a debtor from a legal obligation to repay it. See In re Nicole Spencer, HUDOHA No. 22-AM-0132-AG-090, at 3 (Nov. 15, 2023) (citing Raymond Kovalski, HUDBCA No. 87-1681-G18 (Dec. 8, 1986)). But 24 C.F.R. § 285.11(k)(3) provides that if financial hardship is found, this Tribunal may downwardly adjust the garnishment amount to reflect the debtor's financial condition. For Petitioner to show financial hardship, she "must submit 'particularized evidence,' including proofs of payment, showing that [she] will be unable to pay essential subsistence costs such as food, medical care, housing, clothing or transportation." See In re Dominique Tozzi, HUDOHA No. 23-VH-0054-AG-032 at 2 (Feb. 15, 2024) (quoting Ray J. Jones, HUDAJF 84-1-OA at 2 (Mar. 27, 1985)).

In support of her claim that a garnishment in this amount would cause financial hardship, Petitioner submitted a copy of her pay stub, as well as this list of expenses: \$1,490 (mortgage/rent), \$100 (gasoline), \$108.85 (electricity), \$14.74 (natural gas), \$400 (food), \$85.83 (cable/satellite tv), \$29.83 (renter's insurance), \$66.17 (car insurance), \$126.19 (cell phone), and \$10 (internet). Petitioner also lists numerous lines of credit card debt and after pay.

Petitioner provided proof of her monthly household expenses for electricity, natural gas, cable/satellite tv, cell phone, and internet. These expenses, which are supported with documentation, are essential and should be included in the Tribunal's financial hardship calculation.

However, Petitioner did not provide documentation to support her rent, gasoline, food, renter's insurance, and car insurance. Generally, where there is insufficient documentation, credit may only be given for certain essential subsistence expenses that are found to be generally credible. See Spencer, at 3 (citing Carolyn Reed, HUDOA No. 12-M-CH-AWG05, at 4 (Jan. 20, 2012)). Such subsistence expenses include rent or mortgage, certain utilities, and food. Therefore, although Respondent did not provide evidence of these expenses, the Tribunal can include them in this essential household expenses calculation by applying the Internal Revenue Service, Collection Financial Standards ("IRS Standards"). See Internal Revenue Service, Collection Financial Standards (Aug. 22, 2024), <https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards>.

And, although Petitioner failed to provide proof of her gasoline expense and car insurance, the Tribunal deems the other documentation submitted by Petitioner is sufficiently credible to infer these expenses are also incurred by Petitioner. See In re Derrick Byrd, HUDOHA 23-AM-0001-AG-001, at 4 (Sept. 30, 2024) (including a petitioner's claimed gas and car repairs expenses even though petitioner did not provide documentation in support). As such, and without having copies of these bills or receipts, the Tribunal will look to the IRS Standards for these expenses. Id.

In general, a petitioner's claimed expenses that exceed the IRS Standards will be credited only if the Petitioner provides documentation to substantiate those expenses as necessary living expenses. See Internal Standards. Here, although Petitioner failed to provide documentary

evidence of rent and renter's insurance, the total claimed by Petitioner is sufficiently similar to the IRS Standards that the Tribunal will use the figures Petitioner claims. Accordingly, applying the IRS Standards for Petitioner's gasoline, food, and car insurance expenses (\$701),<sup>4</sup> and including the actual costs of Petitioner's rent, electricity, natural gas, cable/satellite tv, renter's insurance, cell phone and internet (\$1,865.14), Petitioner's monthly essential household expenses are calculated to total \$2,566.14.

Finally, Petitioner provided proof of various expenses that will not be included in the financial hardship calculation, because Petitioner has not demonstrated that these charges are for essential household expenses. Specifically, Petitioner provided copies of credit card bills but only produced the pages showing the total due. Without evidence that the charges were for essential household expenses, the Tribunal will not include these credit card debts in the financial hardship calculation. See Byrd, at 5 (excluding a petitioner's credit union debt because the petitioner failed to provide particularized evidence that the debt was incurred for essential household expenses). Similarly, Petitioner did not demonstrate that a charge for laser hair removal, including an Ally statement showing a balance of nearly \$4,000 owed for such services, reflect an essential household expense.

Petitioner's pay stub shows a monthly disposable pay of \$2,879.22 while her essential monthly expenses total \$2,566.14. Accordingly, a monthly garnishment of 15% (approximately \$431.88) leaves Petitioner with a balance of -\$118.80 each month. Under the Tribunal's authority, the Secretary's garnishment is reduced from 15% of Petitioner's disposable pay to 5% (see generally 24 C.F.R. § 17.81, 31 C.F.R. §§ 285.11(f)(11)(ii) and (iii)), because the reduction in the garnishment amount would leave Petitioner with adequate funds to cover her essential household expenses plus unforeseen essential expenses that may arise.

## ORDER

For the reasons set forth above, the Tribunal finds the subject debt to be legally enforceable against Petitioner in the amount claimed by the Secretary. It is:

**ORDERED** that the Secretary is authorized to seek administrative wage garnishment in the amount of 5% of Petitioner's disposable pay, or such other amount as determined by the Secretary, not to exceed 5% of Petitioner's disposable pay.

**SO ORDERED,  
ALEXANDER  
FERNANDEZ-  
PONS**

Alexander Fernández-Pons  
Administrative Law Judge

Digitally signed by: ALEXANDER  
FERNANDEZ-PONS  
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Development, Office of the Secretary  
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<sup>4</sup> The IRS Standards do not provide estimates for specific costs such as car insurance or gasoline, however they provide for a transportation cost which includes these expenses among others related the expense of maintaining a vehicle.

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**Finality of Decision.** Pursuant to 31 C.F.R. § 285.11(f)(12), this constitutes the final agency action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C. § 701 et seq.).