

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWG Docket No. 11-0373
)	
Gail N. Sherfield)	
)	Order Remanding to Treasury
Petitioner)	this Petition, with Instructions

The Petitioner is Gail N. Sherfield (“Petitioner Sherfield”), who represents herself (appears *pro se*). The Respondent Agency is Rural Development, United States Department of Agriculture (“USDA Rural Development”). USDA Rural Development is represented by Mary E. Kimball.

A telephone hearing is not scheduled; none is required. Ms. Kimball reported by email dated September 30, 2011 (a copy of which is enclosed to Petitioner Sherfield), that USDA Rural Development had already proved the existence and the amount of the debt owed. This is true: by Decision and Order issued December 3, 2010 (in AWG Docket No. 10-0435), Judge Victor W. Palmer decided Petitioner Sherfield’s previous petition. Among other things, Judge Palmer decided the existence and the amount of the debt and wrote:

. . . I have concluded that garnishment should not take place at any time during the next six (6) months.

When the United States Department of the Treasury (“Treasury”) gave written notice on July 25, 2011, of its INTENT TO INITIATE ADMINISTRATIVE WAGE GARNISHMENT PROCEEDINGS, Petitioner Sherfield completed and submitted timely her Hearing Request, but she checked the wrong box. She checked the box challenging the existence of the debt, which had already been decided by Judge Palmer. The proper box to have checked this time, would have been the box challenging the garnishment amount. Petitioner Sherfield did provide written evidence to support her Hearing Request, including her letter dated July 28, 2011; her statement dated August 4, 2011 referencing her living expenses and her debt related to medical care; and her medication list for lupus and artery/heart conditions. Among other things, Petitioner Sherfield wrote:

My medication and diet is expensive. I do the best I can but I am not doing good. I am 57 years old with a severe medical condition. Please understand I am hurting myself. I can barely keep food on the table and have to select which medications I can afford to have filled.

Accordingly, Petitioner Sherfield's Hearing Request is **REMANDED to Treasury** with the following instructions:

1. Treasury, please consider Petitioner Sherfield for ***financial hardship discharge***. Please notify her of the additional information required for your consideration, including physicians' statements, more complete financial information, and other.
2. Treasury is **not** authorized to proceed with garnishment through October 2013. If Petitioner Sherfield is not granted a ***financial hardship discharge***, beginning no sooner than November 2013, following review of Petitioner Sherfield's financial circumstances to determine what amount of garnishment she can withstand without financial hardship, garnishment up to 15% of Petitioner Sherfield's disposable pay is authorized. 31 C.F.R. § 285.11.
3. If Petitioner Sherfield is not granted a ***financial hardship discharge***, repayment of the debt may occur through ***offset*** of Petitioner Sherfield's **income tax refunds** or other **Federal monies** payable to the order of Ms. Sherfield.

Copies of this "Order Remanding to Treasury this Petition, with Instructions" shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 7th day of October 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

Enclosed to Petitioner: email copy

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Avenue, SW
Washington DC 20250-9203
202-720-4443
Fax: 202-720-9776