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**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)
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Filing Date: January 31, 2022)
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Case No.: PSH-22-0043

Issued: June 14, 2022

Administrative Judge Decision

Brenda Balzon, Administrative Judge:

This Decision concerns the eligibility of XXXXX XXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material."¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's security clearance should not be restored.

I. BACKGROUND

A DOE contractor employs the Individual in a position that requires her to hold a security clearance. In April 2021, the Individual submitted an incident report to the Local Security Office (LSO) disclosing that she was admitted into an inpatient treatment program from February 2021 through March 2021, for treatment of her alcohol dependency and depression. Exhibit (Ex.) 6. Subsequently, the Individual was evaluated by a DOE consultant psychologist ("DOE Psychologist") in July 2021. Ex. 7. The DOE Psychologist diagnosed her with Alcohol Use Disorder (AUD), Severe, and determined that the Individual had not demonstrated adequate evidence of rehabilitation or reformation. Ex. 7 at 12.²

¹ The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

² Numerous exhibits offered by DOE contain documents with printed page numbers that are inconsistent with the pagination of the exhibits. This decision cites to exhibits based on the pagination of each exhibit and not page numbers printed on documents contained within exhibits.

Due to security concerns related to the Individual's alcohol use, the LSO informed the Individual by letter (Notification Letter) that her security clearance had been suspended and that it possessed reliable information that created substantial doubt regarding the Individual's eligibility to hold a security clearance. In the Summary of Security Concerns attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline G of the Adjudicative Guidelines. Ex. 1.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. The LSO submitted nine numbered exhibits (Ex. 1–9) into the record, and presented the testimony of the DOE psychologist at the hearing. The Individual submitted eleven exhibits (Ex. A through J, and Ex. L) into the record, and presented the testimony of two witnesses, including her own testimony.³

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning her eligibility for a security clearance. The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as a basis for denying the Individual a security clearance. Ex. 1. Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual's reliability and trustworthiness. Guideline G at ¶ 21.

In citing Guideline G, the LSO relied upon the DOE Psychologist's conclusion that the Individual met the *Diagnostic and Statistical Manual of the American Psychiatric Association, Fifth Edition* (DSM-5) criteria for a diagnosis of AUD, Severe, without adequate evidence of rehabilitation or reformation. The LSO also cited the DOE Psychologist's conclusion that the Individual's AUD, Severe, has significantly impaired her judgment, reliability, and trustworthiness. It noted that during a psychological evaluation in July 2021, the Individual claimed that she had abstained from alcohol for 43 days prior to the evaluation, and had not consumed alcohol since June 3, 2021; however, laboratory tests administered on July 22, 2021, indicated heavy alcohol consumption. The LSO also noted that on February 26, 2021, the Individual voluntarily admitted herself into a 30-day inpatient treatment program for Alcohol Dependency, and one week after she was discharged on March 26, 2021, she relapsed and ultimately began consuming three fifths of vodka weekly.

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory

³ Prior to the hearing, the Individual withdrew an exhibit previously submitted as Exhibit K; this withdrawal was agreed upon by both parties.

standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfman v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) cert. denied, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting her eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

Following the Individual’s disclosure that she admitted herself to an alcohol treatment facility, the DOE Psychologist conducted an evaluation of the Individual on July 19, 2021, and issued a report (“Report”) on August 5, 2021. Ex. 6; Ex. 7. During the evaluation, the Individual stated that in 2014-2015, she realized that “she had an issue with alcohol” *Id.* at 5. The Individual disclosed that in 2019, she increased her alcohol purchases from a fifth of vodka each week to one quart of vodka weekly.⁴ *Id.* She also reported that just before she entered treatment, she was consuming three fifths of vodka each week,⁵ and had become physically dependent on it. *Id.* at 6.

The Individual reported that she admitted herself into alcohol treatment in February 2021, where she underwent two weeks of detoxification, followed by an in-patient program. *Id.* at 6. She stated that the program was a “terrible program” and did not provide her with the treatment that she was promised. *Id.* The Individual told the DOE Psychologist that within one week after her discharge and return home, she relapsed. *Id.* She eventually returned to pre-treatment levels of “three fifths” of vodka weekly. *Id.* She decided to enter another inpatient program, including detoxification followed by inpatient treatment on June 10, 2021. She completed this program on July 8, 2021. *Id.* She described this second program as “very good,” stating that it provided weekly individual counseling, daily groups, daily Alcoholics Anonymous (“AA”) meetings, and medications. *Id.*

The Individual told the DOE Psychologist that since her discharge date, she has been attending two AA meetings per day, and has found a counselor as required by her treatment program. *Id.* at 6–7. The DOE Psychologist noted that she spoke to the Individual’s counselor (Therapist). *Id.* The Therapist told the DOE Psychologist that she had provided therapy for the Individual in April and May 2021, and had diagnosed her with AUD, in Remission. *Id.* The Individual had not attended

⁴ The DOE Psychologist’s report stated that, “a fifth of liquor is 25.6 ounces; a ‘quart or ‘handle’ of liquor is 33 ounces....” Ex. 7 at 6.

⁵ The DOE Psychologist’s report stated that “three fifths per week equals 76.8 ounces, which is 51.2 standard drinks.” Ex. 7 at 6.

her appointment in June 2021, and ultimately the Therapist learned that she had entered inpatient treatment. *Id.* The Therapist stated that the Individual had made good progress, “as slips [relapses] are a part of recovery.” *Id.* The therapist told the DOE Psychologist that she had not seen the Individual since May 2021, but she plans to see the Individual in the future because she has scheduled an upcoming appointment with her on a date after the DOE Psychological evaluation.⁶ *Id.*

The Individual reported to the DOE Psychologist that she had abstained from alcohol for 43 days, and had not consumed alcohol since June 3, 2021. *Id.* at 11. The Psychologist requested that the Individual undergo three laboratory tests: a phosphatidylethanol (PEth) test, an Ethyl Glucuronide (EtG) test, and an Ethyl Sulfate (EtS) test. *Id.* at 9. The Individual’s PEth test result was positive at a level of 864 ng/mL. *Id.* The physician who interpreted the PEth results indicated that a positive PEth test at 864 mL is congruent with very heavy alcohol consumption.⁷ *Id.* Additionally, the Report stated that the Individual’s EtG and EtS urine tests were both positive, which provided strong medical evidence that the Individual had consumed alcohol within the three days prior to testing. *Id.* The DOE Psychologist’s Report stated that the Individual’s claim that she had abstained from alcohol for 43 days was not supported by any of these results. *Id.*

In her Report, the DOE Psychologist concluded that the Individual met the diagnostic criteria for AUD, Severe, under the DSM-5.⁸ Ex. 7 at 11. She recommended that to demonstrate rehabilitation or reformation, the Individual would need to enter an Intensive Outpatient Program (IOP) for 16 weeks, followed by aftercare for 18 months, attend AA meetings four times per week, and undergo bi-monthly PEth tests to support her abstinence. *Id.* at 12–13.

The Individual submitted several exhibits prior to the hearing including logs of her AA attendance from August 2021 through April 4, 2022, documentation of the work she has done on Step Four of AA, and letters from her AA sponsor and a fellow AA member. Ex. A; Ex. E at 2–3; Ex. L. Her AA sponsor’s letter dated April 4, 2022, stated that the Individual is working on the 12 steps of AA, attends and participates in AA meetings and activities, and has made good progress with evidence of growth in her actions and daily life. Ex. E at 2. The AA member stated that the Individual has been attending at least two AA meetings daily “for some time,” identifies as an alcoholic, and actively participates by speaking at meetings. *Id.* at 3.

The Individual submitted a letter dated March 28, 2022, from her employer’s Employee Assistance Program (EAP) Psychologist verifying that she had entered into a 24 month Recovery/Abstinence

⁶ While it is unclear whether the Individual attended this particular appointment, her Therapist provided a letter dated April 2, 2022, stating that the Individual has attended all but two therapy appointments, and her cancellations were planned in advance with the Therapist. Ex. H at 4. The Therapist’s letter also stated that the Individual has met the treatment plan objective which requires attendance at work and therapy appointments on a regular basis, and reporting absences in advance. *Id.*

⁷ The physician noted that, in one study, “a PEth of 863 ng/mL was correlated with five to seven standard drinks per day.” *Id.*

⁸ The DOE Psychologist also stated in her Report that the Individual “probably” did meet some criteria for depression, but since she was unable to verify it and the Individual denied it at the time of the psychological evaluation, the DOE Psychologist stated, “no diagnosis is warranted for a general depressive disorder.” Ex. 7 at 10.

Agreement on September 9, 2021, and confirming her compliance with all requirements of the agreement. Ex. C at 2; *see* Ex. F. A letter from her employer's drug testing program verified the Individual had eight (8) negative breath alcohol test (BAT) results from October 20, 2021, through March 16, 2022. Ex. C at 3; *see* Ex. D at 2, 4, 6, 8, 10, 12, 14, 16 (copies of BAT results). She also submitted two PEth tests, administered on February 14, 2022, and March 23, 2022, which were both negative. Ex. D at 18, 20. Additionally, the Individual submitted a letter from her IOP Licensed Clinical Social Worker (LCSW) dated April 4, 2022, verifying that she is currently enrolled in an IOP program which has five phases. Ex. I at 1. The Individual is currently working on Phase Four of the IOP. *Id.*

In support of her progress in her treatment plan, the Individual submitted a letter from her Therapist dated April 2, 2022, which included a status update on the Individual's treatment goals. Ex. H. The Therapist diagnosed her with a principal diagnosis of AUD, in Remission, and a secondary diagnosis of Generalized Anxiety Disorder, Moderate. *Id.* at 1. The Therapist stated that the Individual had relapsed for several days in approximately June 2021, after attending a one-month alcohol rehabilitation program. *Id.* The Individual entered another alcohol treatment program for five weeks, and subsequently consumed alcohol again on July 15, 2021. *Id.*

The Therapist opined that the Individual has partially met her treatment goal of maintaining sobriety and relapse prevention by working the AA steps with her sponsor, having completed three AA steps, and is in the third phase of a five phase IOP program. *Id.* at 2–3. The Therapist stated that the Individual has met numerous objectives including developing more transparent communications regarding her history of alcohol use, identifying triggers and coping skills to deal with risk of relapse, and developing friendships with people committed to sobriety. *Id.* at 2–4. She has partially met her objective of reducing anxiety and stress. *Id.* at 4. The Therapist opined that the Individual is making excellent progress in recovery from AUD, and recommended that she continue with all aspects of treatment. *Id.*

V. HEARING TESTIMONY

The Individual's brother-in-law testified that he has known the Individual for over 42 years, and sees her in person almost weekly. Tr. at 17–18. He was aware of the DOE's security concerns regarding the Individual's alcohol consumption. *Id.* at 17–18. The brother-in-law asserted that the Individual began to develop significant problems with alcohol after her father passed away approximately 19 or 20 years ago. *Id.* at 26. He also stated that her alcohol consumption worsened again when she moved back to her home state while undergoing stress from a contentious relationship with her son. *Id.* at 31. He testified that he and his wife encouraged the Individual to enter alcohol treatment because they were concerned that her condition was life-threatening. *Id.* at 19. They have made wellness visits to the Individual on several occasions, and noted she has been in the hospital for alcohol misuse more than once. *Id.* at 18. On one occasion two years ago, the brother-in-law took the Individual to the hospital and her doctor found that her liver and her spleen had totally stopped functioning. *Id.* at 30. The doctor told the brother-in-law that the Individual probably would have died that evening if he had not made a wellness check on her. *Id.*

The brother-in-law testified that he knows the Individual has been abstinent from alcohol for 90 days. *Id.* at 19–20. He indicated that he was very confident in his belief of her sobriety because he compared his observations of her recent speech and behavior patterns to her past behavior. *Id.* at

20. On several occasions in the past 42 years, when the Individual had been drinking alcohol and he had made wellness visits to check on her, he had observed her slurring her words, and communicating in incoherent sentences as well as having memory issues. *Id.* However, recently the brother-in-law's wife has been calling the Individual twice a week on speakerphone. In these conversations, he has not heard the Individual exhibiting any behaviors that indicate she had been consuming alcohol. *Id.*

Upon questioning by the Individual about a sobriety chip that she received from AA, the brother-in-law stated that the individual had a "9 months" chip. He then testified, asserting the Individual has "been sober for nine months...I stand corrected [regarding his earlier testimony] on that." *Id.* at 29–30. He explained that his earlier testimony regarding 90 days represented the times the Individual has attended daily AA meetings. *Id.* at 21, 31. He went on to state, "[b]ut, yes you... do have a nine month sobriety chip, so you have been sober for nine months." *Id.* at 31. Nonetheless, in response to further questioning by the DOE Counsel, the brother-in-law admitted that he was "somewhat less confident" regarding his statement that the Individual has not consumed alcohol in the last nine months. *Id.* at 33–34. He stated that he based his belief in her nine months of sobriety on his observations when he interacts with her. *Id.* at 33–34.

The brother-in-law testified that the Individual has attended two inpatient treatment programs. *Id.* at 22. He stated that prior to her first treatment program, she was drinking alcohol "a lot" by consuming half gallon bottles of vodka in a fairly short time. *Id.* at 23. He further testified that after she completed the first program, she resumed drinking alcohol at a similar or equal level to her previous level of alcohol consumption. *Id.* at 23. He stated that after the Individual completed her second treatment program, she did not immediately cease all use of alcohol. *Id.* at 24. He stated that his impression from his telephone conversations with her was that she had reduced her alcohol consumption after that program. *Id.* at 24.

The brother-in-law asserted that the Individual has made changes in her behavior due to progressing in recovery, in that she has become a very positive person, she has much more self-respect, and is goal driven. *Id.* at 21–22. He asserted that in the past 90 days, she has attended AA meetings daily, and the most positive thing he has noticed about her involvement in AA is that she now socializes with her AA groups, which he indicated is an improvement over previous isolation. *Id.* at 25–26. He was also aware that she has progressed to Step Four of AA. *Id.* at 28. He provided an example of how the Individual is working out the difficulties in her contentious relationship with her son and asserted that the Individual's work in therapy and in AA has helped her in this difficult relationship. *Id.* at 27. The Individual had recently confided to him that even though her son has legal problems and has done many negative and criminal things that have affected her life, she has totally forgiven him. *Id.* at 27. The brother-in-law testified that he last saw her consume alcohol over a year ago although he said he was not sure about the date. *Id.* at 18.

The Individual testified that teleworking during the pandemic became a huge trigger for her alcohol use, so she decided to voluntarily enter into an inpatient treatment program for approximately 30 days ("first program"). *Id.* at 41, 45. She acknowledged that due to heavy alcohol consumption prior to treatment, she needed detoxification assistance upon entry into the program to address withdrawal symptoms. *Id.* at 44. The Individual asserted that the first program was not geared towards treating alcohol problems because it was more like a "fentanyl baby-sitting service" where

most of the participants were young fentanyl users. *Id.* at 41. She stated that the program was very structured in that it included classes and daily group therapy sessions that provided substance abuse prevention treatment including education on distorted behaviors and triggers, but she only saw her Therapist twice. *Id.* at 41–44. The Individual stated that “AA was not really pushed,” however, the program had AA speakers every two weeks, and provided field trips to AA meetings. *Id.* at 42–43.

The Individual admitted that one week after returning home from her first 30 day inpatient program (mid-April 2021), she began consuming alcohol again. *Id.* at 45. She noticed that her alcohol consumption was worsening so she decided to enter another inpatient program (“second program”) in June 2021. *Id.* at 46–47. She asserted that the second program was significantly different from the first program because many participants in the second program were alcoholics, so the program focused on alcohol treatment, and emphasized AA as part of the program. *Id.* at 47–48. The Individual testified that the second program helped her recognize some of the root causes of her alcohol problems, including her biggest trigger, having to move back to her home state when her previous job ended. *Id.* at 48–50.

The Individual stated that the treatment she received in the second program included weekly individual therapy, and group therapy sessions where she learned about her triggers and relapse prevention, and received feedback from group facilitators and group members. *Id.* at 48. By the end of the program, she was engaging with a therapist, she was participating with AA, and she had an AA program alumnus whom she could contact, as well as AA recovery meetings that she could attend. *Id.* at 51.

She testified that she returned home after completing her second program in early July and stopped consuming alcohol for a while, however, she admitted that she subsequently consumed alcohol “for two days,” during which she ultimately admitted consuming a significant amount of alcohol. *Id.* at 52–53. She indicated that although she did not think that resuming alcohol consumption was an option for her, her decision to drink alcohol was influenced by having an “alcoholic brain” whose mindset “react[s] and act[s]” in a totally different way of thinking than a “sober brain.” *Id.* at 53. She acknowledged that her relapse occurred approximately two weeks into July, which was prior to her DOE psychological evaluation that occurred on July 19, 2021. *Id.* at 52, 55.

The Individual also testified that she has been abstinent from alcohol since July 15, 2021, and that she entered into a Recovery Abstinence Agreement (“agreement”) with her employer through the Employee Assistance Program (EAP) on September 9, 2021. *Id.* at 58, 60–62; Ex. F. She acknowledged that the agreement is for 24 months, and has several requirements including participation in AA, outpatient counseling, monthly monitoring visits with EAP, and aftercare. *Id.* at 58–59; *see* Ex. C at 2; Ex. F. She stated that she is currently in the ninth month of the agreement. *Id.* at 59. She admitted that considering this agreement, her participation in AA and aftercare recovery is not completely voluntary, given that she is being supervised by her employer for two years. *Id.* at 59.

The Individual stated that she started attending AA meetings prior to August 4, 2021, and has kept logs of all her AA meetings since August 4, 2021. *Id.* at 55–56; *see* Ex. A (logs of AA meetings from August 4, 2021, through April 4, 2022). She asserted that she attends AA groups daily. *Id.* at

55–57. In support of her testimony, the Individual submitted logs which reflect that she has attended AA meetings every day from December 14, 2021, through April 4, 2022. Ex. A at 5–10. She testified that she is currently working on Step Four of AA which she stated was the hardest step for her because it deals with resentments, fears, and having to make amends with people, and is very humbling. *Id.* at 71; *see* Ex. L. Additionally, the Individual asserted that in September 2021, she obtained an AA sponsor whom she meets with on a weekly basis to work the AA steps together. Tr. at 56–57; 79. Ex. E at 2.

The Individual testified regarding the resources and coping skills she uses to maintain her sobriety. She practices meditation, attends AA meetings daily, and has built up a sober support group comprised of several AA members. *Id.* at 50. She asserted that she has further expanded her support network by developing closer supportive relationships with her sponsor and another senior level AA member, and that they accompany her to weekly AA meetings. Tr. at 80; Ex. E. She asserted she also has support from her employer by way of her manager, her team leader, and her ex-team leader. Tr. at 74, 80. Moreover, she sees her Therapist weekly, and explained that she and her Therapist have created specific strategies and plans to help her exit high-risk relapse situations. Tr. at 50–51, 74; Ex. H at 2. She also provided an example of how she successfully handled a recent highly stressful incident involving her son, without consuming alcohol, by contacting her siblings for support, practicing meditation, and having ongoing discussions with her support group. *Id.* at 72–73. In addition, the Individual testified that she is currently participating in an IOP program and explained that following the IOP, there are two successive IOP aftercare programs, both of which she intends to complete. *Id.* at 65–66. She referred to herself as an alcoholic and stated her intention regarding abstinence is to not ever consume alcohol again for the rest of her life. *Id.* at 66–67.

The DOE Psychologist testified after observing the hearing and listening to the testimony of the witnesses. She opined that, as of the date of the hearing, the Individual’s diagnosis is Alcohol Use Disorder (AUD) in Early Remission. *Id.* at 86. She explained that early remission means that the person has not met any of the criteria for AUD in more than three months but less than 12 months. *Id.* The DOE Psychologist stated that her recommendations to show adequate evidence of rehabilitation or reformation included the Individual’s participation in an IOP program for 12 or 16 weeks, and following that, she should be in an aftercare program for 18 months, which would constitute approximately “a two-year commitment to active treatment.” *Id.* at 85. The DOE Psychologist noted that the Individual has made significant steps and shown a great deal of effort towards her rehabilitation, and has done “everything and then some,” though she noted that she would like to see a longer term of PEth tests. *Id.* at 86, 90. She concluded that if the Individual continues with what she is doing, her prognosis is good. *Id.* at 86. However, the DOE Psychologist ultimately opined that the Individual “falls short of ...[being] rehabilitated just because there has not been enough time. Nine months, ...may sound like a lot of time but really, for abstinence, 12 months, especially when the alcohol use disorder has been severe...is what we need to see and what DSM requires.” *Id.* at 87. Moreover, the DOE Psychologist stated the Individual would need to show 18 months of aftercare, because “with alcohol use disorder, severe, a two-year plan is what is most commonly recommended” *Id.* at 92.

VII. ANALYSIS

The Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if:

- (a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- (c) the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- (d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23(a)–(d).

The Individual has a longstanding and significant history of alcohol misuse which includes a previous pattern of relapse that closely followed completion of inpatient treatment programs. She indicated that her first treatment program did not give her the tools she needed to succeed in maintaining her sobriety, which she asserts may have been a factor in her first relapse. However, she admitted that her most recent use of alcohol was in mid-July 2021, which was after her completion of a second treatment program which she described as a “very good” program to treat her AUD. The individual stated that the second program included weekly individual therapy and group therapy sessions where she learned about her triggers and relapse prevention, and received feedback from group facilitators and group members. She further stated that, by the end of the program, she had been engaging with a therapist, she was participating with AA, and she had an AA program alumnus whom she could contact, as well as AA recovery meetings that she could attend. Despite all this, the Individual acknowledges that she relapsed shortly after leaving this program.

As such, I cannot find that so much time has passed, or that the Individual's behavior was so infrequent, or that it happened under such unusual circumstances that it is unlikely to recur. To her credit, the Individual has been abstinent from alcohol for a period of nine months. However, the fact that she has less than 12 months of sobriety reflects, as the DOE Psychologist opined, that she is still in early remission. Given the Individual's admitted alcohol misuse over a period of many years, her history of past relapses, the diagnosis Alcohol Use Disorder, Severe and her relatively brief period of abstinence, I find that the first mitigating condition does not apply. *Id.* at ¶ 23(a).

The Individual has acknowledged her pattern of maladaptive alcohol use, as she referred to herself as an alcoholic, and has taken notable actions to overcome her problem. Specifically, she attends AA meetings daily, is actively working the steps of AA with her sponsor, and has developed a robust support group. She also meets with her Therapist weekly, has developed a treatment plan with measurable objectives, and is participating in an IOP program. The Individual has been

abstinent for nine months and has submitted random BAT tests and two PEth tests that provide support for her assertions of abstinence. However, although it is admirable that the Individual has made significant efforts towards her rehabilitation, in order for her length of sobriety to be sufficient to demonstrate a clear and established pattern of abstinence under the second mitigating factor, she had to have demonstrated that it was in accordance with treatment recommendations. Here, the DOE Psychologist has recommended that because of the severity of the Individual's alcohol use disorder, the Individual needs to have established 12 months of abstinence in order to show adequate evidence of rehabilitation and reformation. Moreover, the DOE Psychologist's treatment recommendations are consistent with the requirements of the DSM-5. Accordingly, I find the second mitigating condition under Guideline G inapplicable. *Id.* at ¶ 23(b).

The third mitigating condition is inapplicable because it is undisputed that the Individual relapsed twice, with each relapse occurring shortly after her completion of an inpatient treatment program. *Id.* at ¶ 23(c).

Regarding the fourth mitigating condition, the Individual is currently participating in an IOP program and has completed phase three of its five phase program. While she has been compliant with the IOP thus far, she has not yet completed the treatment program as recommended by the DOE Psychologist. Further, she has not yet started an aftercare program. The DOE Psychologist recommended that the Individual should complete both an IOP program and an 18-month aftercare program, due to the severity of her AUD. Since none of the above treatment recommendations have been completed, the fourth mitigating condition under Guideline G is inapplicable. *Id.* at ¶ 23(d).

In sum, I find that none of the mitigating factor listed above are present in this case. Accordingly, I find that the Individual has not mitigated or resolved the security concerns raised under Guideline G.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline G of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should not be restored.

The parties may seek review of this Decision by an Appeal Panel, under the regulation set forth at 10 C.F.R. § 710.28.

Brenda Balzon
Administrative Judge
Office of Hearings and Appeals