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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-195708

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Per Diem, Travel and Transportation
Allowance Committee
Hoffman Building 1, Room 836
2461 Eisenhower Avenue
Alexandria, Virginia 22331

Gentlemen:

Recently, a claim was presented to this Office by a member of the Army, who while stationed overseas was denied reimbursement for travel expenses he incurred when he sent his dependents home due to a family emergency. In reviewing the claim, we concurred with the Army's denial of the claim based on a provision of the Joint Travel Regulations. However, it seems that the situation presented in that case is a recurring one and one which you might find appropriate as a basis to consider an amendment or addition to the Joint Travel Regulations.

The specific situation confronting the member was that he received notification on August 10, 1977, that his mother-in-law was in critical condition. The member requested emergency leave and approval for the travel of his dependents, a wife and son, to the United States from his duty station in Germany. After verifying the situation, the Army issued a travel authorization August 12, 1977, which allowed the dependents to return to the United States at no expense to the Government on a "space-available basis due to verified emergency." See Department of Defense Directive (Air Transportation Eligibility) 45.15.13-R (C2), para. 4-5.(3) (November 19, 1976). Because space-available travel on military transportation was estimated to require a 3-or 4-day wait, the member sent his dependents home on a commercial airline. He deemed the 3-or 4-day wait to be too long due to the critical condition of his mother-in-law. His mother-in-law died before his dependents landed in the United States. Subsequently, on the member's arrival in the United States his father-in-law requested that his wife remain in the United States to care for school age brothers and sisters. As a result his dependents did not return to Germany at the expiration of his emergency leave.

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He sought reimbursement for his dependents' travel expenses on the basis of para. M7103-2.7, Volume 1, Joint Travel Regulations (1 JTR). This regulation, which implements the provisions of 37 U.S.C. § 406(h), allows the early return of a member's dependents from overseas in certain situations although the member's permanent station remains unchanged. Under paragraph 2, subparagraph 7, it is stated that unforeseen family problems qualify as a situation within the purview of the regulation when the return of the dependents is determined to be in the best interest of the Government and the member or his dependents. The regulation requires that such a determination be made by the Secretary of the Army or his designee.

The Army denied his claim because no orders were issued in advance authorizing the travel under this regulation. See 1 JTR, para. M7103-1. We concurred with this denial on the basis of the existing regulation and decisions of this Office construing it. See B-170734, October 16, 1970; B-167232, August 12, 1969; B-158255, March 8, 1966.

As typified by the case presented, in many instances dependents travel in personal emergency situations where only a short visit is contemplated. However, after returning from overseas the situation develops to where, had all the facts been known, travel would have been requested under 1 JTR, M7103. After examination of the legislative history of 37 U.S.C. § 406(h), it is our view that the law does not preclude reimbursement of dependent travel in such situations.

Accordingly, we would consider an amendment to the Joint Travel Regulations authorizing reimbursement for dependent travel in such circumstances, when the appropriate official makes a determination after travel has been performed that advance return travel under 37 U.S.C. § 406(h) should be approved.

We would appreciate being advised of any action you take in this matter.

Sincerely yours,

MELTON SOCOLAR

For the

Comptroller General
of the United States