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

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B-178284

June 22, 1973

Mr. Henry H. Newman
Route 4, Box 132
Sykesville, Maryland 21784

Dear Mr. Newman:

Reference is made to your letter of March 1, 1973, in which you appeal our Transportation and Claims Division settlement of January 22, 1973, which disallowed your claim for reimbursement of expenses for shipment of household goods, incident to your release from active duty. In addition, you now claim reimbursement for your travel expenses and your family's travel expenses to your home of record.

Special Orders No. 100 dated May 18, 1970, Headquarters Fort Devens, Fort Devens, Massachusetts, relieved you from active duty effective May 31, 1970. You were then residing at Milford, Connecticut. Your home of record was shown as Baltimore, Maryland. You state in your letter that you did in fact return to Maryland in June of 1970 while your family and household goods remained at your home in Milford, Connecticut. On September 23, 1971, one year and nearly four months later, your household goods weighing 7,920 pounds were shipped from Connecticut, to Baltimore, Maryland. At that time your family also traveled to Maryland. Payment for all travel and the shipping costs was made by you.

As to the shipping costs, you assert that the delay in securing shipment occurred because your new house in Bonnie Bras, Maryland, construction for which you contracted on May 2, 1971, was not ready for occupancy until September 1971. At that time you and your family moved in and had the household goods in question transported from Connecticut.

Paragraph M8259 of the Joint Travel Regulations which implements 37 U.S.C. 406 provides in pertinent part that a member who is relieved from active duty is entitled to shipment of household goods to the place elected by the member for travel allowance under paragraph M4157, JTR, from the previous permanent duty station. However, paragraph M8259 further provides as follows:

7. THE LIMITATION. Entitlement to shipment under this paragraph will terminate in any case where household goods are not turned over to a transportation

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officer or to a carrier for shipment within 1 year following separation from the Service or relief from active duty. (Emphasis added.)

Since you were relieved from active duty on May 31, 1970, but did not ship your household goods to your home of record until September 23, 1971, your delay of more than one year in shipping the goods resulted in a forfeiture of your entitlement to shipment.

With regard to the claim for your travel allowance to Maryland, Voucher Number 11277, dated May 26, 1970, Fort Devens, Massachusetts, indicates that you received \$2,031.24 which included a travel allowance of \$31.20 paid pursuant to paragraph M4157, JTR, for the travel in question. As you have already received payment for your personal travel, you are not, therefore, entitled to any additional payment for your travel incident to relief from active duty.

With respect to travel of dependents after a member of the uniformed services has been relieved from active duty, the general rule is set forth in paragraph M7009, JTR, which implements 37 U.S.C. 404. The regulation states that eligible dependents' entitlement to transportation terminates "in any case where such travel is not completed within one year following the member's separation from the Service or relief from active duty" (par. M7009-6, JTR).

Consequently, reimbursement for your dependents' travel more than one year after your relief from active duty cannot be allowed.

For the above noted reasons, your claim must be disallowed. While we are aware of the difficulties you encountered because of delay in the completion of your home, such circumstances do not provide a legal basis for exception to the one-year travel and transportation requirement.

Sincerely yours,

Paul G. Deubling

For the Comptroller General
of the United States