



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

400-4/2

B-178290

October 10, 1973

Major F. P. Spera, FC
Finance and Accounting Officer
Aberdeen Proving Ground, Maryland 21005
Through Headquarters Department of the Army
(DACA-FIS-PT)
Forrestal Building
Washington, D.C. 20314

Dear Major Spera:

Further reference is made to your letter, with enclosures, dated December 20, 1972, file reference STEAP-CO-F, requesting a decision as to the payment of per diem allowances to members who underwent training at the United States Army Ordnance Center and School, Aberdeen Proving Ground, Maryland, in a Warrant Officer Auto Repair Course, for a period in excess of 20 weeks when the usual period of instruction was less than 20 weeks. The longer period was due to the Christmas holidays during which time no instruction was conducted. The request was assigned PDTATAC Control No. 73-12.

It is indicated that the students attending the auto repair course were members of the Army, the National Guard and United States Army Reserve, who, with one exception, received permanent change of station orders for the period September 15, 1972, through February 13, 1973.

By orders dated September 5, 1972, Chief Warrant Officer, George F. Viena, a member of the Rhode Island National Guard, was ordered to full-time training duty for the period September 15, 1972, through February 13, 1973, inclusive. The orders indicated that this was a permanent change of station and authorized travel of dependents and shipment of permanent change of station weight allowance of household goods. Upon completion of the period of full-time training duty Mr. Viena was to return to the place where he entered such duty.

However, by orders dated September 12, 1972, Mr. Viena's prior orders were amended to provide that travel of dependents and shipment of other than temporary change of station weight allowance of

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PUBLISHED DECISION
53 Comp. Gen.

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B-178290

household goods were not authorized. Also the type of duty was changed to temporary duty (duty under instruction for less than 20 weeks) citing our decision B-168099 (49 Comp. Gen. 320 (1969)).

A certificate of nonavailability of Government quarters was issued to Mr. Viens for the period September 13, 1972, through February 13, 1973.

The record indicates that the actual period of instruction for the Warrant Officer Auto Repair Course normally was less than 20 weeks. However, because of the Christmas holiday period, the course of instruction was suspended from December 21, 1972 through January 4, 1973. This had the effect of extending the period during which the course of instruction took place.

You refer to paragraph M1150-10b of the Joint Travel Regulations, for active duty personnel, and to paragraph M6001-1c of the regulations, for Reserve and National Guard personnel, as indicating that if the cumulative period of duty at one location is 20 weeks or more, then no per diem is allowable as the course falls within the purview of duty at a permanent duty station. However, you say that in view of the above-cited decision, payment of per diem to Mr. Viens would appear to be valid. In such event, you express the belief that all members attending the course of instruction should be entitled to similar allowances.

Section 404(a)(4) of title 37, United States Code, provides for payment, under regulations prescribed by the Secretaries concerned, of travel and transportation allowances to a member of a uniformed service when away from home to perform duty, including duty by a member of the Army or Air National Guard of the United States.

Paragraph M6001-1c(3) of the Joint Travel Regulations, in effect during the period here involved, providing for travel of members of the Reserve components states:

"When the period of active duty contemplated by the orders is for 20 weeks or more, no per diem allowances are payable at the permanent duty station * * *."

B-178290

In 49 Comp. Gen. 320, supra, we had for consideration a claim for per diem of a member of the National Guard who attended two successive courses of instruction at different locations; each course of instruction normally was for less than 20 weeks. This Office held (at page 324):

"Accordingly, since * * * neither the duty under instruction at Fort Wolters nor the duty under instruction at Fort Rucker exceeds 20 weeks excluding the Christmas holidays, per diem allowances * * * are authorized * * *." (Emphasis added.)

We believe that it was contemplated in the circumstances now before us that the actual course of instruction was less than 20 weeks duration, and that active duty status during the holiday period is merely incidental to the course of instruction, and does not serve to extend the period of the instruction. Therefore, in accord with the above-cited decision, since the actual period during which the students received the instruction provided in the course was, less than 20 weeks, we do not believe that students who had the period extended beyond 20 weeks, because of a holiday should be denied per diem allowances because their assigned class happened to fall within a certain calendar period during which no instruction would be presented.

Consequently, the voucher in favor of Mr. Viers is returned for payment, if otherwise proper. Similarly, the other National Guard or United States Army Reserve students attending the course would be entitled to per diem allowances, notwithstanding the receipt of permanent change of station orders, as they in fact were in a temporary duty status.

The other personnel who were students in the course received orders providing for a permanent change of station in accordance with paragraph H150-10b. This subparagraph states:

"Assignment to Schools. When a member is transferred or assigned under permanent change-of-station orders to a school or installation as a student to pursue a course (or courses) of instruction, the cumulative duration of which is 20 weeks or more at one location, such school or installation is defined to be a permanent duty station."

B-178290

As we have indicated above, we are of the opinion that the Christmas holiday period during which time no instruction was presented, should be excluded in determining the length of instruction. Accordingly, the period of instruction of the auto repair course should also be considered as less than 20 weeks for these members, as well as for members of reserve components. Thus, all members would be considered to be on temporary duty and, therefore, entitled to per diem allowances during their attendance at the course, if otherwise proper.

Sincerely yours,

Paul G. Dombing

For the Comptroller General
of the United States

Enclosure