

DOCUMENT RESUME

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Letter to Thomas W. Doyle, Special Agent, United States Secret Service; by Robert L. Higgins, Assistant General Counsel.

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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04120

OFFICE OF GENERAL COUNSEL

NO REF. TO: 8-188791(DA)

October 26, 1977

Thomas W. Doyle, Special Agent
U.S. Secret Service
New York Field Office
6 World Trade Center, Room 623
New York, New York 10048

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Dear Mr. Doyle:

Reference is made to your letter of March 31, 1977, concerning the entitlement of your wife, Special Agent Jeanne Balge Doyle, to a temporary quarters subsistence allowance for you incident to her transfer from Washington, D.C., to Newark, New Jersey, on or about April 24, 1977.

The Comptroller General renders decisions to heads of departments and agencies, disbursing and certifying officers, and claimants whose monetary claims have been settled by our Claims Division. See 31 U.S.C. §§ 74 and 82d (1970). Since it appears that you are not within the classes of individuals cited, you are not entitled to a decision. However, we are providing the following information. Such information will be only of a general nature since we do not have any facts regarding your wife's transfer.

You state that your wife would not be able to reside at your quarters in the New York City area and would be required to occupy temporary quarters for 30 days in connection with her transfer. You also stated that the Financial Management Division of the Secret Service advised that your wife would not be entitled to any temporary quarters subsistence allowance for you since you were an employee of the Service.

Under the provisions of 5 U.S.C. § 5724a (1970) an agency may prescribe and pay subsistence expenses of an employee and members of the employee's immediate family who occupy temporary quarters incident to a transfer. The regulations implementing 5 U.S.C. § 5724a are found in Part 2-5 of the Federal Travel Regulations (FPMR 101-7) (May 1973).

Federal Travel Regulations para. 2-5.2a provides in pertinent part as follows:

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"2-5.2. Conditions and limitations for eligibility.

"a. Length of time allowed and location of new official station. Subsistence expenses of the employee for whom a permanent change of station is authorized or approved and each member of his immediate family (defined in 2-1.4d) shall be allowed for a period of not more than 30 consecutive days while the employee and family necessarily occupy temporary quarters and the new official station is located in the 50 States, the District of Columbia, United States territories and possessions, the Commonwealth of Puerto Rico and the Canal Zone; provided a written agreement as required in 2-1.5a(1) is signed in connection with the transfer. * * *

The terms "immediate family" and "temporary quarters" are defined in paras. 2-1.4d and 2-5.2c, respectively, of the Federal Travel Regulations as follows:

"d. Immediate family. Any of the following named members of the employee's household at the time he reports for duty at his new permanent duty station or performs authorized or approved overseas tour renewal agreement travel or separation travel: spouse, children (including step-children and adopted children) unmarried and under 21 years of age or physically or mentally incapable of supporting themselves regardless of age, or dependent parents of the employee and of the employee's spouse."

"c. What constitutes temporary quarters. The term 'temporary quarters' refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized."

Federal Travel Regulations para. 2-5.4a restricts payment of reimbursement of subsistence expenses as follows:

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"2-5.4. Allowable amount.

"a. Actual expenses allowed. Reimbursement shall be only for actual subsistence expenses incurred provided these are incident to occupancy of temporary quarters and are reasonable as to amount. Allowable subsistence expenses include only charges for meals (including groceries consumed during occupancy of temporary quarters), lodging, fees, and tips incident to meals and lodging, laundry, and cleaning and pressing of clothing."

Paragraphs 2-5.2e and f of the Federal Travel Regulations set forth the conditions regarding the time of occupancy of temporary quarters as follows:

"e. Time to begin occupancy. The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized, and the written agreement required in 2-1.5a(1) has been signed. In order to be eligible for the temporary quarters allowance, the period of use of such quarters for which a claim for reimbursement is made must begin not later than 30 days from the date the employee reported for duty at his new official station, or if not begun during this period, not later than 30 days from the date the family vacates the residence at the old official station, but not beyond the maximum time for beginning allowable travel and transportation.

"f. Computation of 30 or 60 days allowable. In computing the length of time allowed for temporary quarters at Government expense under the 30- or 60-day limitations specified herein, such time will begin for the employee and all members of his immediate family when either the employee or any member of the immediate family begins the period of use of such quarters for which a claim for reimbursement is made and the time shall run concurrently. The employee may occupy temporary quarters at one location while members of the immediate family occupy quarters at another location.

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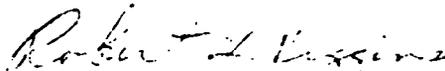
The period of eligibility shall terminate when the employee or any member of his immediate family occupies permanent residence quarters or when the allowable time limit expires, whichever occurs first."

Computation of the maximum allowance is found in paragraph 2-5.4c of the Federal Travel Regulations. That paragraph provides for computations based on percentages of the maximum per diem rate for the employee and the members of his immediate family who occupy temporary quarters.

This Office has consistently held that in order to be entitled to payment of subsistence expenses, the occupancy of temporary quarters must be directly and necessarily related to the employee's transfer of duty stations. See B-185376, July 23, 1976.

We trust that the above information will be of assistance to you.

Sincerely yours,



Robert L. Higgins
Assistant General Counsel