

DECISION

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

FILE:

DATE:

JUN 23 1975

50815
97/62MATTER OF: **B-183000**

DIGEST:

Gary Lee Everett - Foreign duty travel; entitlement of dependents to per diem allowance.

Travel order dated November 29, 1973, authorized travel of Foreign Service Officer, Department of State, from Guatemala City, Guatemala, to Santo Domingo, Dominican Republic, via Washington, D. C., for approximately 5 days for consultation purposes. Travel of dependents was authorized, via Washington, with per diem, subject to 6 Foreign Affairs Manual (FAM) 126.4. Under broad authority of 6 FAM 113, per diem for wife who was 7 1/2 months pregnant and who remained in Miami, Florida, for 5 days, while officer consulted in Washington, upon advice of medical authorities, may be post-approved by appropriate agency official in view of unusual circumstances.

This action is taken at the request of the Deputy Assistant Secretary for Budget and Finance, Department of State, for our decision with respect to the request of Mr. Gary Lee Everett, a Foreign Service Officer presently stationed in Santo Domingo, Dominican Republic, for amendment of his travel orders to authorize payment of 5 days per diem for his dependents at Miami, Florida, incident to his transfer from Guatemala to Santo Domingo.

The reported facts, briefly stated, are as follows: Mr. Everett was directly transferred from Guatemala City to Santo Domingo in 1973 to serve a 2-year tour of duty. Travel Order 4-62119 dated November 29, 1973, authorized travel of the claimant via Washington, D. C., for approximately 5 workdays for consultation purposes. Travel of the dependents was authorized, via Washington, D. C., with per diem, subject to the provisions of 6 FAM 126.4.

At the time Mr. Everett received his travel orders, his wife was 7 1/2 months pregnant. According to the claimant, his wife's gynecologist would not sign a medical authorization for air travel for her and they had to approach the Embassy medical advisor who was "more lenient" in the matter. However, the Embassy medical advisor thought it not advisable, from a medical standpoint, for Mrs. Everett to travel to Washington, D. C., the stopover point provided for in the travel orders.

Consequently the wife and daughter traveled only as far as Miami and remained there while Mr. Everett continued on to Washington for 5 days authorized consultation. He then picked up his family in Miami and proceeded to his new post of duty.

Mr. Everett's request for amendment of his travel orders to authorize 5 days per diem for his family at Miami for the period they were authorized per diem in Washington was initially denied by the agency based upon the provisions of 6 FAM 126.4. The claimant, however, has asked for reconsideration of his request for amendment of his travel orders under 6 FAM 113.

The two aforecited Foreign Service Travel Regulations provide, in pertinent part, as follows:

6 FAM 126.4

"When an employee is ordered to stop for temporary duty in the United States or abroad en route to employee's new post of assignment, employee's family may be authorized by the Department or Agency to travel before, with, or after employee via such stopover point: provided, the family joins the employee at or accompanies employee to or from such point. * * * Per diem at the stopover point may be allowed for members of the family only during the period of temporary duty of the employee. * * *"

6 FAM 113

"The Department or Agency may authorize or approve any emergency, unusual, or additional payment which is necessary or expedient, if allowable under existing authority, whether or not specifically provided for by these regulations. * * *"

The Department of State reports that the intent of 6 FAM 126.4 is to preclude payment of per diem for dependents visiting other places for their own convenience while the employee is on temporary duty. It is stated that the reasons for Mrs. Everett not continuing to Washington appear persuasive and not a matter of personal preference or convenience. The Deputy Assistant Secretary also points out that the provisions of

Title IX, part B, section 911(10) of the Foreign Service Act of 1946, as amended by Public Law 87-195, September 4, 1961, 75 Stat. 464, provide that the Secretary may pay:

" * * * the travel expenses of members of the family accompanying, preceding, or following an officer or employee if, while he is en route to his post of assignment, he is ordered temporarily for orientation and training or is given other temporary duty."

In accordance with the provisions of 6 FAM 126.4, authorization for indirect travel of dependents rests within the discretion of the agency. In the claim now under consideration, per diem for 5 days was in fact authorized for Mr. Everett's dependents in Washington but due to his wife's advanced state of pregnancy, and after appeal to her gynecologist and the Embassy medical advisor, it was determined not to be advisable, from a medical standpoint, for Mrs. Everett to travel beyond Miami. Under 6 FAM 113, the Department or Agency is empowered to authorize payments which may be allowable under existing authority whether or not specifically included in the regulations.

In light of the unusual circumstances and since Mrs. Everett was unable to continue to Washington, the temporary duty point, due to factors beyond her control, and as her remaining in Miami was not for the personal convenience of the employee, the claim may now be approved by the appropriate agency official, if otherwise proper, under the authority of section 911(10) of the Foreign Service Act of 1946, as amended, and 6 FAM 113.

E. P. HENNINGER

Acting Comptroller General
of the United States