



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

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B-176613

January 2, 1973

Major John T. Donohue  
Finance and Accounting Officer  
Through Headquarters Department of the Army  
(DACA-FIS-PT)  
Forrestal Building  
Washington, D. C. 20314

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Dear Major Donohue:

This refers to your letter dated April 19, 1972, which was forwarded here by 1st endorsement, dated July 21, 1972, of the Per Diem, Travel and Transportation Allowance Committee, requesting an advance decision as to the legality of payment of a dislocation allowance to Lieutenant Colonel Jeanna E. Rivera, Army Nurse Corps, as a member without dependents. Your request has been assigned PDTATAC Control No. 72-29.

By orders issued January 14, 1972, Colonel Rivera was ordered to travel on a change of permanent station from Fort Bragg, North Carolina, to Brooke Army Medical Center, Fort Sam Houston, Texas, with a reporting date of March 20, 1972. Pursuant to these orders, the member submitted the enclosed voucher claiming a dislocation allowance as a member without dependents. You say that such allowance has been paid to the officer twice before, under similar conditions. However, you say doubt exists as to the legality of the payment since Colonel Rivera is presently receiving basic allowance for quarters as a member with dependents in behalf of her dependent mother. As the mother has not and does not intend to join her daughter at her new station you say that there is no entitlement to dependents travel or dislocation allowance as a member with dependents. The officer has not been assigned Government quarters at her new station.

Section 406, title 37, U.S. Code, provides in part, that a member of a uniformed service who is ordered to make a change of permanent station is entitled to transportation of his dependents, to reimbursement thereof, or to a monetary allowance in place of transportation, subject to such conditions and limitations as are prescribed by the Secretaries concerned.

Section 401 of title 37, U.S. Code, reads, in part, as follows:

"§ 401. Definitions

"In this chapter, 'dependent', with respect to a member of a uniformed service, means---

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\* \* \* \* \*

"(3) his parent (including a stepparent or parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before he became 21 years of age) who is in fact dependent on the member for over one-half of his support \* \* \*."

The regulations regarding dislocation allowances promulgated pursuant to 37 U.S.C. 407, are contained in chapter 9 of the Joint Travel Regulations (JTR). Paragraph M9001 reads, in part, as follows:

"1. MEMBER WITH DEPENDENTS. The term 'member with dependents,' as used in this Part, means a member \* \* \* who has dependents entitled to transportation in connection with a change of permanent station.

"2. MEMBER WITHOUT DEPENDENTS. The term 'member without dependents' as used in this Part, means a member \* \* \* who has no dependents or who is not entitled to transportation of dependents under the provisions of par. M7000 in connection with a change of permanent station."

Paragraph M9003 states, in part:

"\* \* \* The dislocation allowance is payable to a member with dependents whenever dependents relocate their household in connection with a permanent change of station or whenever a member without dependents is transferred to a permanent duty station where he is not assigned to Government quarters."

Paragraph M7000, JTR, states that members are entitled to transportation of dependents at Government expense upon a permanent change of station except as otherwise provided. Subparagraph 11 of paragraph M7000, an exception to the rule, reads as follows:

"For any travel performed by a dependent parent or parents who do not actually reside in the household of said member unless otherwise authorized or approved by the Secretary of the service concerned or his designated representative."

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It is noted that on the enclosed voucher, the section entitled "Dependents Actual Travel" is completed in such a manner to indicate that the mother traveled from North Carolina to Texas. However, based on the record before this Office, this appears to be erroneous and for purposes of this decision, it will be considered that no movement of the dependent occurred.

A member may receive quarters allowance (BAQ) with dependents for a dependent parent who does not reside with the member, as the residence requirement contained in 37 U.S. Code 401(3), is suspended by 50 U.S. Code App. 2201. However, for a dependent parent to be entitled to transportation in connection with a permanent change of station, he or she must actually reside in the member's household, unless the travel is authorized or approved as provided in paragraph M7000-11 of the regulations. For the purpose of entitlement to a dislocation allowance a "member without dependents" includes a member who has a dependent not entitled to transportation in connection with the member's change of permanent station (par. M9001-2, JTR). Therefore, a member receiving BAQ with dependents may receive a dislocation allowance as a member without dependents where the parent, because he or she does not reside with the member, is not entitled to transportation in connection with an assignment to a new permanent station.

The record is not clear as to whether the officer's mother resided with her at Fort Bragg. If her mother did not reside with her, in accord with paragraph M9002 of the regulations, Colonel Rivera is entitled to a dislocation allowance in an amount equal to the applicable monthly rate of BAQ prescribed for a member of her pay grade, without dependents. However, if the officer's mother resided with her at Fort Bragg, she was entitled to transportation in connection with the change of permanent station to Brooke Army Medical Center, and such entitlement precludes payment of a dislocation allowance even though the mother may not have changed her residence.

The voucher and supporting documents are returned herewith for appropriate action in accord with this decision.

Sincerely yours,

R.F.KELLER

/Deputy Comptroller General  
of the United States