

DOCUMENT RESUME

02579 - [A1792805]

[Relocation Expenses of Foster Children]. B-188294. June 15, 1977. 3 pp. + enclosure (1 pp.).

Decision re: Richard J. Pulliam; by Robert P. Keller, Acting Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Social Security Administration.

Authority: 5 U.S.C. 5724. F.T.R. (PPHR 101-7), para. 2-1.4d. B-169855 (1970). B-188096 (1977).

An employee appealed the denial of his claim for reimbursement of travel and subsistence expenses for his foster children incident to a permanent change of station. The transferred employee may not be reimbursed for these expenses since such children are not within the definition of "immediate family" contained in applicable regulations. Whether such children are eligible for the employee's health insurance program was not relevant to the determination of their entitlement to relocation allowances. The denial was sustained. (Author/SC)

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KI William Haubert
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DECISION

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

FILE: B-188294

DATE: June 15, 1977

MATTER OF: Richard J. Pulliam - Immediate family -
Foster children

DIGEST: Transferred employee may not be reimbursed for relocation expenses of foster children since such children are not within definition of "immediate family" contained in 5 CFR para. 2-4.1d (May 1973). Further, whether such children are eligible for employee's health insurance is not relevant to determination of entitlement to relocation allowances.

This action concerns an appeal by Mr. Richard J. Pulliam from the denial by our Claims Division of his claim for reimbursement of travel and subsistence expenses for his foster children incident to a permanent change of station.

The record indicates that in April 1975 Mr. Pulliam was transferred from Birmingham, Alabama, to Anniston, Alabama, as an employee of the Social Security Administration. A travel order dated April 25, 1975, authorized permanent change of station travel for Mr. Pulliam and three dependents, his wife and two sons. The travel order did not, however, authorize travel for Mr. Pulliam's three foster children. It appears that the three foster children are orphaned sisters of Mr. Pulliam's wife and that Mr. Pulliam assumed parental responsibility for them upon the death of their mother on March 6, 1975. Mr. Pulliam has stated that the children were not placed with him by a welfare or social agency but that he has voluntarily accepted responsibility for them.

Mr. Pulliam's initial claim of relocation expenses for the foster children was disallowed by his employing agency. The matter was subsequently referred to our Claims Division which denied the claim on the grounds that the applicable regulations do not include foster children within an employee's immediate family. In addition denial was based on the fact that decisions of this Office have consistently excluded wards of an employee from the dependents for whom the employee is entitled to relocation benefits. Mr. Pulliam bases his appeal on his contention

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that the foster children are entitled as dependent, to benefits under the Federal employees health benefit program in which he is enrolled. It is Mr. Pulliam's view that the determination of dependency for the purpose of granting an entitlement to health benefits should govern the determination of eligibility for reimbursement of relocation expenses.

Section 5724(a)(1) of title 5, United States Code, provides that under such regulations as the President may prescribe and when the head of the agency concerned or his designee authorizes or approves, the agency shall pay from Government funds the travel expenses of an employee transferred in the interest of the Government from one official station or agency to another for permanent duty and the transportation expenses of his immediate family. Under a delegation from the President, the General Services Administration has defined the term "immediate family" in para. 2-1.4d of the Federal Travel Regulations (FPMR 101-7, May 1973).

Although that paragraph has recently been amended effective June 1, 1977, to expand the definition of "immediate family," at the time Mr. Pulliam incurred the claimed expenses, paragraph 2-1.4d provided as follows:

"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."

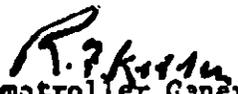
Decisions interpreting the above language have consistently restricted the concept of "immediate family" to the categories of persons enumerated therein and have excluded wards of an employee from the dependents for whom relocation allowances may be paid. B-169855, July 10, 1970; Matter of George S. Barnard, B-188096, April 6, 1977.

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In the present case, the three children for whom Mr. Pulliam claims reimbursement are not wards, over whom he has legal guardianship by reason of judicial decree; but are foster children whose care he has voluntarily assumed. Foster care has been defined as affording nurture or parental care though not related by blood or legal ties. See Webster's New Collegiate Dictionary at 455 (1975). Since the regulations then in effect excluded from an employee's immediate family a child over which the employee has legal guardianship, it is our view that a relationship based solely on foster care without legal ties is similarly excluded.

Concerning Mr. Pulliam's contention that the apparent eligibility of the foster children for health insurance should govern his authorization for relocation benefits on their behalf, we note that an employee's entitlement to relocation benefits is governed by 5 U.S.C. § 5724 and § 5724a, and the Federal Travel Regulations, and not by the laws and regulations concerning other matters. Thus, any determination previously made concerning health benefits is not relevant to a consideration of Mr. Pulliam's rights and obligations under the laws governing relocation allowances. Since Mr. Pulliam's foster children are not included within the definition of "immediate family" prescribed by FTR para. 2-4.1d, he is not entitled to reimbursement of their relocation expenses.

Accordingly, we sustain the denial by our Claims Division in this matter.


Acting Comptroller General
of the United States

Wm. H. H. H. H.
Com. Sec.

JUN 15 1977

Director, Claims Division

Comptroller General ^{R.F. KELLER}

**Richard J. Fullam - Immediate Family - Foster children -
B-198294-O.M.**

Returned herewith is your file B-170877A, forwarded on January 14, 1977, in connection with the appeal of Mr. Richard J. Fullam from your denial of his claim for selection benefits for his foster children. That denial is sustained by our decision of today, B-198294, copy attached.

Attachments