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Civ. Rev.*

DECISION



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

FILE: B-190071

DATE: May 1, 1978

**MATTER OF: George F. Clark - Mileage Costs from
residence to official station**

- DIGEST:**
1. Employee of Soil Conservation Service, Department of Agriculture, may not be reimbursed mileage costs for travel by private automobile from his residence to official duty station and return for purpose of attending meetings after normal working hours. It is a well established rule that an employee must bear cost of transportation between residence and official station even though the cost of such transportation may be increased by the performance of overtime work.
 2. Under 31 U. S. C. 638a(c) Government vehicles may not be used for other than official purposes, and we would not consider it appropriate for agency to authorize employee to use a Government vehicle in other than emergencies for purposes of personal transportation between residence and place of business, even in connection with the performance of additional work outside of regular duty hours.

This action is the result of an appeal by George F. Clark of the disallowance by our Claims Division on July 29, 1977, of his claim for reimbursement of mileage costs incurred in commuting from his residence to his official duty station and return for overtime as an employee of the Soil Conservation Service, Department of Agriculture.

The record shows that Mr. Clark, as an employee of the Soil Conservation Service, was required, to attend various governmental and non-governmental meetings after the established workday. These meetings were held at the employee's headquarters. Since the meetings were in the evening after his normal working hours, the employee returned to his residence by private auto as was his normal practice. He later drove to his headquarters building for the meeting and returned to his residence at its conclusion. It is for these

B-190071

evening round trips that the employee requests mileage reimbursement. It does not appear that the travel after normal working hours was approved as official business, but he was allowed compensatory time for time actually spent attending the meeting.

Mr. Clark questions whether an agency of the Government can cause an employee to perform work in excess of that regularly scheduled at no additional expense to the Government but which costs the employee double transportation expense per day.

The established rule, as stated in numerous decisions of this Office, is that an employee must bear the cost of transportation between his residence and his place of duty at his official station absent statutory or regulatory authority to the contrary. 55 Comp. Gen. 1323, 1327 (1976); 46 id. 718 (1967); 36 id. 450 (1958); 27 id. 1 (1947); 16 id. 64 (1936); 11 id. 417 (1932); Matter of Department of Agriculture Meat Graders, B-131810, January 3, 1978; and Matter of Carl P. Mayer, B-171969.42, January 9, 1978. However, without abrogating that rule, we held in 36 Comp. Gen. 795 (1957), that it is within administrative discretion to permit an employee, authorized to use a privately owned vehicle on official business, an allowance for mileage from whatever point he begins his journey without a deduction for the distance he would normally travel between his home and headquarters, irrespective of whether he performs duty at his headquarters on that day. We cautioned, however, that administrative officials may and should exercise their discretion, where appropriate, to restrict the amount of reimbursement by way of a reduced rate or distance.

Decision 36 Comp. Gen. 795 is distinguishable from Mr. Clark's situation in that the involved employees were authorized to use their privately owned vehicles for official business. Mr. Clark was not so authorized. He used his automobile for his own transportation to and from work at his place of regularly scheduled duty and not for official business. In addition, the employees involved in 36 Comp. Gen. 795 were investigators who, due to the nature of their work, required the use of their privately owned vehicles for transportation throughout the day in the performance of their duties. The record does not indicate that Mr. Clark required the use of his privately owned vehicle for other than his own transportation.

We are unable to agree with the contention by Mr. Clark that transportation expenses incurred for travel to and from work for

B-190071

callback overtime duty should be at Government expense. Our decisions hold to the contrary. In this regard, we have stated that although such transportation expenses may be increased by the performance of overtime duty or other emergency conditions, this does not change the basic rule that an employee must bear the expense of travel between his residence and his official duty station. Matter of Richard F. Bollinger and Adam E. Muckenfuss, B-189061, March 15, 1978, Matter of White Sands Missile Range, B-185974, March 21, 1977, and B-171969.42, supra.

Mr. Clark has cited 25 Comp. Gen. 844 (1946) and 26 Comp. Gen. 598 (1947) as support for the payment of his claim. In 25 id. 844 at 846 we stated:

"It is well established that a Government employee must bear the cost of daily travel from and to his residence, to and from his place of business * * *."

We further stated that the language of section 202 of the Independent Offices Appropriation Act, 1946, approved May 3, 1945, 59 Stat. 137 which prohibited the use of appropriations for Government-owned vehicles not used exclusively for official purposes (substantially the same prohibition is presently contained in 31 United States Code, section 638a(c)(2), (1970)):

"[I]s not to be interpreted as prohibiting a Federal employee from using a Government automobile to drive to his residence when it is in the interest of the Government that he start on official travel from that point, rather than from his place of business. Such use of a Government automobile is within the meaning of 'official purposes' as used in the act. In that connection, of course, it is understood that the control over the use of the Government vehicles largely is a matter of administrative discretion to be exercised within the framework of applicable laws."

The decision further held that an employee who performs travel by Government automobile is not entitled to reimbursement for taxicab fares incurred between his residence and the contract garage where the vehicle is stored.

B-190071

In 26 Comp. Gen. 598, supra, we overruled only that portion of 25 Comp. Gen. 844 that denied reimbursement for taxicab fares between the employee's residence and the garage where Government vehicles are stored. Thus, rather than support Mr. Clark's claim, our holdings in 25 Comp. Gen. 844 and 26 Comp. Gen. 598 sustain the proposition that an employee is responsible for the cost of his own transportation between his residence and place of business.

Mr. Clark questions whether he may be authorized the use of a Government vehicle on those occasions when he is required to attend meetings after his regularly scheduled work hours. The authority to allow the use of a Government vehicle is discretionary with an agency.

In B-181212, August 15, 1974, we had for consideration a question whether the Bureau of Prisons could revise its policy regarding the use of Government vehicles by certain of its personnel for travel between their places of residence and places of employment. There we specifically addressed the prohibition contained in 31 U. S. C. 638a(c) against use of Government vehicles for other than official purposes and the language of that section defining "official purposes" as not including transportation of officers and employees between their domiciles and places of employment except in limited circumstances:

"Although [the] statute does not define the term 'official purposes,' it does provide that official use shall not include the transportation of employees between their homes and places of employment, except in cases of medical officers on out-patient medical services and in cases of employees engaged in field work. That provision specifically recognizes the well established rule that a Government employee must bear the cost of daily travel between his residence and place of employment. 25 Comp. Gen. 844 (1946). However, in construing that restriction we have recognized that its primary purpose is to prevent the use of Government vehicles for the personal convenience of an employee. In this regard we have long held that use of a Government vehicle does not violate the intent of the cited statute where such use is deemed to be in the interest of the Government. We

B-190071

have further held that the control over the use of Government vehicles is primarily a matter of administrative discretion, to be exercised by the agency concerned within the framework of applicable laws. 25 Comp. Gen. 844, supra.

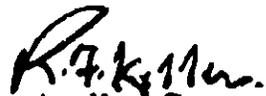
"Regarding the above it appears that the use of Government vehicles for transporting employees between their residences and duty stations is justified in emergency situations. If an emergency situation arises which requires the immediate presence of an employee at his duty station and the employee is unable to obtain transportation between his residence and duty station by private or commercial means, it would clearly be in the interest of the Government to furnish transportation by an available Government vehicle. Thus, it appears that any interpretation of 31 U. S. C. 638a(c)(2) which would preclude the use of a Government vehicle in such a situation would not be proper.

* * * * *

"Although the use of Government vehicles to transport certain employees between their residences and places of employment in emergency situations may be in the interest of the Government, it would appear that authorizations to employees to use Government vehicles to and from their residences for use in emergencies should take into consideration the availability of private and commercial means of transportation since such travel is primarily a responsibility of the employee. Moreover, it appears that any Bureau policy regarding the use of Government vehicles should also take into consideration the frequency of such emergencies and alternative methods of providing transportation in such situations. Thus, we doubt that a determination of Government interest could be made to justify a general agency policy authorizing all of its employees in a particular position to use Government vehicles for transportation between their residences and places of employment."

B-190071

In line with the above-quoted decision, the determination to permit an employee's use of a Government-owned vehicle is a matter largely within the discretion of the agency involved. However, in general, we would not consider it appropriate for an agency to authorize an employee the use of a Government-owned vehicle in other than an emergency for the purpose of his personal transportation between his residence and his permanent place of business even in connection with his performance of additional work outside of regular duty hours.


Deputy Comptroller General
of the United States