

PLM-11

DECISION



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

10,911

FILE: B-194381

DATE: August 2, 1979

MATTER OF: Dr. Alexander W. Teass, USPHS

REQUEST FOR

DIGEST: Payment of an extra day's per diem is authorized to a member of the uniformed services who may be considered to be in a travel status for the extra time required to take advantage of a reduced excursion air fare since the increased travel time did not interfere with the performance of his official duties because he traveled on a non-work day, it was not solely for personal convenience, and the cost of the extra per diem was more than offset by the savings to the Government through use of the excursion fare.

AGC 00160
AGC 00352

The question presented upon a request for an advance decision from the Public Health Service is whether an extra day's per diem may be paid to a Public Health Service officer who departed a day early on temporary duty to take advantage of an excursion air fare which results in a net saving to the Government. The question is answered yes.

The request was presented by the Director, Financial Management Office, Public Health Service, Center for Disease Control, Atlanta, Georgia.

Alexander W. Teass, Ph. D., a commissioned officer of the Public Health Service, was authorized travel for temporary duty with approximate travel dates of September 10 and September 15, 1978, for departure and return. By departing on September 9, Saturday (a non-work day), Dr. Teass effected a savings of \$63 in air fare but incurred an additional day of travel time for which he claims \$35 per diem.

As a commissioned officer of the Public Health Service, Dr. Teass' travel allowances are provided under 37 U.S.C. 404 (1976) and Volume 1 of the Joint Travel Regulations (1 JTR).

The pertinent statute, 37 U.S.C. 404(a)(1), provides that under regulations prescribed by the Secretaries concerned, a member of the uniformed services is entitled to travel and transportation allowances for travel performed under orders upon a change

Travel allowances
Per diem allowances
Expense allowances
claims

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B-194381

of permanent station or when away from his designated post of duty. In accord with this authority, paragraph M3050-1, 1 JTR, provides that members are entitled to travel and transportation allowances only while actually in a "travel status" and that they shall be deemed to be in such status while performing travel away from their permanent duty station, upon public business, pursuant to competent travel orders, including necessary delays en route incident to the mode of travel, and periods of necessary temporary duty.

It is well established that legal rights and liabilities in regard to per diem and other travel allowances vest as and when the travel is performed by the member under his orders. Also, orders may not be revoked or modified retroactively so as to increase or decrease the rights which have become fixed under the applicable statutes or regulations unless error is apparent on the face of the orders, or all the facts and circumstances clearly demonstrate that some provision previously determined and definitely intended had been omitted through error or inadvertence in preparing the orders. 23 Comp. Gen. 713, 716 (1944); 24 id. 439 (1944). See also 44 Comp. Gen. 405 (1965).

It long has been the general rule that orders directing travel or temporary duty for an approximate period of time do not constitute authority for the payment of travel allowances for a materially longer period in the absence of additional competent orders extending the period. B-175250, June 1, 1972. See also 38 Comp. Gen. 513 (1959).

Our decision B-167567, August 18, 1969, referred to in the submission involved the claim of a civilian employee of the Government whose travel orders specifically authorized him extra temporary duty time to secure an excursion fare since the savings in travel costs would more than offset the increased per diem cost. In that case we authorized payment, noting that the employee had acted prudently and the travel orders had provided for the extra per diem. The Director, Financial Management Office, suggests that that decision could be applied in this case since Dr. Teass acted prudently, traveled on a non-work day, and saved the Government money. He also indicates that it was not known when the travel orders were issued that the excursion fare was available. The implication is that had it been known the orders would have authorized travel a day earlier.

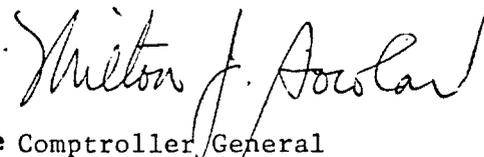
B-194381

The latitude which is provided to civilian employees of the Federal Government in the Federal Travel Regulations (FPMR 101-7) (May 1973) to take advantage of special or reduced fares when it can be determined in advance that such travel is beneficial to the Government, par. 1-3.4b of the FTR, has not been specifically set forth in 1 JTR for members of the uniformed services. However, it is our view that similar rules should apply to members of the uniformed services.

The travel time required to take advantage of special or reduced fares must be viewed in light of the savings to the Government. If it can be shown that the increased travel time will not interfere with the performance of official business, is not solely for personal convenience, and the cost of the extra per diem when added to the cost of the special or reduced fares does not exceed what the Government would have been required to pay had the special or reduced fares not been used, the member should be considered to be in a travel status for the required extra time. Ordinarily such a determination should be made in advance and stated in the travel order.

In the present case departure of Dr. Teass, 1 day early on September 9 (a non-work day for him) to take advantage of an excursion fare was not unreasonable since there is no showing that the early departure was solely for his personal convenience nor did it interfere with his official duties. From the Government's standpoint he acted prudently since the early departure saved the Government money.

Accordingly, the voucher submitted may be certified for payment if otherwise correct.



For The Comptroller General
of the United States