

11200 PLM-I



DECISION

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

FILE: B-188710

DATE: August 21, 1979

MATTER OF: Compensation of attendants for handicapped employees on official duty travel

Addressee

DIGEST: Agencies may not authorize reimbursement of compensation for attendants of handicapped employees on official business pursuant to 5 U.S.C. 5702(c) since such expenses are not included in those covered by per diem or actual subsistence reimbursement. Matter is properly for consideration of Congress. Cf. 5 U.S.C. 3102, as amended.

*ABC 00013
JLG 00925*

This decision is in response to a letter from the Chairman of the Civil Service Commission (now Office of Personnel Management) requesting that we reconsider Comptroller General decision B-188710, March 23, 1978. In that decision we held that agencies may not compensate attendants of handicapped employees whose services are required when the employee is participating in official training outside the locality of his regular duty station. The Civil Service Commission had argued that compensation for attendants should be authorized under 5 U.S.C. 4109 as part of the necessary costs of services or facilities directly related to the training of the employee. It also argued that these expenses were allowable in view of 5 U.S.C. 7153 and 29 U.S.C. 791 which provide for nondiscrimination and affirmative action for the handicapped in Federal employment.

Despite the views of the Civil Service Commission, we decided that agencies may not compensate attendants of handicapped employees because the services provided by such attendants are personal in nature and not directly related to training. We also stated that there was nothing in the statutory language or legislative history of either 5 U.S.C. 7153 or 29 U.S.C. 791 to indicate that those statutes were intended to provide agencies with the authority to incur the special expenses of attendants for handicapped employees.

In his letter, the Chairman of the Civil Service Commission asked whether we could revise our decision of March 23, 1978, by permitting agencies to authorize per diem up to the statutory maximum of \$50 a day, pursuant to 5 U.S.C. 5702(c), for necessary personal services required by handicapped employees who travel from their duty stations on official business.

*1059
Attendants*

006223

*Handicapped
Employees
Personnel Management*

[REQUEST for RECONSIDERATION]

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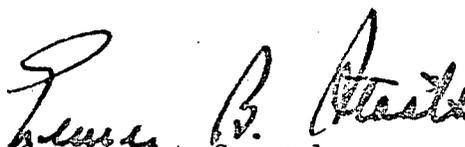
We do not feel that 5 U.S.C. 5702(c) contemplates reimbursement for such expenses. That statute authorizes the Administrator of General Services to prescribe conditions under which an employee on official travel may be reimbursed for the actual and necessary expenses of that travel when the maximum per diem allowance is inadequate due to the unusual circumstances of the travel or when the employee travels to a high rate geographical area. The purpose of per diem is to reimburse an employee for meals and lodging while on temporary duty when he also maintains a residence at his permanent duty station. See B-185932, May 27, 1976, and B-180111, March 20, 1974. Actual subsistence expense reimbursement is to be allowed for the same type of expenses normally covered by the per diem allowance. See paragraph 1-8.2b (April 29, 1977) of the Federal Travel Regulations (FTR). Paragraph 1-7.1b of the FTR (May 1973) provides that these expenses include:

"* * * all charges for meals, lodging, personal use of room during daytime, baths, all fees and tips to waiters, porters, baggagemen, bellboys, hotel maids, dining room stewards, and others on vessels, hotel servants in foreign countries, telegrams and telephone calls reserving hotel accommodations, laundry, cleaning and pressing of clothing, fans and fires in rooms, and transportation between places of lodging or business and places where meals are taken * * *."

The Civil Service Commission apparently feels that the difficulty of travel for handicapped employees could be considered an unusual circumstance of travel for which 5 U.S.C. 5702 authorizes payment of actual expenses rather than per diem. The General Services Administration, in paragraph 1-8.1c (April 29, 1977) of the FTR, sets forth guidelines for determining whether an employee's travel assignment involves unusual circumstances. In every example given the justification for the authorization or approval of actual expenses results from the nature of the official duty which causes the traveler to incur unusually high subsistence costs and not from anything related to unusual personal needs of the employee. Therefore, we do not believe that agencies are authorized to allow actual and necessary expenses under 5 U.S.C. 5702(c) in order to compensate attendants of handicapped employees. Such compensation does not fall within those expenses which are to be reimbursed by per diem or actual subsistence.

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Although we are sympathetic to the difficulties of handicapped employees, in view of the lack of statutory authority for compensating attendants, we are unable to modify our decision of March 23, 1978. Rather, we believe that this is a matter which should be brought to the attention of Congress. Cf. 5 U.S.C. 3102, as amended by Pub. L. 95-454, October 13, 1978, section 302, 92 Stat. 1145-6, which authorizes agencies to employ or assign employees as readers for the blind or interpreters for the deaf.


Comptroller General
of the United States