

12378 *Agayman*



DECISION

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

PL II

Claim for Reimbursement of Air Fare for

FILE: B-195147

DATE: December 26, 1979

MATTER OF: Russell E. Farley - Advance return of dependent of overseas civilian employee

DIGEST: Where a civilian employee of the Department of the Army who is stationed overseas, has been reimbursed for the advance travel of his wife to the continental United States pursuant to 5 U.S.C. 5729(a), there is no basis for allowing reimbursement for the cost of the dependent's second return travel incident to the same overseas tour of duty.

By letter of April 18, 1979, Mrs. Russell E. Farley as agent for her husband who is a civilian employee of the Department of the Army appealed the Claims Division's disallowance of the claim for reimbursement of her air transportation incident to her second return from his overseas post of duty in Japan to the continental United States during the agreed period of overseas service. The disallowance of the claim is sustained. *20*

The record shows that on or about August 1, 1974, Mr. Farley was transferred from Honolulu, Hawaii, to Camp Zama, Japan. He was authorized transportation for his wife and dependent daughter who accompanied him to Camp Zama, Japan.

During June and July of 1975 Mrs. Farley was advised of health problems arising with her elderly father and stepmother who was hospitalized. Mrs. Farley requested that she be allowed transportation to her parent's residence in Maspeth, New York. On July 16, 1975, Mr. Farley was issued a travel order for the early return travel of his wife who was authorized transportation and travel expenses from Camp Zama, Japan, to Maspeth, New York, not to exceed the cost of travel to Columbus, Georgia, the Farley's place of residence in the United States. She traveled to Maspeth in accordance with this travel order.

Mrs. Farley states that she decided to travel under early return orders as she was advised by the Director of the Red Cross at Camp Zama that such travel would be the quickest way to return to her parents. She also states that her husband was advised that notwithstanding her advance return she could again return as a member of his household upon completion of his tour of duty in Japan.

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On October 10, 1975, Mrs. Farley was authorized transportation back to Japan from Travis Air Force Base, California, by Military Airlift Command (MAC) on a space available basis. The authorization was pursuant to para. 4-5a(1) of Department of Defense (DOD) Regulation DOD 4515.13-R which provides that MAC transportation from overseas to the continental United States and return may be authorized, for dependents of DOD civilian employees stationed overseas, where there is a bona fide immediate family emergency as determined by applicable service regulations. In October 1976, Mrs. Farley again performed travel from Camp Zama to the continental United States pursuant to DOD 4515.13-R incident to the health situation of her parents.

On September 22, 1977, Mr. Farley was authorized transportation and travel expenses from Camp Zama, to Columbus, Georgia, and from Columbus to Honolulu, Hawaii, for himself and his daughter in connection with renewal agreement travel incident to his transfer to Fort Shafter, Hawaii. However, Mrs. Farley was authorized transportation only from Columbus, Georgia, to Honolulu and she traveled from Tokyo, Japan, to Columbus, Georgia, via commercial air carrier at a cost of \$752.50. The Army disallowed the claim on the basis that the Joint Travel Regulations (Volume 2) do not authorize return transportation to the continental United States for overseas dependents in excess of one time during each agreed upon period of overseas service. On April 17, 1979, the agency's disallowance was upheld by the Claims Division.

The appeal of the disallowance of the claim is made on the basis that incorrect advice which was furnished concerning her return travel entitlements constituted an administrative error.

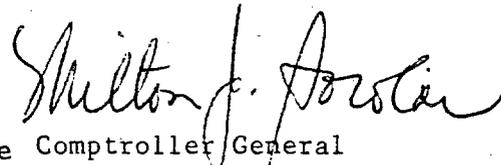
The authority to reimburse an employee for the advance return of members of his immediate family is set forth at 5 U.S.C. 5729 (1976). Subsection 5729(a) provides that under such regulations as the President may prescribe an agency shall pay not more than once, the expenses of transportation of an employee's dependents from overseas to the continental United States, prior to the return of the employee when the employee has acquired eligibility for return transportation or when the public interest requires the return of the immediate family for compelling personal reasons.

The legislative history shows that Congress intended that the above-cited provisions would permit "the Government to pay the expenses of transportation of the employee's immediate family* * * from the post of duty to the employee's place of residence, not in excess of once for each tour of duty, when the employee has acquired eligibility for such transportation or when the public interest so requires, for compelling reasons of a humanitarian or compassionate nature* * *." H.R. Rep. 2096, 83rd Cong. 2nd Session 3.

Thus after one reimbursement for return travel, there is no authority to reimburse the cost of Mrs. Farley's transportation to the United States in October 1977.

With respect to the alleged administrative error it is well settled that in the absence of specific statutory authority, the United States is not responsible for erroneous advice or acts of its officers, agents, or employees, even though committed in the performance of their official duties. See John S. Treadwell, B-192659, February 14, 1979, and Clayton Jennings, B-194270, May 9, 1979.

Accordingly, the disallowance of the Claims Division is sustained.



For The Comptroller General
of the United States