

13238 PLM-11  
Mr. Mosher



**DECISION**

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

FILE: B-196445

DATE: March 25, 1980

MATTER OF: Mine Safety and Health Administration

**DIGEST:** Federal mine inspectors drive their privately owned vehicles to their duty station and then use a Government vehicle to travel to various inspection sites which take them away from the duty station and their residences for one or more nights. Authorization for payment of mileage in such circumstances from home to work and work to home is contingent upon payment of taxi fares in similar circumstances and within the agency's discretion to authorize or deny.

1370 The issue presented in this case is whether Federal mine inspectors employed by the Mine Safety and Health Administration (MSHA) who drive their privately owned vehicles (POV) to their duty station and then use a Government vehicle to travel to various inspection sites may be paid mileage for use of the POV from home when inspections require the employee to remain away from his duty station for one or more nights. Authorization for payment of mileage in such situations is contingent upon whether the agency would have authorized payment of taxi fares in the circumstances and is within the agency's discretion.

This matter is presented here by a letter from Mr. Robert B. Lagather, Assistant Secretary for Mine Safety and Health Administration, Department of Labor, as to the propriety of paying mileage claims of certain Federal mine inspectors.

The MSHA is responsible for the inspection of mining operations in accordance with the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (Supp. I, 1977). In the conduct of these inspections Federal mine inspectors may drive their POV to the office, pick up a Government

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[REQUEST for Paid Mileage]

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vehicle and proceed to a mine site. At the end of the day, the inspector returns to the office via the Government owned vehicle. Commuting costs to the inspector's residence are at the inspector's own expense. Apparently inspectors normally use their privately owned vehicles for commuting. At other times, after picking up a Government vehicle, the inspector's itinerary involves inspection of numerous mining sites requiring one or more nights of lodging before the inspector returns to the office.

We have consistently held 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); 36 id. 450 (1956); B-189061, March 15, 1978; B-131810, January 3, 1978; and B-171969.42, January 9, 1976. However, on those days when travel is performed by the employee, mileage expenses may be allowed in certain instances for travel between the employee's residence and his official duty station.

In this regard, paragraph 1-2.3d of the Federal Travel Regulation (FTR) (FPMR 101-7, May 1973), provides:

"Between residence and office on day travel is performed. Reimbursement may be authorized or approved for the usual taxicab fares, plus tip, from the employee's home to his office on the day he departs from his office on an official trip requiring at least 1 night's lodging and from his office to his home on the day he returns to his office from the trip, in addition to taxi fares for travel between office and carrier terminal."

Paragraph 1-4.2c(2), FTR, states as follows:

"Round trip when in lieu of taxicab between residence and office on day of travel. In lieu of the use of taxicab under 1-2.3d, payment on a mileage basis at the rate of 18.5 cents per mile [the current rate] and

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other allowable costs as set forth in 1-4.1c shall be allowed for round-trip mileage of a privately owned automobile used by an employee going from his residence to his place of business or returning from place of business to residence on a day travel is performed. However, the amount of reimbursement for the round trip shall not exceed the taxicab fare, including tip, allowable under 1-2.3d for a one-way trip between the points involved."

The exception to the general rule that an employee must bear the cost of transportation between his residence and his place of duty as provided in paragraphs 1-2.3d and 1-4.2c(2) of the FTR is in recognition of the fact that an employee may incur additional expenses above the ordinary commuting cost for which he should be reimbursed on days he departs from his office on an official trip requiring at least one night's lodging. Such expenses as transporting luggage and traveling to a carrier terminal or use of a POV are comparable to the additional expenses incurred when an employee travels directly to a carrier terminal or travels by POV directly from his residence on an official trip. See 36 Comp. Gen. 476 (1956); 44 Comp. Gen. 505 (1965); and 48 Comp. Gen. 447 (1968).

In B-195421, February 21, 1980, in a case involving a civilian employee of the Corps of Engineers, Department of the Army, under similar circumstances, we determined that where the temporary duty performed required at least one night's lodging, and the amount claimed for use of a POV between home and duty station and return did not exceed the one-way taxi fare reimbursement was authorized under the regulations set forth above and the implementing regulations of the Department of Defense, paragraph C4657 of Volume 2, Joint Travel Regulations (2 JTR). However, in that case uses of POV in these circumstances is authorized by 2 JTR unless specifically restricted. Further, in that case reimbursement had been specifically authorized by the appropriate official. Since the authority for payment under para. 1-4.2c(2), FTR, is based upon an amount not to exceed the taxicab fare allowable under para. 1-2.3d and since the reimbursement for taxicab fare under that

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paragraph is a discretionary allowance, then the allowance for reimbursement for use of a POV must also be discretionary with the agency involved. In the circumstances of this case, since the inspector incurs little or no additional costs than would have been incurred had he remained at the office or performed local inspections not involving overnight lodging, it would not appear to be an abuse of discretion for MSHA to determine that taxi fares and mileage in lieu thereof should not be paid to mine inspectors who travel away from the duty station on overnight trips.

However, the final determination as to whether mileage should be allowed in the circumstances is within the discretion of the agency, to be exercised in light of all pertinent facts. The submission is answered accordingly.



For The Comptroller General  
of the United States