

**DECISION**

17148  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

*[Entitlement to Basic Allowance for Quarters]*

FILE: B-198081

DATE: February 26, 1981

MATTER OF: Sergeant Bonaparte P. Moore, USAF  
and Airman Cheryl A. Moore, USAF

DIGEST: Service members married to each other received basic allowance for quarters (BAQ) at without dependent rate while awaiting adequate family-type housing. For 17-day period while receiving BAQ, members resided in transient housing at their duty station for which they paid nominal service charge. Although members who occupy transient quarters for a nominal service charge are considered to be in assigned rent-free and adequate Government quarters, the members are entitled to receive their BAQ for 7 days under the authority of Executive Order No. 11157, Part IV, Section 403(a), June 22, 1964, as amended.

The question in this case is whether two members of the Air Force who are married to each other may receive basic allowance for quarters (BAQ) while they resided in transient Government quarters at their permanent duty station. Under the authority of Executive Order No. 11157, June 22, 1964, as amended, the members are entitled to receive BAQ for a maximum of 7 days.

The question is presented for an advance decision by Captain C. W. Higdon, Chief, Accounting and Finance Division, Headquarters Air Force Flight Test Center (AFSC), Edwards Air Force Base, California, and has been assigned Control Number DO-AF-1339 by the Department of Defense Military Pay and Allowance Committee.

The members concerned, Bonaparte P. and Cheryl A. Moore, were married on May 12, 1979, at which time they vacated single Government quarters. On May 15, 1979, the members moved into transient Government quarters at their duty station, Edwards Air Force Base, California. They remained in these quarters through June 1, 1979, and paid a service charge for each day of occupancy. From June 2, 1979, until July 1, 1979, the couple resided in private quarters and on July 2, 1979, they were assigned Government family quarters.

114455

015683

B-198081

From May 12 through May 14 and from June 2 through July 1, the members received BAQ at the without dependent rate. For the period of their occupancy of the transient quarters (May 15 to June 1), the members received no BAQ. The Accounting and Finance Officer questions whether the members are entitled to receive BAQ for this period or part thereof.)

The authority for payment of BAQ is found in 37 U.S.C. § 403 (1976), which provides generally that a member who is entitled to basic pay is entitled to BAQ unless assigned to Government quarters appropriate to his grade, rank, or rating and adequate for himself and his dependents, if any. For members married to each other, the Department of Defense (DOD) has stated that it is the Department's policy to encourage maintenance of the family unit; and, therefore, when a husband and wife are both members, they are each authorized to receive BAQ at the without dependent rate if adequate family quarters are not available although single quarters are available for one or both. DOD Instruction No. 1338.1, para. IIIA, April 18, 1974.

To implement this policy, the DOD has set forth Table 3-2-4 in its Military Pay and Allowances Entitlements Manual (DODPM) which specifies BAQ entitlements for married members. Under Rule 11, both members are entitled to BAQ at the without dependent rate until they are assigned adequate family quarters. Accordingly, both of the members in this case were entitled to BAQ at the without dependent rate until assigned adequate type housing.)

In 56 Comp. Gen. 851 (1977) we discussed various matters relating to BAQ including that, under Executive Order No. 11157, Part IV, Section 403, June 22, 1964, any quarters under the jurisdiction of the uniformed services provided without payment of a rental charge would be deemed as assigned and adequate quarters. Furthermore, we went on to point out that our decision in 44 Comp. Gen. 626, 632 (1965) indicates that payment of a nominal charge for linen and housekeeping services, as in the instant case, would not be considered a rental charge. Therefore, generally, when a member is in transient type Government quarters, he has no entitlement to BAQ.)

An exception to this general rule is provided in Executive Order No. 11157, June 22, 1964, as amended, which states in Part IV, Section 403(a):

"Any quarters or housing facilities under the jurisdiction of any of the uniformed services in fact occupied without payment of rental charges (1) by a member and his dependents, or (2) by a member without dependents \* \* \* shall be deemed to have been assigned to such member as appropriate and adequate quarters, and no basic allowance for quarters shall accrue to such member under such circumstances unless the occupancy

\* \* \* \* \*

"(B) occurs while such member is in a duty or leave status not incident to a change of permanent station and does not exceed seven consecutive days at one location: Provided, that occupancy of quarters under such circumstances for a period in excess of such 7-day period or such other temporary period as may be authorized under standards prescribed by regulations issued by the Secretary concerned shall not result in a forfeiture of basic allowance for quarters for such 7-day or other authorized period \* \* \*."

Thus, in summary, this Executive order issued pursuant to the President's authority under 37 U.S.C. § 403(j) (1976) to prescribe regulations for the administration of Section 403 states that a member, with or without dependents, who occupies rent-free Government quarters without a change in permanent station is entitled to retain his BAQ for the period of occupancy not to exceed 7 days. This provision is restated in DODPM, Table 3-2-5, for members with dependents. Although not specifically restated in the DODPM tables dealing with members without dependents or members married to members, in view of the provision in Section 403 of Executive Order No. 11157 quoted above, in a case such as this the members are entitled to BAQ for 7 days.)

Accordingly, the two members are each entitled to receive BAQ at the without dependent rate for the first 7 days of their stay in transient quarters. The vouchers submitted on that basis are being returned for payment.)

*Milton F. Aorstan*

For the Comptroller General  
of the United States