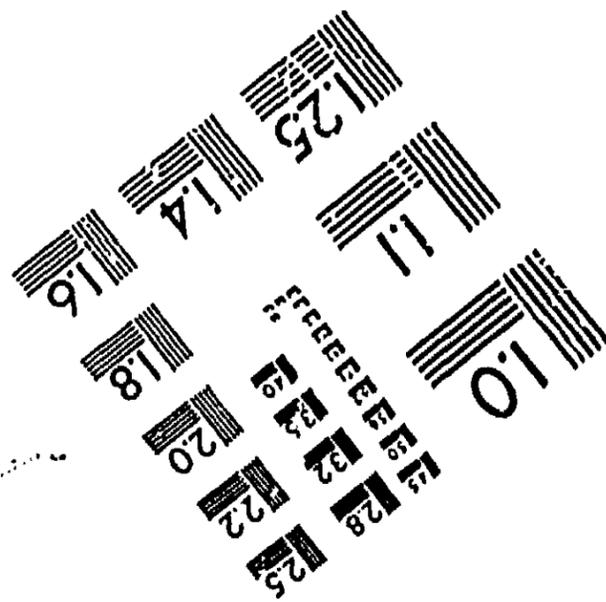
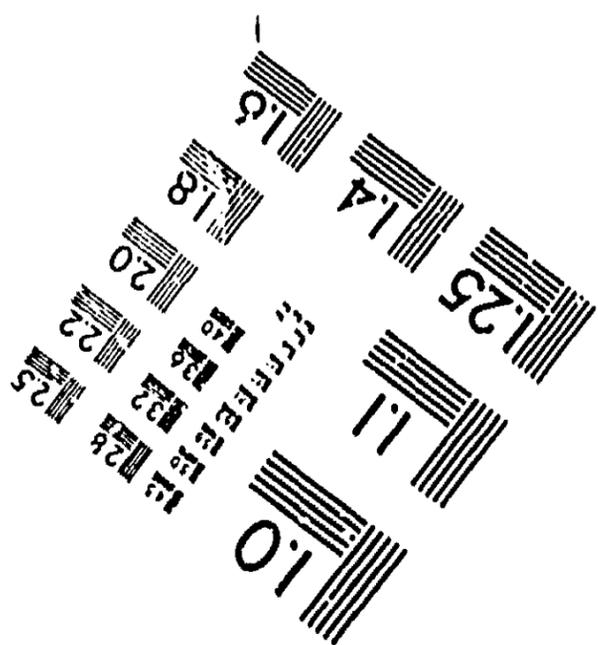
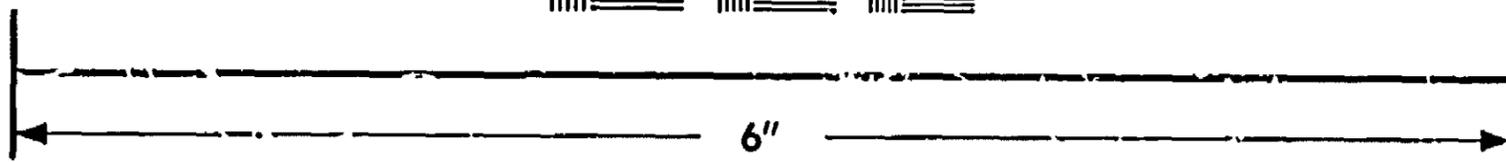
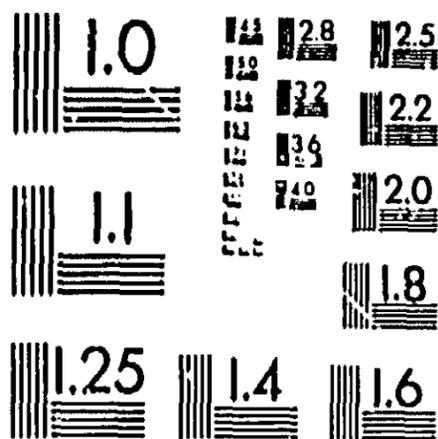
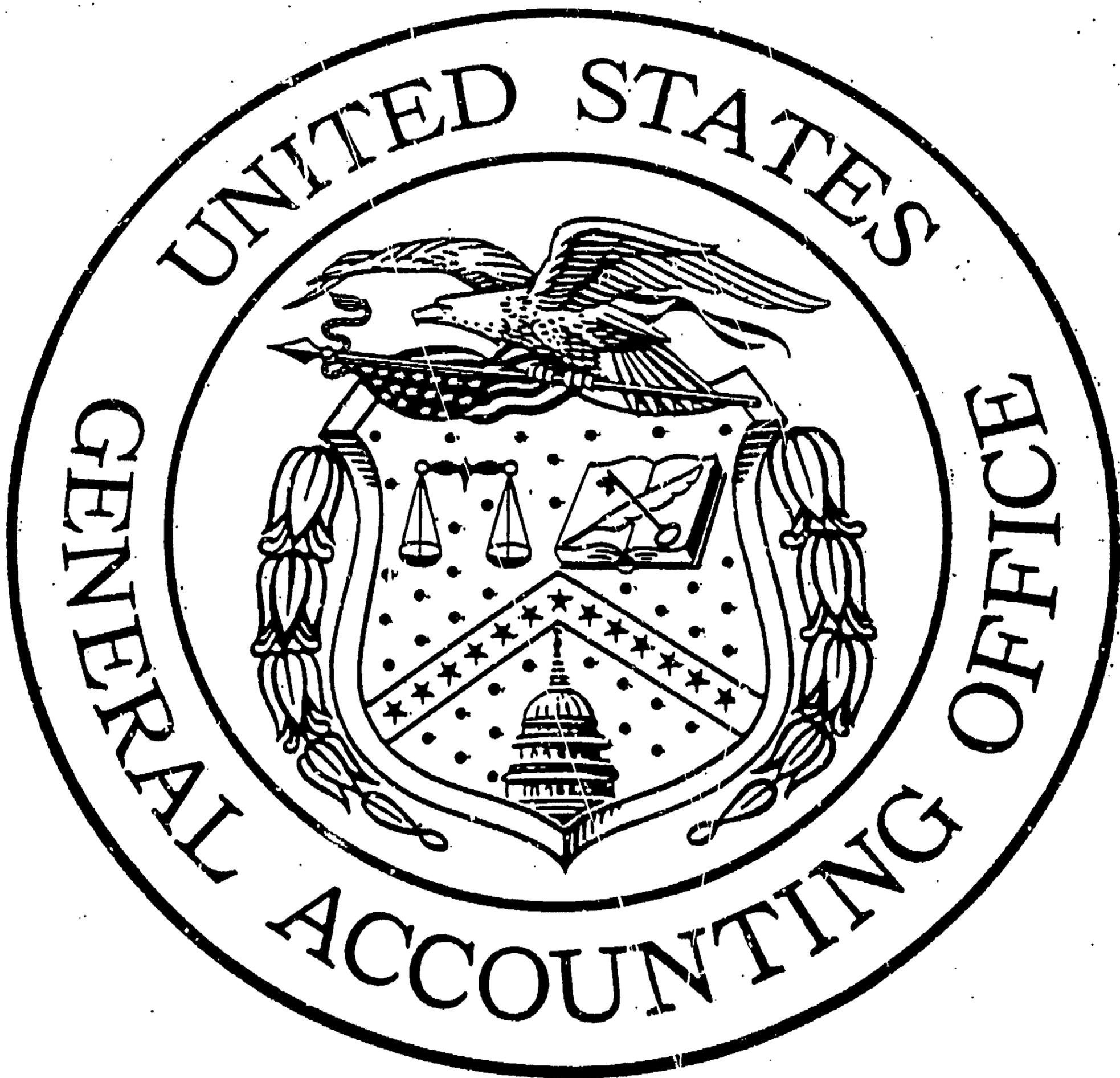


**IMAGE EVALUATION  
TEST TARGET (MT-3)**



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**DECISION**

118568  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-205662

DATE: June 2, 1982

MATTER OF: Sergeant David B. Borgerding

**DIGEST:** Although policy of National Guard as set out in regulations indicates that civilian medical care for members injured in line of duty is authorized only in case of emergency, or when authorization for treatment is secured in advance, vouchers may be paid representing treatment in civilian hospital for a member who secured authorization for a consultation with a specialist, but information was misunderstood by the proper personnel in his unit as authorizing more extensive medical diagnosis including in-hospital care.

The question is whether a member of the National Guard injured in the line of duty during annual training may be reimbursed expenses for medical treatment that he received from civilian sources including in-patient hospital care when a misunderstanding occurred concerning prior authorization. In the particular circumstances of this case he may be reimbursed.

The question was presented by Major J. P. Jackson, Finance and Accounting Officer at Fort McCoy, Sparta, Wisconsin.

Sergeant David B. Borgerding, a member of the Minnesota National Guard, was injured on February 24, 1980, while performing annual training. It appears that he was treated for his injury by various military and civilian medical personnel. The problem persisted and it was recommended that he see a specialist at Mercy Medical Center, Minneapolis, Minnesota. He informed the proper authorities of his unit, who in turn requested authorization by telephone from the Adjutant General's office to see the specialist at Government expense. The problem, in this case, arises from that telephone conversation. The Adjutant General's office states that authorization was granted only for a consultation on an out-patient basis. Sergeant Borgerding, the first sergeant, and the commander of his unit, all were under the impression that any treatment prescribed was authorized at Government expense.

National Guard Regulation NGR 40-3 generally provides the eligibility for and procedures to be used to secure medical treatment for members of the National Guard. Paragraph 4b of

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the regulation provides that the following priority will be used for medical treatment facilities: National Guard; Army, Navy, Air Force; other Federal facilities (Veterans Administration hospitals, etc.); and civilian.

Paragraph 8b(1) of NGR 40-3 provides that an individual who desires medical or dental care in civilian medical treatment facilities at Federal expense is not authorized such care without written or verbal authorization by the Chief, National Guard Bureau, or his designee, except in emergency.

Presumably, this regulation prompted the telephone call from Sergeant Borgerding's unit to the Adjutant General's office.

In commenting on the matter the Assistant Adjutant states that only consultation with a specialist, based on the recommendation of the attending medical facility, was authorized in accord with past policy. The authorization was given only for a consultation on an out-patient basis. It was not given for extended medical care as an in-patient, nor was such authorization discussed. He also points out that local consultation on an out-patient basis in the past had been determined to be advantageous to the Government, based on travel and per diem expenses involved. Hospitalization, or prolonged medical care at a private facility has never been authorized when non-reimbursable facilities could reasonably be used. Thus, it seems that the regulations and the policy of the National Guard dictate that medical care, particularly in-patient hospital care, from civilian sources is authorized only in exceptional circumstances.

While it is not clear from the information before us, it appears that the authority vested in the Chief, National Guard Bureau, to authorize medical treatment by civilian sources has been delegated to the various State Adjutants General.

In any event it appears that Sergeant Borgerding and the responsible parties in his unit followed the procedures set forth in NGR 40-3 by requesting authorization for the treatment. On the basis of the regulations and policy of the National Guard it also appears that authorization was intended only to permit Sergeant Borgerding to see a specialist for consultation on an

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out-patient basis. However, the commander of his unit, the first sergeant of the unit, and Sergeant Borgerding, all interpreted the authorization to permit the treatment here in question. The regulations permit verbal authorization. We have been shown no written regulation or order containing the restrictions the Adjutant General says are applicable. In the circumstances we are returning the vouchers submitted for payment.

for *Milton J. Fowler*  
Comptroller General  
of the United States

**END**