

DECISION

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

Malenka
1189681

FILE: B-207647(CAM)**DATE:** July 13, 1982**MATTER OF:** Bernard J. Peters-Transportation
of Household Goods-Excess Weight**DIGEST:**

1. The indebtedness of an employee, which resulted from the shipment of household goods in excess of the 11,000 pound statutory limitation, cannot be waived because the employee lacked knowledge of the statutory limitation. No Government agency or employee has the authority to waive a statutory provision.
2. Further, excess weight charges incurred in the shipment of household goods and personal effects are transportation expenses and are excluded from the waiver provisions of 5 U.S.C. § 5584 (1976).

An Authorized Certifying Officer of the Bureau of Land Management has asked for a decision in answer to the following question: May the Bureau of Land Management (BLM) waive a charge assessed against an employee for the costs of shipping household goods in excess of the statutory weight limitation? No basis for waiving the statutory limitation exists. Regardless of the reasons for the shipment of excess weight, BLM has no legal authority to waive the excess costs.

When Mr. Bernard J. Peters was appointed as a manpower shortage employee, he relocated from Old Forge, New York, to Alexandria, Virginia. His travel orders, dated December 31, 1980, authorized the shipment of household goods and personal effects, not to exceed 11,000 pounds, at government expense. On January 23, 1981, Mr. Peters shipped 14,130 pounds of household goods. BLM subsequently billed Mr. Peters for the cost of shipping 3,130 pounds, the amount his shipment exceeded the 11,000 pound limit. Mr. Peters claims he was never informed of the weight limitation and asks for a waiver of the excess weight charge. BLM denied the request since it was unable to find any authority for such a waiver.

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Agencies may pay the transportation expenses of new appointees to manpower shortage positions, who relocate, to the extent such transportation expenses are allowed to regular employees under 5 U.S.C. § 5724 (1976). See 5 U.S.C. § 5723 (a)(2) (1976). The maximum weight allowed for household goods under 5 U.S.C. § 5724(a)(2) is 11,000 pounds. These code provisions are implemented by the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR), para. 2-8.2a, and FTR para. 2-8.4e(2), which states that the employee must pay for the costs of shipping goods weighing more than 11,000 pounds.

Mr. Peters claims that the 11,000 pound weight limitation should be waived because he lacked notice. But, the record shows that Mr. Peters received his travel authorization three weeks before the shipment of his household goods. This travel authorization specified the shipment of 11,000 pounds. Notice of the limitation may be inferred from the receipt of this authorization. However, Mr. Peter's indebtedness cannot be waived regardless of whether or not he was informed of the weight limits by BLM. The 11,000 pound weight limitation is statutory and no government agency or employee has the authority to waive a statutory provision.

Further, Mr. Peters cannot rely on the waiver provisions of 5 U.S.C. § 5584 (1976). Under this section, a waiver of indebtedness may be authorized when collection would be against equity and good conscience and not in the best interest of the United States. However, indebtedness arising from travel and transportation and relocation expenses paid under section 5724(a) are specifically excluded and cannot be waived. See 4 C.F.R. § 91.2 (1981).

In summary, no legal basis exists for the waiver of the statutory weight limitation. Action should be taken by the agency in accordance with this decision.

for 
Comptroller General
of the United States