

DECISION

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

FILE: B-206299

DATE: November 15, 1982

MATTER OF: Captain William D. Vickers, USMC,
Retired

- DIGEST:**
1. A service member was transferred from overseas to a station in the United States for the sole purpose of retirement processing. Such a transfer is considered to be a transfer to a temporary duty location. Retirement processing was delayed 4 months and service's retirement manual calls for additional service if the member is not retired in 30 days. Since the delay in this case was to resolve the member's physical fitness for retirement, and no other duty was contemplated, the delay did not change the nature of his assignment from temporary to permanent.
 2. A service member was transferred from overseas to a temporary assignment for retirement processing at Albany, Georgia, which was also his home of selection. He owned a residence there prior to the transfer and lived there for part of the time while awaiting retirement and commuted from his home to his duty station. In these circumstances he was not entitled to per diem after his arrival at Albany since that was his permanent residence.

This action is in response to a request for decision from the Disbursing Officer, Marine Corps Logistics Base, Albany, Georgia, concerning the entitlement of Captain William D. Vickers, USMC, to receive per diem while he was assigned to the Albany Logistics Base for retirement processing. This matter has been assigned Control No. 82-5 by the Per Diem, Travel and Transportation Allowance Committee.

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We find that Captain Vickers is not entitled to per diem while he was at Albany which was also his permanent residence.

Captain Vickers, who was then stationed in Korea, received permanent change-of-station orders dated June 8, 1981, detaching him from his overseas station and transferring him to the Marine Corps Logistics Base, Albany, Georgia, for the purpose of retirement on August 1, 1981.

Captain Vickers, accompanied by his wife, reported in to the Marine Corps Logistics Base on June 19, 1981. Apparently, his actual retirement was delayed until December 1, 1981, pending resolution of some question concerning his physical fitness for retirement purposes. On retirement, his orders were endorsed to show that Government quarters and messing facilities were not available to him at that location during the period he was awaiting retirement.

The file also reflects that Captain Vickers had chosen Albany, Georgia, as his prospective home of selection, and had purchased a home there prior to his transfer. Captain Vickers states that he and his wife resided with his wife's parents from the time they arrived in Albany on June 19 through August 17. He indicates that he was able to regain possession of his house on August 1, and moved into it on August 18.

The Disbursing Officer points out that the Marine Corps Separation and Retirement Manual provides in part that marines returning from overseas assignments for retirement purposes will retire within 30 days of their return to the United States or will be required to serve on active duty for a minimum of 1 year or to the completion of their enlistment, whichever is shorter. Since Captain Vickers was at the separation point for over 5 months, a period considerably longer than 30 days, the Disbursing Officer questions whether his orders are valid for per diem purposes. Further, if the orders are valid for that purpose, he questions whether any amount is payable for the lodging portion

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of per diem for the period Captain Vickers was residing in his own home.

Under the provisions of 37 U.S.C. 404(a) and (c) (1976), Captain Vickers was entitled to travel and transportation at Government expense for himself as a result of his move from his old duty station to his home of selection incident to his retirement, including per diem during periods of temporary duty en route. Also, under the provisions of 37 U.S.C. 406(a) and (g) (1970), he was entitled to travel and transportation at Government expense for his dependent and household effects from his old permanent duty station to his home of selection incident to his retirement. There is no authority for a dependent to travel at Government expense to a member's duty station where the primary purpose of his assignment there is for separation processing, since such assignment is ordinarily considered temporary in nature. B-180394, December 24, 1974, and B-180666, July 18, 1975. However, in this case apparently Captain Vickers' wife's travel to Albany, Georgia, was undertaken as travel to the place he had selected as his home after retirement.

Captain Vickers' orders show that he was completely detached from his overseas assignment and his transfer to the Marine Corps Logistics Base was categorized as a permanent change-of-station assignment. However, it is clear that his assignment there was for the purpose of retirement processing only which is temporary in nature. 53 Comp. Gen. 44 (1973). Apparently due to unforeseen circumstances, Captain Vickers was at that location more than 30 days with his transfer to the retired list being delayed from August 1 to December 1. That delay was due to a question arising regarding his physical fitness which had to be resolved before he could be retired and the delay did not change the nature of his duty assignment. See B-178329, April 18, 1974.

Captain Vickers owned a residence at his temporary duty location (Albany), which he had previously purchased, which was his intended

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residence for home of selection purposes and which he moved into prior to retirement. While his assignment at Albany en route to his home of selection was temporary, he had no other permanent station at that time since it was contemplated that he would be retired and proceed to his home of selection. In these circumstances his per diem entitlement ended when he arrived at Albany which was also his residence and ultimate home of selection. This is in accordance with the general purpose of per diem which is to compensate the member for the extra expense incurred in traveling away from his duty station.

Accordingly, payment of per diem to Captain Vickers is not authorized for the period he was at Albany, Georgia, from June 19 to December 1, 1981.

for 
Comptroller General
of the United States