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DECISION



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

FILE: B-206456

DATE: March 25, 1983

MATTER OF: James H. Woods - Relocation Expenses -
Dependents Acquired After Employee
Reports to New Duty Station

DIGEST:

One month after an employee transferred to his new duty station in Panama, he was awarded custody of his brother's four children by court order. The employee incurred travel and temporary living expenses in moving the children to his new duty station. Expenses for the dependents travel to the new station may not be paid since the children were not members of the employee's immediate family within the meaning of FTR para. 2-1.4d at the time the employee reported to his new duty station.

This decision involves the issue of whether James H. Woods, an employee of the General Accounting Office (GAO), is entitled to reimbursement for the travel and temporary living expenses of four children whose custody he was awarded after a permanent change of duty station. We hold that Mr. Woods may not be reimbursed the travel and temporary living expenses of the four children since they were not members of his immediate family at the time he reported for duty at his new duty station.

Mr. Woods, a GAO Evaluator, was selected to fill a vacancy in the agency's branch office in the Republic of Panama. He received authorization to travel with his wife from Atlanta, Georgia, to Panama and to be reimbursed for necessary expenses relating to the permanent change of station. Mr. and Mrs. Woods arrived in Panama on June 20, 1980.

On July 31, 1980, a little more than 1 month after his move to Panama, Mr. Woods was awarded custody of his brother's four minor children by court order. Mr. Woods then requested an amendment to his travel order to cover the expense of transporting the four children to Panama. Although his travel order was not amended, the children arrived in Panama on August 20, 1980, and joined Mr. Woods and his wife in their temporary quarters. Mr. Woods then submitted a voucher which included travel and temporary

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living allowances incurred by the children. After the certifying officer refused to approve the expenses claimed for the children, Mr. Woods appealed that determination to the Deputy Chief, Financial Management Branch. The Deputy Chief denied his claim because GAO regulations do not allow payment for expenses of newly acquired dependents.

On appeal from the adverse decision of the Deputy Chief, Mr. Woods has raised the following arguments to support his claim for reimbursement of the expenses in question. First, he cites a section of the Foreign Affairs Manual (FAM) which states that an employee who is a citizen of the United States and is assigned to a post and acquires a family member subsequent to the issuance of his orders, may be authorized travel expenses for the newly acquired family member. 6 FAM 126.8. Second, he argues that the GAO has established a precedent by paying travel expenses for newly acquired dependents of other staff members. He cites one specific case in which the expense for a shipment of household goods was paid for a newly acquired dependent of a GAO employee. Third, he asserts that equitable considerations require the payment of the travel expenses. In this regard he states that the GAO is paying educational costs for the children and considers them in determining the amount of his housing allowance. Finally, Mr. Woods alleges that the failure to reimburse him the amount in question, \$1,229.13, would be a financial hardship on himself.

We are sympathetic with Mr. Woods' plight, but the claimed expenses may not be paid under the regulations now in effect. The Federal Travel Regulations (FTR) define the term "immediate family" in the following way:

"(1) Any of the following named members of the employee's household at the time he/she reports for duty at the new permanent duty station or performs authorized or approved overseas tour renewal agreement travel or separation travel." FTR para. 2-1.4d(1), FPMR 101-7 (May 1973).

Thus, although the regulation expressly includes "dependent children who are under legal guardianship of the employee * * *" (FTR para. 2-1.4d(1)(b)), the regulation clearly requires that the children must be members of the employee's household at the time the employee reports to the new permanent duty station.

Mr. Woods argues that the Department of State regulation concerning newly acquired family members (6 Foreign Affairs Manual 126.8) provides a legal basis for the payment of the relocation expenses of the four children. However, the State Department has specific authority under 22 U.S.C. § 1136 (1976) to prescribe regulations for the travel expenses of officers and employees in the Foreign Service. These regulations are not applicable to employees of the GAO, unless Congress specifically makes them applicable.

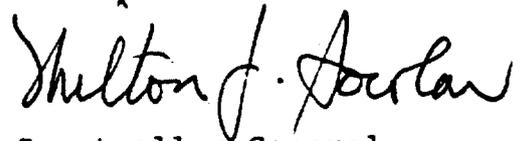
In recent appropriations acts for GAO, Congress has specified that GAO employees on duty in foreign areas may receive certain benefits comparable to those the Foreign Service enjoys under 22 U.S.C. § 1136(9) and (11), and 22 U.S.C. § 1157(a). See GAO Order 300.1, Part IV, Chapter 3, para. 7a (1976). However, these benefits involve rest and recuperation travel, family visitation travel, and travel for medical treatment, and the provision concerning newly acquired members in 6 FAM 126.8 has not been extended to GAO employees. Therefore, 6 FAM 126.8 does not provide a basis for payment of expenses for Mr. Woods' children.

We believe that the General Services Administration (GSA) should amend the Federal Travel Regulations to allow reimbursement for travel expenses of newly acquired family members. We have previously recommended that GSA take such a course of action and have again written to them concerning this matter. See Edward J. Schlachter, B-206654, December 6, 1982.

Mr. Woods' other arguments do not provide a basis for reimbursement of the travel expenses in question. First, the fact that the agency may have mistakenly reimbursed another employee in a similar situation, is not a basis for reimbursement of Mr. Woods' travel expenses. Second, the fact that Mr. Woods receives both an educational allowance and a housing allowance for the children does not entitle him to travel expenses because of the specific language of the Federal Travel Regulations. Therefore, the only issue in this case is whether there is a legal basis for the payment of travel expenses and temporary living allowances for dependents who were acquired after the employee changed his permanent duty station. As stated above, no such statutory or regulatory authority applies to Mr. Woods.

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Accordingly, Mr. Woods may not be reimbursed relocation expenses for his four dependent children since they were not members of his immediate family at the time he reported for duty in Panama.

A handwritten signature in black ink, reading "Milton J. Aarlan". The signature is written in a cursive style with a large initial "M".

Acting Comptroller General
of the United States