

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

25.794

FILE: B-208794**DATE:** July 20, 1983**MATTER OF:** Social Security Administration employees -
Claims for actual subsistence expenses
while on temporary duty**DIGEST:**

Employees were authorized actual subsistence expenses for the first 30 days of their temporary duty assignment in Westwood, California. Employees obtained lodging at monthly rate and at significant savings over average daily rate charged for other available lodging. Lodgings savings resulted in proportionally higher meal expenses than agency anticipated, causing agency to question reasonableness of employees' meal expenditures. Employees are entitled to reimbursement only for reasonable expenses for meals since a traveler is required to act prudently in incurring such expenses. Here, the agency had established guidelines limiting the amount that employees properly could spend on meals, and the employees' expenditures were within those guidelines. Since there is no further evidence that the meal expenses claimed were extravagant or unreasonable under the circumstances, the employees may be reimbursed for their expenditures.

The issue in this decision is whether five employees are entitled to reimbursement for their actual meal costs while they were on temporary duty in a high rate geographical area. We hold that the employees may be reimbursed for their stated meal costs since they had been authorized actual subsistence expenses for the first 30 days of their training assignment. Furthermore, they had limited their meal expenditures during that time in accordance with established agency guidelines governing the amount that employees could properly spend on meals while traveling on official business. We find nothing in the record to indicate that the employees' meal expenses were extravagant or otherwise unreasonable under the circumstances described.

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This decision is in response to a request from Mr. Walter W. Pleines, Acting Director of the Division of Finance at the Social Security Administration (SSA) in Baltimore, Maryland, concerning the claims of five SSA employees for actual subsistence expenses during the first 30 days of their long-term training assignment in Westwood, California.

The five employees in question, Martin R. Garza, Pilar Navarrete, Charles E. Pearce, Richard Torres, and Eugene A. Vaughn, were employed by the SSA at several different locations within southern California. They were among a larger group of employees selected to attend a training course in Westwood, California, from July 21, 1981, through October 15, 1981. In connection with this temporary assignment, the employees were authorized actual subsistence expenses (at \$70 per day, since Westwood is located in a high rate geographical area) for their first 30 days of training. Thereafter, they were to be authorized a fixed per diem rate for the duration of the training assignment.

Before the training assignment began, the employees received information regarding temporary housing that was available near the Westwood training center. All five employees involved in this matter chose to lodge in the Oakwood Garden Apartments, which offered monthly rates at a significant savings over the average daily rates charged for other accommodations in the near vicinity. The employees' daily lodging costs for the first 30 days of the training period were as follows:

\$633.66, or \$21.13 per day for Martin R. Garza;
\$851.00, or \$28.37 per day for Pilar Navarrete;
\$834.53, or \$27.82 per day for Charles E. Pearce;
\$633.66, or \$21.13 per day for Richard Torres; and
\$669.52, or \$22.32 per day for Eugene A. Vaughn.

The employees in question also claimed the following expenses for their meals and miscellaneous expenses during the first 30 days of training:

\$914.03, or \$30.47 per day for Martin R. Garza;
\$890.23, or \$29.67 per day for Pilar Navarrete;
\$721.80, or \$24.06 per day for Charles E. Pearce;
\$921.66, or \$30.72 per day for Richard Torres; and
\$818.37, or \$27.28 per day for Eugene A. Vaughn.

The employees originally submitted claims covering transportation, lodging, meals and miscellaneous expenses for the initial 30-day period of training. In reviewing these claims, however, agency officials questioned whether the meal expenses claimed by the five employees were excessive and unreasonable under the standards established both by the agency itself and by our Office. The determination that the stated meal costs might be excessive was based on: 1) agency officials' personal knowledge of average meal costs in the vicinity of the Westwood training center; 2) claims submitted by other trainees who also lodged at the Oakwood Garden Apartments; and 3) because "full kitchen facilities were included in Oakwood Garden Apartments, which should have eliminated the necessity of eating all meals in restaurants."

In light of this determination, the agency returned the claims to the five employees in question, and asked each individual to revise his statement of actual costs downward, to reflect more reasonable meal costs. In each case, however, the employee has declined to revise his original claim.

The agency now questions the propriety of paying these claims, and therefore, has submitted the matter to our Office for an advance decision.

The payment of per diem and travel expenses of Government employees traveling on official business is authorized under 5 U.S.C. § 5702 (1976) as implemented by the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR). Section 5702(c) of Title 5 specifically provides that an employee may be reimbursed for the actual and necessary expenses of official travel when the maximum available per diem allowance is determined to be inadequate for travel to a high rate geographical area. Implementing that section at the time of these employees' travel, the FTR provided in paragraph 1-8.1.b (FPMR Temp. Reg. A-11, issued June 27, 1975), that actual subsistence expense reimbursement shall normally be authorized for actual and necessary expenses in connection with temporary duty travel to a high rate geographical area. The FTR further provided in para. 1-1.3 as follows:

"a. Employee's obligation. An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.

"b. Reimbursable expenses. Traveling expenses which will be reimbursed are confined to those expenses essential to the transacting of the official business."

We have previously held that Government employees are entitled to reimbursement only for reasonable expenses for meals since travelers are required to act prudently in incurring such expenses while on official business. Micheline Motter and Linn Huskey, B-197621 and B-197622, February 26, 1981; Charles J. Frisch, B-186740, March 15, 1977; and Norma J. Kephart, B-186078, October 12, 1976. We have further stated that it is the responsibility of the employing agency to determine the reasonableness of actual subsistence expenses claimed by its employees. Harry G. Bayne, B-201554, October 8, 1981, and cases cited therein. Where the agency has exercised that responsibility, our Office will not substitute its judgment for that of the agency, in the absence of evidence that the agency's determination was clearly erroneous, arbitrary or capricious. Still, we reserve the right and duty to make an independent determination as to the reasonableness of the expenses claimed. Richard B. Davis, B-197576, September 8, 1980; and Kephart, above.

In Kephart, we suggested that agencies should consider issuing written guidelines, under the authority of paragraph 1-8.3b of the Federal Travel Regulations, to serve as a basis for review of an employee's expenses. We said that such guidelines could provide advance guidance to employees who are able to obtain lodgings at substantial savings, where the agency has not established a fixed per diem rate in advance of the travel.

The Social Security Administration has issued such guidelines under its Administrative Directives System. Those guidelines provide, in part, as follows:

"A. An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. * * *

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"D. Claims for actual and necessary subsistence expenses are to be reasonable in

amounts and must show the amounts spent daily for lodgings, meals (including tips) and specifically identified miscellaneous expenses. The costs of meals and miscellaneous expenses for any one day cannot exceed 45% of the prescribed daily maximum rates for high rate geographical areas or the maximum rate specifically authorized for unusual circumstances."

See ADS Guide, SSA.g: 240-63, Reimbursement vouchers (SF-1012, Travel Voucher, and SF-1164, Claim for Reimbursement for Expenditures on Official Business) Part III, Paragraphs A,D, effective June 15, 1978.

We have previously upheld guidelines issued by an agency which limited employees' meals and miscellaneous expenses to a specified percentage of the statutory maximum for subsistence expenses. We have stated that the purpose of establishing such guidelines is to alert employees to the fact that the agency has established a maximum amount that might be considered reasonable for daily meals. However, such guidelines are not to operate as an absolute bar to the payment of additional amounts which could be otherwise justified as reasonable expenses. Harry G. Bayne, above.

Although the fact that an employee's meal expenses are below the maximum amount generally allowable by an agency does not mean that they must be considered reasonable expenses, we believe that a strong presumption exists in favor of allowing such expenses. In our opinion an agency should not depart from its published guidelines for meal costs unless there are compelling reasons to do so in an individual case.

In this case, the agency did not establish a fixed per diem rate governing the employees' expenses for the first 30 days of their training. In the absence of such a limitation, we believe that the employees may have reasonably relied on the guidance found in the ADS Guide, above, that the maximum amount that would be considered reasonable for daily meal expenses was 45 percent of the maximum subsistence rate prescribed for the Los Angeles vicinity. In addition, the travel order which authorized the employees' training expenses specifically stated that their meal and miscellaneous expenses should not exceed 45 percent of the established subsistence rate of \$70.

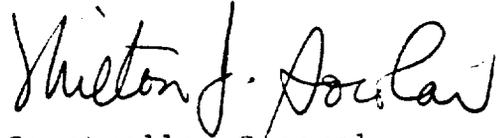
The meal and miscellaneous expenditures of the five employees in question were all under \$31.50 per day, and thus within the 45 percent limitation discussed above. In the absence of other compelling evidence to indicate that the expenses claimed were unreasonable, we do not believe that these employees should be penalized for their expenditures, since they acted in accordance with the agency guidance for meal costs. In this regard, we note that, while the agency did counsel the employees several times concerning their meal costs, such counseling began after the first month of training had passed.

We do not find that the five employees' meal expenses were extravagant or unreasonable under the circumstances described. We note that Westwood is located within a high rate geographical area, with correspondingly high meal costs. Furthermore, although these employees claimed meal expenses approaching the 45 percent limitation, they did not use the savings realized in connection with their lower lodging expenses to claim additional expenditures in regard to their meals, and thereby claim the maximum total reimbursable amount, as was true in Kephart, above.

The agency has specifically questioned whether the five employees should be fully reimbursed for their meal expenditures since they lived in apartments with full kitchen facilities. In the agency's view, full kitchen facilities should have eliminated the necessity of eating all meals in restaurants. The agency also determined that other employees in the same training class who lodged at the Oakwood Garden Apartments incurred less expenses for meals by comparison, since they ate at home more often.

As we stated previously in Dennis L. Kemp, B-205638, July 30, 1982, we find nothing in the Federal Travel Regulations and we are not aware of any agency regulations that would preclude employees from eating in restaurants during the occupancy of temporary quarters. Therefore, the employees in question should not be penalized simply because they chose to eat their meals in restaurants.

Accordingly, we conclude that the employees' claimed meal expenses may be reimbursed.

for 
Comptroller General
of the United States