

DECISION

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

FILE: B-211424

DATE: October 31, 1983

MATTER OF: Chief Warrant Officer William Stewart, USA

DIGEST:

A member of the Army whose regular duties involve performing flights as an aircrew member which are more than 6 but less than 10 hours is not entitled to partial per diem allowance for meals which he cannot take at his permanent station, since he is not incurring any additional expense for meals taken away from his station.

May an Army member who performs aircrew duty involving surveillance flights which take him away from his permanent station for less than 10 hours be paid a partial per diem for meals which he is unable to take at his permanent station? Per diem may not be paid in these circumstances.¹

The duty with which we are concerned involves regularly scheduled flights of more than 6 but less than 10 hours. While it is not clear from the record, it appears that no landings are made away from the permanent station. Mr. Stewart feels that he should be paid a partial per diem for meals that he is unable to take at his permanent station because the flight schedules conflict with dining facility hours at the permanent station. His claim was initially denied by the finance officer because no written orders directing temporary duty were issued.

In this regard the local commander has stated that the local duty area encompasses the radii of the surveillance flights and that no written orders will be issued for the duty. Additionally, he indicates that per diem will be paid only in strict conformance with Volume 1 of the Joint Travel

¹ This question was presented by a Finance Officer as a result of a claim for reimbursement for meals submitted by Chief Warrant Officer William Stewart, USA. The matter has been assigned PDTATAC control number 83-9, by the Per Diem, Travel and Transportation Allowance Committee.

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Regulations, that is, for temporary duty of 10 hours or more away from the permanent duty station. Mr. Stewart cites various provisions of Volume 1 of the Joint Travel Regulations which he views as supporting his position and demonstrating that the policy of the local commander is arbitrary and contrary to the regulations. In essence, Mr. Stewart contends "that the intent of the law is to provide standard meal periods for all members of the uniformed services, when the member is absent from one of these meal periods at no fault of his own in a temporary or temporary additional duty status performing public business/mission requirements he is entitled to reimbursement for this inconvenience and loss of this meal period."

Statutory law provides that under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed under competent orders when away from his designated post of duty. 37 U.S.C. 404. Regulations issued under that authority are contained in Volume 1 of the Joint Travel Regulations.

Paragraph M4201(16) of Volume 1, Joint Travel Regulations, provides that no per diem allowance is authorized for any one time period of temporary duty or temporary additional duty performed under orders at a place located outside the permanent or temporary duty station which involves a one time round trip performed entirely within a 10-hour period. Payment of per diem is prohibited in that situation unless the member is required to procure meals at personal expense from other than a Government mess outside the limits of his permanent station.

In interpreting regulations containing essentially the same provisions as paragraph M4201(16) of Volume 1, Joint Travel Regulations, we have held that no travel per diem allowance is payable for a round trip from a permanent duty station performed entirely within a 10 hour period. See 51 Comp. Gen. 12 (1971) and 49 Comp. Gen. 173 (1969). Since the member's missions were performed in less than 10 hours, he is entitled to per diem only if he was required to procure meals at personal expense from other than a Government mess outside the limits of his permanent station.

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Additionally, we point out that a per diem or subsistence allowance is intended to cover the extra expenses incurred for traveling away from one's home or permanent duty station. See Bornhoft v. United States, 137 Ct. Cl. 134 (1956). A per diem allowance is not intended as compensation for inconvenience caused by a member's assigned duties, including the fact that his duties may cause him to miss a scheduled meal period.

Accordingly, Chief Warrant Officer Stewart's claim must be denied and the vouchers enclosed with the submission will be retained here.

Milton J. Sorolan
for Comptroller General
of the United States