

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548****FILE:** B-220288**DATE:** February 19, 1986**MATTER OF:** Laurence R. Sanders**DIGEST:**

Employee of the Department of Energy was transferred incident to a permanent change of station from Colorado to Washington, D.C. Employee was authorized temporary quarters allowance for family including authorization for dependent mother to stay in Ada, Oklahoma, until she joined the family in Washington. Due to illness, dependent mother was placed in a nursing home in New Mexico until she joined the family in Washington a few months later. Since nursing home expenses incurred would not have been incurred absent the transfer, the occupancy of such quarters may be regarded as "reasonably related and incident to the transfer" and, therefore, may be paid pursuant to FTR para. 2-5.2(d).

This action is in response to a request for an advance decision from the Department of Energy regarding whether an employee may be reimbursed for temporary quarters for his dependent mother who lived temporarily in a nursing home when he underwent a permanent change-of-station transfer.^{1/} For the reasons stated hereafter, we conclude that reimbursement may be allowed.

Mr. Laurence R. Sanders, an employee of the Department of Energy, was authorized travel expenses pursuant to a permanent change of station to Washington, D.C., from Grand Junction, Colorado. Mr. Sanders was authorized temporary quarters for himself and his family and he was authorized temporary quarters for his mother in Ada, Oklahoma. Mr. Sanders' mother-in-law lived in Ada, Oklahoma, and was to have given his mother the requisite care needed, until Mr. Sanders' mother could join the family in Washington.

^{1/} The request was made by V. Joseph Startari, Authorized Certifying Officer, Department of Energy, Washington, D.C.

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Mr. Sanders' mother became ill while in Ada, Oklahoma, and had to be hospitalized. Mr. Sanders' mother-in-law also became ill and was therefore unable to care for Mr. Sanders' mother as originally planned. Since Mr. Sanders' mother needed care and was unable to travel to join the family, Mr. Sanders arranged to have her flown to Albuquerque, New Mexico, where other relatives had her put in a nursing home until she was able to join the family in Washington.

The issue presented by the Department of Energy is whether the nursing home may be considered temporary living quarters in view of the regulations in effect at the time of Mr. Sanders' transfer. It is our view that it may.

Authority for payment of temporary quarters allowances is found at 5 U.S.C. § 5724a (1982 and Supp. I, 1983). Regulations implementing that provision are found in the Federal Travel Regulations. On the effective date of Mr. Sanders' transfer, the applicable regulations provided:

"d. Temporary quarters located at other than official station. As a general rule the location of the temporary quarters must be within reasonable proximity of the old and/or new official station. Payment of subsistence expenses for occupancy of temporary quarters in other locations shall not be allowed unless justified by circumstances unique to the individual employee or the employee's family that are reasonably related and incident to the transfer. * * * Occupancy of temporary quarters shall not be approved for vacation purposes or other reasons unrelated to the transfer."

Federal Travel Regulations, para. 2-5.2(d) (Supp. 10, November 14, 1983), incorp. by ref., 41 C.F.R. § 101-7.003 (1985).

This regulation became effective after the issuance of Mr. Sanders' travel authorization but prior to his effective date of transfer. The issue which concerns the Department of Energy is whether the reasons for the expenses under these circumstances are reasonably related to the transfer in this case, as required by the regulation. Before the

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addition of the above-quoted provision, the Federal Travel Regulations did not specifically address the treatment of temporary quarters located away from the old or new duty station. However, we believe that the allowability of expenses for such temporary quarters may be analogized to other provisions of the regulations and our decisions thereunder.

Paragraph 2-5.1 of the Federal Travel Regulations provides for the exercise of administrative discretion in approving temporary quarters expenses but requires generally that such expenditures be justified and made in connection with the employee's transfer. We have held that before a payment may be made there must be an administrative determination that the use of temporary quarters was incident and necessary to the transfer. See, e.g., Eligibility for Temporary Quarters Subsistence, B-184024, January 21, 1976. -

In B-179556, May 14, 1974, we held that an employee was entitled to temporary quarters expenses for his wife and child who remained in separate lodgings at the old duty station when the employee resided at his new duty station. In that case, the employee's wife gave birth to a child and was advised by her doctor to remain in the area for further treatment. She was placed in a boarding house and the child was placed in the care of relatives. Since it appeared that absent the transfer neither of those expenses would have been incurred, the expenses were related to the transfer. See also Ronald L. Vallarian, B-195509, January 25, 1980, in which we allowed temporary quarters for a mother and premature child because remaining in their old duty station residence would have caused a delay in selling the house and the mother and child were required to remain at the old duty station for treatment of the child.

The test in these cases is whether the temporary quarters expenses would have been incurred by the employee absent the transfer to a new duty station. If the expenses arose due to the transfer, they have been considered incident to the transfer. It is our view that the same test can be applied under the new provision in the current regulations dealing with temporary quarters away from the old or new duty station.

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In the current case, it appears that temporary quarters expenses were approved for Mr. Sanders' mother. Due to the transfer, Mr. Sanders placed her in Ada, Oklahoma, and subsequently in the nursing home in New Mexico until January 18, 1984, when she joined the Sanders family in Washington. He points out that his wife had been providing in Colorado and has been providing in Washington home nursing care such that placement in a nursing home is not necessary. Mr. Sanders states that had the transfer not occurred, the expense of a nursing home would not have been necessary. We find no basis in the record to dispute this statement.

In conclusion, it appears that the nursing home expenses were incurred due to the transfer of Mr. Sanders and therefore may be regarded as reasonably related and incident to the transfer, rather than as being "for vacation purposes or other reasons unrelated to the transfer." Accordingly, temporary quarters allowance may be paid to Mr. Sanders for the temporary lodging expenses of his dependent mother to the extent otherwise appropriate.

for Milton J. Fowler
Comptroller General
of the United States