

BILLARD
PLM 2



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Allowances on Homeport Change

File: B-220227

Date: September 26, 1986

DIGEST

The Joint Travel Regulations may be amended to authorize payment of overseas station allowances authorized by 37 U.S.C. § 405 to members with dependents after the date a change in homeport of the vessel or staff or mobile unit to which they are assigned or are being transferred has been officially announced. Allowances may be paid even though travel of dependents occurs before the effective date of the vessel's or unit's change of homeport. 45 Comp. Gen. 689 (1966); 43 Comp. Gen. 505 (1964) overruled.

DECISION

This responds to a request for our decision as to whether Volume 1 of the Joint Travel Regulations (1 JTR) may be changed to permit the payment of overseas station allowances when the homeports of vessels are changed from the contiguous United States to overseas locations and the members' dependents arrive at the overseas station prior to the effective date of the homeport change.^{1/} The provisions of 1 JTR may be changed to authorize the payment of overseas station allowances under these circumstances.

BACKGROUND

The Assistant Secretary of the Army indicates that payment of the allowances in question is prohibited by principles set forth in two of our decisions, 45 Comp. Gen. 689 (1966) and 43 Comp. Gen. 505 (1964). These decisions held that the temporary lodging allowance and other overseas station allowances authorized by 37 U.S.C. § 405 (Supp. III, 1985) are not payable until vessels' change-of-homeport orders become

^{1/} The request was made by the Assistant Secretary of the Army (Manpower and Reserve Affairs) on behalf of the Per Diem, Travel and Transportation Allowance Committee.

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effective. According to the Assistant Secretary, this often occurs 3 or 4 months after the dependents arrive overseas. The Assistant Secretary says that the rule presents a burdensome financial problem for members who find it difficult to pay the substantial costs of hotel-type accommodations and restaurant meals for their dependents during the period between arrival of the dependents and the effective date of the homeport change.

The proposed changes would permit payment of the temporary lodging allowance and other overseas station allowances, if appropriate, after the dependents arrive at the new homeport for members ordered on a permanent change of station to a vessel or staff or mobile unit that has an announced but not yet effective homeport change to an overseas homeport.^{2/} Payment is also proposed for members on permanent duty in a vessel after the homeport change to an overseas homeport is announced.

The Assistant Secretary states that the principles established in the two cited decisions defeat members' plans that would otherwise provide some relief from relocation problems. He points out that service members and their dependents can use permanent-change-of-station entitlements before the effective date of a homeport change. Thus, travel and transportation allowances are available to dependents who relocate to the new homeport during the period between the announced homeport change and its effective date. Also, based on 60 Comp. Gen. 561 (1981), paragraph M4156 of 1 JTR (cases 12 and 16) even permits members to travel for the purpose of assisting their dependents in making travel and transportation arrangements.

The Assistant Secretary contends that to postpone payment of the station allowances for several months after arrival of dependents at the vessel's new overseas homeport until the effective date of the vessel's orders creates a serious gap in a statutory plan intended to relieve members of undue financial burdens:

"Since overseas station allowances are, like dependent travel, household goods transportation, and POV transportation, related to permanent changes of station, it would appear logical not to stop (in reality) the use of three entitlements and the service member's ability to help with a

^{2/} Subsequently we will refer only to vessels, although that term should be read to include other mobile units which have homeports.

move by limiting one entitlement to use only on or after the effective date of orders. In the case of members serving in ships or with staffs or mobile units when the homeport change is announced, they must frequently travel with the unit when it relocates thereby further complicating the member's ability to actually assist with the household relocation. The inability of service members to pay out-of-pocket, the expenses normally covered by TLA [Temporary Lodging Allowance] and other station allowances can prevent well-planned moves. (I note that on inter-overseas PCA moves, JTR par. M4301-9b permits the payment of station allowances (including TLA) on arrival of dependents if that arrival is after the issue date of the PCA order).

"This problem is not isolated. As ships undergo homeport changes following regular overhaul or construction from the continental United States to overseas homeports, the crew members assigned to or ordered to the vessel face this problem.

"Normally, the change to an overseas homeport from a continental United States homeport occurs two or more times per year. Permitting the payment of station allowances on behalf of a member and/or dependents upon arrival at the promulgated overseas homeport but after the issuance date of PCS orders or promulgation date of a homeport change would be a logical continuation of the provision JTR par. M4301-9b and would alleviate a significant and recurring problem."

DISCUSSION

The pertinent part of 37 U.S.C. § 405(a) is:

"Without regard to the monetary limitations of this title, the Secretaries concerned may authorize the payment of a per diem, considering all elements of the cost of living to members of the uniformed services under their jurisdiction and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses, to such a member who is on duty outside of the United States or in Hawaii or Alaska, whether or not he is in a travel status. * * *"

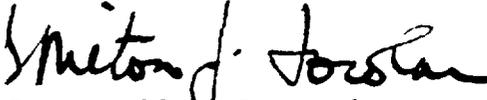
We refused in 45 Comp. Gen. 689 to approve amendments to the regulations to authorize payment of the allowances upon

arrival of dependents or members overseas prior to the effective date of orders changing the vessel's homeport. The holding was based on the rule established in 43 Comp. Gen. 505, where we viewed the allowances as permanent station allowances and determined that the change of homeport constituted the permanent change of station and that the overseas allowances could not be paid until the permanent station overseas has become effective.

Having reconsidered our prior decisions, we now agree that the JTR's may be amended to provide for payment of overseas station allowances to commence once a homeport change has been announced. As described above, the Assistant Secretary has presented compelling practical reasons in support of such an approach. Moreover, contrary to the implication of our decision in 45 Comp. Gen. 689, we find nothing in the statute to limit the exercise of discretion to amend the JTR's for this purpose.

Under 37 U.S.C. § 405(a), the overseas station allowance is available to the dependents of a member "who is on duty outside of the United States or in Hawaii or Alaska." We have consistently held that the permanent duty station of a member assigned to a vessel is the vessel itself. The vessel's homeport is regarded as a duty station for administrative convenience in applying the travel and transportation entitlements of the member's dependents, as well as the overseas station allowances. See, e.g., 45 Comp. Gen. 689, supra, at 692. Since use of the homeport for purposes of dependent allowances is a matter of administrative discretion, we believe that it may be applied with some flexibility.

In sum, while the effective date of a homeport change may have significance from an administrative standpoint, it need not limit the availability of overseas station allowances under 37 U.S.C. § 405. Such a result is not required by the statutory language, and it can result in inefficiencies which were obviously not contemplated when 37 U.S.C. § 405 was enacted. We hold, therefore, that with respect to these entitlements, the Joint Travel Regulations may be changed to provide that such entitlements may commence once the dependents have relocated, as authorized, to the designated new homeport outside the United States even though the specified effective date for change in homeport has not arrived.

for 
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