



J.W. Adams

The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Mrs. Elender C. Hill

File: B-222905

Date: March 30, 1987

DIGEST

Veterans Administration employee who requested a transfer from the Veterans Administration Medical Center (VAMC), Dallas, Texas, to VAMC, Kansas City, Missouri, in order to be near her seriously ill son is entitled to relocation expenses incurred in connection with that transfer since the agency's need to fill a vacancy with a qualified individual was the controlling factor in her selection. The fact that the transfer also benefited the employee does not preclude payment for otherwise allowable expenses. We will not overturn agency's determination that the employee's transfer was in the Government's interest since the decision was not arbitrary, capricious or clearly erroneous.

DECISION

This is in response to a request from the Director of the Office of Budget and Finance, Veterans Administration (VA), for a decision concerning the legality of reimbursing a VA employee for relocation expenses associated with an official transfer. The employee, Mrs. Elender C. Hill, is seeking payment for expenses she incurred incident to a transfer from the Veterans Administration Medical Center (VAMC), Dallas, Texas, to VAMC, Kansas City, Missouri. The VA's concern arose as a result of a special audit of travel voucher processing conducted at VAMC, Kansas City. The auditors questioned an action taken by the Director, VAMC Kansas City, authorizing the payment of relocation expenses to Mrs. Hill although she had requested the transfer to Kansas City so that she could be near her son who is seriously ill. Based on our review of the record, we believe that Mrs. Hill is entitled to relocation expenses since the agency's determination that the transfer was in the Government's interest was not arbitrary, capricious or clearly erroneous.

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As set forth in the record, Mrs. Hill requested a transfer from Dallas to Kansas City in July 1984. Nothing was available at VAMC, Kansas City, at that time; therefore, she was not offered a position. In February 1985, VAMC Kansas City upgraded a recently vacated GS-7 position in radiology to the GS-9 position of Administrative Officer for Radiology Service. VAMC advertised the position and received 15 applications. The Chief of Radiology rejected the 5 eligible applicants because they lacked specialized skills he felt were necessary for the job. The Chief then requested outside recruitment in order to fill the vacancy and the position was referred to the Office of Personnel Management (OPM) on May 3, 1985. On May 10 the referral to OPM was cancelled. VAMC reclassified the position as a GS-11 and Mrs. Hill was selected to fill the post.^{1/}

The statutory authority for payment of relocation expenses incident to a transfer is 5 U.S.C. § 5724. This provision prohibits payment from Government funds for relocation expenses when a transfer is made primarily for the convenience or benefit of an employee or at the employee's request. The provision of the Federal Travel Regulations (FTR) implementing this statute is paragraph 2-1.3. It restates the condition for payment found in the statute, namely that transfers must be in the interest of the Government and not primarily for the convenience or benefit of the employee in order for the Government to absorb relocation costs.

Under FTR para. 2-1.3, agencies have the responsibility for determining whether a particular transfer is in the interest of the Government or is primarily for the convenience or benefit of an employee. Agencies have broad discretion in making that determination. Where an agency acts under this authority we will not disturb its determination unless it is clearly erroneous, arbitrary, or capricious. Under the circumstances of this case, the Director, VAMC, Kansas City, who apparently had the authority to do so, decided that Mrs. Hill's transfer was primarily for the benefit of the Government. He points to the pre-existing vacancy as evidence of the fact that the position was not created for her benefit and he states that Mrs. Hill was selected for the

^{1/} There also appears to be some question as to whether the position was properly classified at the GS-11 grade. This is not a matter for our determination, however, but is for consideration by the agency and the Office of Personnel Management.

position because she was far more qualified than any of the other applicants. While it is clear from the record that Mrs. Hill wished to relocate to the Kansas City area, it also appears that the agency needed to fill the vacancy with a qualified individual. We have held that where a transfer has been determined by an agency to be in the Government's interest, the fact that the transfer also serves the employee's personal needs does not preclude allowance of otherwise proper expenses. McKenna, B-214881, May 15, 1984; Walski, B-190487, February 23, 1979; 54 Comp. Gen. 892 (1975).

Thus, we cannot say that the Director's decision in this case was arbitrary, capricious or clearly erroneous, so as to disturb the authorization of relocation expenses in connection with Mrs. Hill's transfer.

Milton J. Foster
for Comptroller General
of the United States