



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** Porter Billingsley - Request for Reconsideration

**File:** B-226463

**Date:** May 14, 1987

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## DIGEST

Employee appeals claim settlement disallowing claim for mileage in the vicinity of his temporary duty station where the agency did not authorize vicinity mileage in travel orders. Our prior settlement is affirmed since no material mistake of law or fact in original settlement is established. The determination of whether to authorize an employee mileage for the use of his automobile as advantageous to the government is discretionary with the employing agency.

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## DECISION

### ISSUE

This decision is in response to a request by Mr. Porter Billingsley that we reconsider our Claims Group settlement Z-2854165, November 19, 1986, in which we denied Mr. Billingsley's claim for vicinity mileage while he was stationed at Upper Heyford, England. The settlement is affirmed since the employee has not established any material mistake of law or fact in the settlement.

### BACKGROUND

Mr. Billingsley is a civilian employee of the Department of the Air Force who was assigned for temporary duty (TDY) to Upper Heyford RAFB, England, by Travel Order TA2733, dated July 15, 1980. The period of TDY was from July 18, 1980, through May 5, 1982. The travel order did not authorize mileage within the vicinity of the TDY site because, according to the agency, government-furnished transportation was available to members of the team at Upper Heyford. The van routes were explained to the team members prior to their selection of temporary residence and a vicinity map was provided to further define the routes. These routes were confined to a 25-mile radius of the facility at which Mr. Billingsley worked.

Mr. Billingsley contended that he lived within a 25-mile radius of the facility and therefore should have been allowed to utilize the government transportation. His supervisor informed him that the two areas in which Mr. Billingsley chose to live, Whittleberry and Moreton Pinkney, were not on the designated van routes, even though they were within a 25-mile radius of the work site. Mr. Billingsley then purchased an automobile which he used for transportation to and from his work site, and he submitted vouchers claiming vicinity mileage for this travel. He believes he was unfairly denied access to the government van due to alleged personal difficulties with his supervisor, which he detailed in a September 7, 1982, letter to Major General Dewey K. K. Lowe, Commander, Sacramento Air Logistics Center, McClellan Air Force Base.

The agency denied reimbursement for this mileage in a letter dated October 13, 1982, and signed by General Lowe, stating:

" \* \* \* Department of Defense travel regulations are very specific; an employee is not entitled to reimbursement for use of a privately owned conveyance when government-furnished transportation is authorized and available. A thorough review of the circumstances in your case reveals that government-furnished transportation was available to all members of the team at Upper Heyford and that it allowed considerable latitude as to place of residence. The van route, limits and availability were clearly defined and, I am assured, understood by the team members prior to the time you established your first place of residence. You, and others on the team who elected to live beyond the route limits and to drive a personal vehicle the total commute distance, are consequently ineligible for reimbursement of that expense. The policy was consistently applied throughout the TDY period, and the racial make-up of the team had absolutely no bearing in the establishment of this policy."

Mr. Billingsley's claim and supporting documentation were then forwarded to our Claims Group for consideration. In denying the claim for vicinity mileage, we stated:

"Paragraph C2154 of Volume II of the Joint Travel Regulations provides that use of a privately owned conveyance may be authorized for travel in the immediate vicinity of a temporary duty station provided it is determined to be advantageous to the Government or Government transportation is not available. This paragraph further provides that a statement of the circumstances justifying mileage reimbursement between place of lodging and place of business will be included in the travel order or reimbursement voucher.

"Our Office has consistently held that the determination of whether to authorize an employee mileage for the use of his automobile as advantageous to the Government is discretionary with the employing agency. We note that your travel orders did not indicate that vicinity mileage was authorized and that Government transportation was provided, although apparently not in the area where you choose to live. We find no basis whereby to question the Air Force's determination not to authorize vicinity mileage."

Mr. Billingsley has now asked that we reconsider that settlement, stating that he felt he was unjustly denied access to the government transportation because of personal difficulties with his supervisor.

#### OPINION

We have overruled prior decisions where a material mistake of fact or law has been established. However, Mr. Billingsley's letter requesting reconsideration does not present any new factual information or legal argument that has not already been considered. Instead, he restates his belief that he was treated unfairly in not being allowed to use the government van since his homes were within 25 miles from the work site. That issue was specifically considered in the prior settlement.

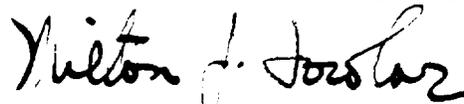
Mere disagreement with a previous decision of this Office is not a proper basis for reversal of a settlement upon reconsideration. See 4 C.F.R. § 32.2 (1986). Where there is no new evidence to show that there was a material mistake of

law or fact in a prior decision of this Office, we will reaffirm that decision. Allen Business Machines Company, B-182766, April 19, 1977.

We also wish to point out that, in other decisions of this Office concerning 2 JTR para. C2154, we have consistently held that this regulation confers discretionary authority on the agency to authorize or approve the use of a privately owned vehicle for travel in or near a temporary duty station. In the case of approval, the agency is required to make a determination that the use of a privately owned conveyance is advantageous to the Government or that commercial transportation is not available, and include a statement to that effect in the travel orders or reimbursement voucher. Further, we have held that an agency's determination that an employee's use of his privately owned vehicle for travel is or is not advantageous to the Government will not generally be questioned by this Office. Jack J. Lefcoski, B-190006, May 24, 1978, and decisions cited therein.

Accordingly, since Mr. Billingsley did not submit any new evidence to show there was a mistake of fact or law in our settlement of November 19, 1986, we reaffirm that decision to disallow the claim for reimbursement.

Acting

  
Comptroller General  
of the United States