

DOCUMENT RESUME

02924 - [A2153269]

Two-Day Per Diem Rule. B-130084; B-183174. August 1, 1977. 5 pp.

Decision by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Authority: 5 U.S.C. 6101(b)(2). 53 Comp. Gen. 882. 55 Comp. Gen. 590. 46 Comp. Gen. 425. 46 Comp. Gen. 427. B-176422 (1969). B-165339 (1968). B-160258 (1970). B-168855 (1970). F.T.R. (PPM: 101-7), para. 1-7.6d.

The Per Diem, Travel and Transportation Allowance Committee requested further explanation of the bases for Comptroller General decisions with regard to the 2-day per diem rule. These rulings held that up to but not including 2 days' per diem may be paid to enable an employee to travel during regular duty hours. This rule is intended to preclude delays in initiation or continuation of travel over weekends or over the 2 consecutive days that an employee is otherwise scheduled not to be on duty. (Author/SC)

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**DECISION**



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

**FILE: B-180084  
B-183174**

**DATE: August 1, 1977**

**MATTER OF: Two-day per diem rule**

- DIGEST:**
1. The "2-day per diem rule" of 53 Comp. Gen. 882 (1974) and 55 Comp. Gen. 590 (1975)--that up to but not including 2 days' per diem may be paid to enable an employee to travel during regular duty hours--is intended to preclude delays in initiation or continuation of travel over weekends or over the 2 consecutive days that an employee is otherwise scheduled not to be on duty.
  2. Where an employee delays his travel from Friday in order to travel during regular duty hours on Monday in disregard of the "2-day per diem rule," his per diem is limited to that which would have been payable if he had begun his return travel following the completion of work on Friday and continued to destination without delay.
  3. Inasmuch as the Federal Travel Regulations (FPMR 101-7) (May 1973) provide for computation of per diem on the basis of quarters of days in a travel status, a cost factor of an additional 1-3/4 days' per diem is to be used in connection with a determination of permissible delay in initiation or continuation of travel to permit an employee to travel during regular duty hours.

This decision is in response to a request by the Per Diem, Travel and Transportation Allowance Committee for further explanation of the basis for our holdings in 53 Comp. Gen. 882 (1974) and 55 Comp. Gen. 590 (1975). In addition, the Committee poses the following specific questions:

"a. When an employee delays return travel from a Friday to Monday, (e.g., following completion of temporary duty on Friday) so as to travel during regular duty hours, what per diem, if any, would be payable for the intervening Saturday and Sunday?

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"b. Does the phrase 'up to 2 additional days' mean that only 1 3/4 days of per diem is payable or does it mean that 2 days of per diem is payable?"

"c. When an employee whose permanent station is Washington, D. C. is assigned to temporary duty at San Francisco with a requirement to be present there at a conference at 8:00 a. m. on a Monday morning, departs the permanent station on Friday, what per diem, if any, would be payable for Saturday and/or Sunday?"

In 53 Comp. Gen. 882 we considered the travel circumstances of two employees who, after completing their temporary duty assignments, delayed their returns in order to travel during regular duty hours. Since the delays in return travel involved only 1 additional day of per diem, we held that the delay was not improper and that the additional per diem costs involved could be paid. In so holding, we indicated that initiation of an employee's return may be delayed to permit him to travel during his regular duty hours and that payment of up to 2 days' additional per diem for that purpose is not unreasonable. Our decision at 55 Comp. Gen. 590 involved an employee who reported to his duty station 3 days in advance of his scheduled assignment, traveling during regular working hours on Friday to report for duty on the subsequent Tuesday following a Monday holiday. In denying his claim for 3 days' per diem for the intervening 3-day weekend, we cited the rule of 53 Comp. Gen. 882 that up to 2 days' additional per diem may be paid for the purpose of permitting an employee to travel during his regular duty hours, adding that payment of additional per diem costs for 2 days or more for that purpose is considered unreasonable.

This so-called "2-day per diem rule" is predicated in part on the following policy with respect to scheduling of travel set forth at 5 U. S. C. § 6101(b)(2):

"(2) To the maximum extent practicable, the head of an agency shall schedule the time to be spent by an employee in a travel status away from his official duty station within the regularly scheduled workweek of the employee."

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Prior to the 1965 enactment of that provision we had taken the view that in performing travel necessary to his work, a Government employee was required to proceed as expeditiously as he would if traveling on his personal business, even though he may thereby be required to travel on nonworkdays. In 46 Comp. Gen. 425 (1966) we considered the effect of the above-quoted statutory language on the employee's obligation of expeditious travel. The employee in that case had delayed his return travel over a weekend from Friday until Monday. While recognizing that 5 U. S. C. § 6101(b)(2) to some extent impacted upon the employee's obligation of expeditious travel, we nevertheless concluded that that policy did not envision a weekend's delay in the initiation or continuation of travel and stated that:

"We do not believe it was intended that the head of an agency in exercising the administrative discretion under such provision could permit a traveler under the circumstance such as here involved to delay his return to his official headquarters until the Monday after a weekend so as to increase his entitlement to per diem in lieu of subsistence. Therefore, our view is that no additional per diem would be payable to Mr. Nelson by reason of his failure to return to his headquarters on the weekend of June 11-12, 1966."

Again in B-176422, August 13, 1968, and B-165339, November 18, 1968, we restated the view that there was no authority for payment of per diem to an employee for the weekend after he has completed his assignment at a temporary duty location on Friday, prior to his delayed return the following Monday. The rule thus evolved in the context of a prohibition against delaying travel over a weekend for the sole purpose of allowing an employee to travel during working hours. Compare B-160258, January 2, 1970, and B-168855, March 24, 1970.

As the Committee suggests, the 2-day per diem rule stated in those decisions, in authorizing payment of up to but not including 2 days' additional per diem for the purpose of enabling an employee to travel during regular duty hours, is intended to preclude delays over weekends or over the 2 consecutive days that an employee is otherwise not scheduled to be on duty.

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The Committee's first specific question relates to the per diem payable in the case where an employee delays his travel for an unreasonably long period, as from Friday to Monday. We are asked what per diem, if any, would be payable for the intervening Saturday and Sunday. We believe that question is answered in 46 Comp. Gen. 425 and in 55 Comp. Gen. 590. In 46 Comp. Gen. 425 we held, with respect to an employee who had delayed his return travel from Friday to Monday, that no additional per diem was payable by reason of his failure to return to headquarters on the weekend, and that his per diem entitlement was limited to the amount otherwise payable if the return travel had been performed after completion of temporary duty on Friday without interruption. Similarly, in 55 Comp. Gen. 590 we held that additional per diem costs attributable to the employee's election to travel 3 days in advance may not be paid.

The Committee's second question relates to whether the phrase "up to 2 additional days" means that 1-3/4 days' per diem is payable or that 2 days' per diem is payable. The question apparently results from the fact that per diem entitlement is calculated on the basis of quarters of days in accordance with para. 1-7.6d of the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973). For example, an employee who is in a travel status from 12:01 a.m. until 7 p.m. of 1 day would be entitled to a full day's per diem for that day. The basic issue is whether, in making a determination as to permissible delay, per diem entitlement be cause of a delayed departure from a temporary duty station after completion of an assignment, rather than an immediate return, an agency should use an additional cost factor of 1-3/4 days' per diem or of 2 days' per diem in applying the phrase "up to 2 additional days." The 2-day per diem rule expressed in 33 Comp. Gen. 882 and 55 Comp. Gen. 590 relates to the amount of per diem payable and not to the actual number of hours that an employee delays his travel. In view of the per diem computation rule set forth in the FTR and the fact that an employee is entitled to receive 2 days' per diem for a period of more than 1-3/4 days, a cost factor of an additional 1-3/4 days' per diem is to be used.

Finally, we are asked to address the specific case of an employee whose permanent duty station is Washington, D. C., and who, being assigned to attend a conference in San Francisco at 8 a.m. on Monday morning, departs from Washington, D. C., on Friday. The Committee asks what per diem, if any, would be payable for Saturday

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and/or Sunday. For purposes of discussion it will be assumed that the employee departed at 1 p. m. on Friday and arrived in San Francisco before 6 p. m. the same day, and that he could have taken a flight departing and arriving at approximately the same times on Sunday. It will be further assumed that that Sunday flight was the last that would permit him to arrive in San Francisco at a reasonable hour.

In considering whether the employee may be paid additional per diem in connection with his early departure, the per diem costs associated with Friday departure, including per diem for the intervening weekend, should be compared with the per diem payable based on Sunday departure. Departure on Friday would involve per diem for one-half day on Friday, 2 full days' per diem for Saturday and Sunday, and per diem covering the remainder of the conference assignment. Sunday departure would involve per diem for one-half day on Sunday plus per diem covering the remainder of the conference assignment. Since 2 full days' additional per diem would have to be paid to permit the employee to travel during regular duty hours on Friday, his departure should be scheduled for Sunday. If the employee nevertheless departs on Friday, his per diem is limited to that which would have been payable had he departed on Sunday. This result is in accordance with the discussion set forth at the next-to-last paragraph of 45 Comp. Gen. 427.

  
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of the United States