

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

FILE: B-183225

DATE: OCT 21 1975 97807

MATTER OF: Use of privately owned vehicle after regular duty hours - Lieutenant Commander John E. Chubb, Jr., USN

DIGEST: Member who uses a privately owned vehicle when called back from his place of lodging to his normal duty location to give technical assistance is not entitled to reimbursement under 37 U.S.C. 408 (1970) for travel between those locations since travel between a member's lodgings and his normal duty location must be performed at personal expense even where it is performed before or after normal duty hours or results from ordered performance of additional duties. The regulatory exception to that rule under which a taxi may be used at Government expense applies only in unusual situations during hours of infrequently scheduled public transportation or darkness.

This action is in response to letter dated October 31, 1974, with enclosures, from the Officer in Charge, U.S. Navy Finance Office, FPO San Francisco 96630, requesting an advance decision concerning the legality of reimbursement for the use of a privately owned vehicle (POV) outside regular duty hours. The request was forwarded here by endorsement dated February 13, 1975, from the Per Diem, Travel and Transportation Allowance Committee and has been assigned PDTATAC Control No. 75-5.

The submission involves Lieutenant Commander John E. Chubb, Jr., USN, who, while stationed on Guam, Mariana Islands, was frequently called back to his duty location from his place of lodging to give technical assistance. He traveled by POV when called back to duty after normal working hours. The member requests that he be reimbursed at the rate of 12 cents a mile for such travel performed during the period July 4-August 29, 1974.

Section 408 of title 37, U.S. Code (1970), provides for reimbursing a member of a uniformed service for cost of transportation necessary in the conduct of official business "within the limits of his station". Reimbursement for the use of a privately owned vehicle incident to such travel is to be at a fixed rate a mile as prescribed by regulation.

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Paragraph M4500 of Volume 1 of the Joint Travel Regulations (1 JTR), provides that, when determined by them to be advantageous to the Government, officials designated by the services concerned may authorize in advance, or subsequently approve, reimbursement for transportation expenses, as described in that part of the regulations, which are necessarily incurred by members in conducting official business in and around their duty stations. We presume that the places on Guam which are involved in this claim would all be considered in and around the member's duty station for purposes of that regulation.

Paragraph M4502, 1 JTR, provided at the time the travel in question was performed that when authorized or approved under the conditions set forth in paragraph M4500, members who traveled by privately owned vehicles were entitled to reimbursement at a rate of 12 cents a mile for use of such POV.

It has been held that 37 U.S.C. 408 does not authorize reimbursement incident to the performance of travel between a member's lodging or his residence and the location at his permanent duty station at which his work is performed. See 45 Comp. Gen. 30 (1965). Paragraph M4504, 1 JTR, contains an exception to that rule in that it authorizes reimbursement of taxi fares for travel between the permanent station work location and home for officially ordered duty outside of regular duty hours for a member who is dependent on public transportation for such travel and it occurs during hours of infrequently scheduled public transportation or darkness.

Clearly, neither that provision nor the one applicable to civilian employees on which it was based (currently para. 1-2.3e, FPMR 101-7) provide for Government payment for home to work travel solely on the basis that the individual is returning to work after hours. See 48 Comp. Gen. 124 (1968). Those provisions authorize reimbursement for high cost taxi travel when, because of working outside of normal duty hours, the individual is unable to use public transportation for travel between home and work. It must be recognized that the purpose of that authorization was to permit reimbursement of taxi fares paid by employees during times when the use of public transportation would subject them to substantial personal hazard. When we authorized the promulgation of what is now paragraph M4504 it was specifically recognized that reimbursement was intended to cover only the limited situation described. 48 Comp. Gen. 124, 127.

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Accordingly, in circumstances other than as specified in paragraph M4504, thereof, part K of chapter 4, 1 JTR, may not be regarded as authorizing reimbursement to members for travel between their lodgings or homes and normal duty locations. Such travel must be performed at personal expense whether it is in connection with the performance of the individual's regular daily duties or whether it is before or after normal hours or results from the ordered performance of additional duties.

Accordingly, the member's claim may not be allowed.

R.F.KELLER

[Deputy] Comptroller General
of the United States