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DECISION



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

*Copy to
C. P. ...*

FILE: B-186217

DATE: JAN 24 1977

**MATTER OF: Joseph D. Argyle - Amendment of Travel Orders
to Authorize Extension of Temporary Quarters
Subsistence Expenses**

DIGEST: Forest Service employee, transferred from Idaho to Alaska to open new office in Fairbanks, was authorized 30 days temporary quarters subsistence expenses. Extenuating circumstances caused employee to remain in temporary quarters for 60 days and he was not advised to request an extension of subsistence expenses authorized by 5 U.S.C. § 5724a. Agency may allow additional subsistence it would have authorized had employee requested it and, while generally travel orders may not be retroactively amended, 5 U.S.C. § 5724a and implementing regulations contemplate post approval of subsistence expenses extension for employees transferred to Alaska, etc.

This matter involves a request for an advance decision dated April 7, 1976, from Ms. Orris C. Zuet, an authorized certifying officer with the United States Department of Agriculture, on the propriety of paying a voucher in the amount of \$486.85 submitted by Joseph D. Argyle, an employee of the Forest Service, for an additional 30 days temporary quarters allowance incident to his transfer of official duty station.

The record shows that Mr. Argyle was issued Travel Authorization No. 10.01.00476, dated June 8, 1973, for the change of his official station from New Meadows, Idaho, to Fairbanks, Alaska, and it authorized him subsistence for up to 30 days while he was occupying temporary quarters at his new duty station. It is the policy of Region 10 of the Forest Service (Alaska) to authorize 30 days temporary quarters initially and amend the authorization to include an additional 30 days when an employee is unable to complete arrangements for permanent housing within the first 30-day period.

At his new duty station, Mr. Argyle was assigned the responsibility of establishing a new office without the aid of clerical or other employees at his new station to advise him. During this period, he also experienced a death in his family. As a result of these unusual circumstances, he failed to request an additional 30 days temporary quarters allowance. The Department of Agriculture states that had

B-188317

Mr. Argyle requested a 30-day extension of his temporary quarters subsistence expenses. His request would have been approved and his travel authorization would have been amended to reflect this change. The authorized certifying officer requests a ruling from this Office as to whether the Department of Agriculture may at this time retroactively approve a 30-day extension of Mr. Argyle's temporary quarters subsistence expenses.

Our decisions have frequently cited and relied on the general rule that legal rights and liabilities in regard to travel and relocation allowances vest when the travel or relocation is performed pursuant to the travel authorization and that the authorization may not be revoked or modified retroactively so as to increase or decrease the rights and benefits which have vested or become fixed under applicable statutes or regulations. Exceptions have been made to correct apparent errors or to complete an incomplete travel order in accordance with the original intent of the official who issued the order. See 54 Comp. Gen. 533 (1975); 51 Id. 736 (1972); B-128970, November 7, 1974, and decisions cited therein. The facts in this case do not indicate that Mr. Argyle's travel authorization was incomplete or contained an error so as to come within any of the exceptions outlined above. Accordingly, we must consider whether the employee's rights and benefits had vested or become fixed under applicable statutes and regulations so as to preclude the retroactive amendment of his travel authorization.

In this connection, reimbursement of a transferred employee's temporary quarters subsistence expenses is governed by 5 U.S.C. § 5724a (1970), which provides in pertinent part as follows:

**"§ 5724a. Relocation expenses of employees
transferred or reemployed**

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title:

* * * * *

"(3) Subsistence expenses of the employee and his immediate family for a period of 30 days while occupying temporary quarters when the new official station is located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. The period of residence in temporary quarters may be extended for an additional 10 days when the employee moves to or from Hawaii, Alaska, the territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. The regulations shall prescribe average daily rates for subsistence expenses per individual, not in excess of the maximum per diem rates prescribed by or under section 5702 of this title for the location in which the temporary quarters are located. Reimbursement for subsistence expenses actually incurred may not exceed the daily rates for the first 10 days of the period, two-thirds of the rates for the next 10 days, and one-half of the rates for the balance of the period, including the additional 10 days." (Emphasis supplied.)

The above-quoted statute has been implemented by the General Services Administration in chapter 2 of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973). Paragraph 2-5.2 of the above regulations provides in part:

"2-5.1. Conditions and limitations for eligibility.

"a. Length of time allowed and location of new official station. Subsistence expenses of the employee for whom a permanent change of station is authorized or approved and each member of his immediate family (defined in 2-1.4d) shall be allowed for a period of not more than 30 consecutive days while the employee and family necessarily occupy temporary quarters and the new official station is located in the 50 States, the District of Columbia, United States territories and possessions, the Commonwealth of Puerto Rico

B-186317

and the Canal Zone; provided a written agreement as required in 2-1.5a(1) is signed in connection with the transfer. * * *

"b. Additional time in certain case. To the extent determined to be necessary, expense as provided above may be allowed for a period not to exceed an additional 30 consecutive days while the employee and family are occupying temporary quarters if the employee is transferred either to or from Hawaii, Alaska, the territories and possessions, the Commonwealth of Puerto Rico, or the Canal Zone. The same considerations as expressed above are applicable in allowing any extension of the additional period." (Emphasis supplied.)

Pursuant to the above-quoted statute and regulation, an employee relocated to Alaska may under certain conditions be reimbursed temporary quarters subsistence expenses for a maximum period of 60 days. We believe that normally the initial authorization should not exceed 30 days. When an appropriate authority determines it to be necessary, the employee may be authorized temporary quarters subsistence expenses for an additional period of time, not to exceed a second 30-day period. Accordingly, we are of the opinion that the statute and regulations permit a separate authorization or approval of the additional 30 days of time to be made as set forth in the policy of the Forest Service, *supra*. In this connection it is to be noted that the regulation in question states that expenses for an additional period may be allowed and does not state that prior authorization is required.

Accordingly, we would not object to an amendment of Mr. Argyle's travel authorization to approve temporary quarters subsistence expenses for an additional 30-day period as permitted under the statute and regulations.

R. F. KELLER

Deputy Comptroller General
of the United States