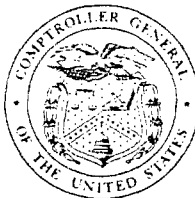


PLM-II

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D.C. 20549

90,454

FILE: B-192795

DATE: June 14, 1979

MATTER OF: *Claim for?* Subsistence Expenses While Occupying
Temporary Quarters - Early Return of
Dependents of Civilian Employees from
Overseas Areas

DIGEST:

1. If a Federal employee's dependents are returned from overseas to the United States prior to the employee's transfer, subsistence expenses while occupying temporary quarters may not be paid on the basis of the dependents' occupancy of temporary quarters at the time of and in connection with their early return from overseas, ~~since~~ the statutory provision governing the travel of dependents in such circumstances provides only for the reimbursement of the dependents' "transportation expenses" and does not, in addition, authorize payment of subsistence expenses. 5 U.S.C. § 5729 (1976).
2. *In re m.* If a Federal employee's dependents are returned from overseas to the United States prior to the employee's transfer, temporary quarters subsistence expenses may ~~nevertheless~~ be paid on their behalf when the employee performs his permanent-change-of-station travel, provided that the dependents are required to occupy temporary quarters at the time of and in connection with the employee's transfer. 5 U.S.C. § 5724a (1976). *See*

This action concerns subsistence expenses while occupying temporary quarters (TQSE), which are reimbursable relocation expenses payable to a Federal employee when use of temporary lodgings is justified in connection with his transfer to an new permanent duty station. A decision has been requested on the following question:

"If dependents are returned from overseas to CONUS prior to the time the PCS transfer is authorized, prior to the time PCS orders are

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issued, and prior to the time the transportation agreement is signed, may the dependents be included for TQSE purpose when the employee ultimately performs PCS travel?"

The request for a decision on this question was submitted by Mr. Joe F. Meis, Principal Deputy, Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations); and the request has been assigned Control No. 78-30 by the Per Diem, Travel and Transportation Allowance Committee, Department of Defense. *ACF 1487*

In the submission it is noted that para. 2-5.2e of the Federal Travel Regulations imposes certain time limitations on the use of temporary quarters for subsistence expense purposes. It is also noted that in decision B-164948, October 18, 1968, involving the early return of an employee's dependents from an overseas duty station, we disallowed payment of per diem in the absence of a related transfer of the employee. It is indicated that because of the above-mentioned regulatory provision and Comptroller General's decision, doubt has arisen as to whether TQSE on behalf of an employee's dependents may be paid in the event of their early return to the continental United States from an overseas duty station, even if the dependents eventually join the employee in temporary quarters upon his subsequent transfer.

I. Temporary Quarters Subsistence Expenses Are Not Payable in Connection with the Early Return of Dependents from Overseas under 5 U.S.C. § 5729.

With respect to expenses allowable in connection with the early return of a civilian employee's dependents to the continental United States from a foreign or overseas post of duty, section 5729 of title 5, United States Code (1976), provides as follows:

"(a) Under such regulations as the President may prescribe, an agency shall

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pay from its appropriations, not more than once before the return to the United States or its territories or possessions of an employee whose post of duty is outside the continental United States, the expenses of transporting his immediate family and of shipping his household goods and personal effects from his post of duty to his actual place of residence when--

"(1) he has acquired eligibility for that transportation; or

"(2) the public interest requires the return of the immediate family for compelling personal reasons of a humanitarian or compassionate nature, such as may involve physical or mental health, death of a member of the immediate family, or obligation imposed by authority or circumstances over which the individual has no control.

"(b) Under such regulations as the President may prescribe, an agency shall reimburse from its appropriations an employee whose post of duty is outside the continental United States for the proper transportation expenses of returning his immediate family and his household goods and personal effects to the United States or its territories or possessions, when--

"(1) their return was made at the expense of the employee before his return and for other than reasons of public interest; and

"(2) he acquires eligibility for those transportation expenses.

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"(c) This section does not apply to appropriations for the Foreign Service of the United States." (Emphasis added.)

We have long held that the term "transportation expenses" of an employee's dependents as used in a statute does not include authority for payment of per diem in lieu of subsistence in addition to transportation expenses. See, for example, 25 Comp. Gen. 268 (1945). We have, therefore, expressed the view that the authority for the transportation of an employee's dependents at public expense contained in 5 U.S.C. § 5729 does not, in addition, include authority for the payment of per diem in lieu of subsistence. See decision B-164948, *supra*; and B-172078, March 30, 1971. Moreover, since no statutory authority exists under 5 U.S.C. § 5729 for the payment of any amounts for subsistence, it is also our view that temporary quarters subsistence expenses, TQSE, are not payable in connection with the early return of dependents under that provision of law.

II. Temporary Quarters Subsistence Expenses May Be Paid under 5 U.S.C. § 5724a if the Dependents Occupy Temporary Quarters When the Employee Is Later Transferred.

Section 5724a of title 5, United States Code (1976), provides that in addition to transportation expenses, an employee may also be authorized reimbursement of all or part of certain relocation expenses incurred in connection with a permanent-change-of-station transfer. Among the relocation expenses authorized to be paid are per diem in lieu of subsistence while en route (subsection (a)(1)); and subsistence expenses of the employee and his immediate family for a period of 30 days while occupying temporary quarters, TQSE, where the new official station is located in the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone (subsection (a)(3)).

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Implementing statutory regulations governing the payment of TQSE are contained in chapter 2, part 5, Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR) issued by the General Services Administration. Para. 2-5.2e of those regulations, which is referred to in the submission, provides as follows:

"e. Time to begin occupancy. The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized, and the written agreement required in 2-1.5a(1) has been signed. In order to be eligible for the temporary quarters allowance, the period of use of such quarters for which a claim for reimbursement is made must begin not later than 30 days from the date the employee reported for duty at his new official station, or if not begun during this period, not later than 30 days from the date the family vacates the residence at the old official station, but not beyond the maximum time for beginning allowable travel and transportation."

Thus, under the regulations, the use of temporary quarters for TQSE purposes may not begin until the employee's transfer has been authorized and a required written agreement signed. With respect to the written agreement required of Department of Defense employees, para. C4005-1, Volume 2, Joint Travel Regulations, provides that the minimum service requirement in connection with transfers to and within the United States is a 12-month tour of duty. Other provisions of those regulations prescribe rules for the preparation and disposition of the related written agreement to remain in Government service for the required period.

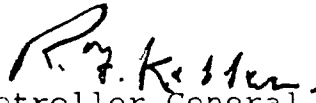
☐ Once the employee's transfer is authorized and the other conditions of entitlement have been met, his dependents would thereafter be eligible to occupy temporary quarters for TQSE purposes. This is so even

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if at some earlier date such dependents had received advance transportation, under the provisions of 5 U.S.C. § 5729. Their occupancy of temporary quarters at the time of the employee's transfer may properly be viewed as being related to his permanent-change-of-station move. See decision B-170446, January 11, 1971. As previously indicated, however, no additional TQSE payments could be made on the basis of subsistence expenses the dependents might also have incurred while occupying temporary quarters at the time of their early return from overseas, since those expenses could not properly be viewed as having a direct relationship to the employee's transfer under the applicable laws and regulations.

The question presented is answered accordingly.

Deputy


Comptroller General
of the United States