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DECISION

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

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FILE: B-212171 **DATE:** September 27, 1983

MATTER OF: Sara B. Harris - Real Estate Expenses - Extension of Time Limitation

DIGEST:

The Federal Travel Regulations (FTR) were amended in 1982 to allow agencies to extend the 2-year period to complete residence transactions, provided the transferred employee requests an extension within 30 calendar days after the expiration of the 2-year period, unless the 30-day period is specifically extended by the agency. We conclude the amendment authorizes agencies to extend the 30-day period for requests on an individual basis. Hence, the Department of Health and Human Services may extend the 30-day period for an employee who was not informed of the FTR amendment or of the new time limit on requesting an extension.

The issue presented is whether a transferred employee may be granted an exception to the new time limitation in the October 1982 amendments to the Federal Travel Regulations for requesting an extension of time to sell a house.

For the reasons stated below, we interpret the Federal Travel Regulations to mean that agencies may grant exceptions on an individual case basis. Accordingly, the Department of Health and Human Services may extend the time limit for an employee who was not informed of the amendment or of the time limit on requests.

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This decision is in response to a request by Mr. Vaughn L. Roundy, Director, Division of Accounting, Fiscal and Budget Services, Department of Health and Human Services (HHS), Denver, Colorado, as to whether Ms. Sara B. Harris may be reimbursed real estate expenses incident to a permanent change of station. Ms. Harris, an employee of the Social Security Administration, Department of Health and Human Services, in San Jose, California, received permanent change of station orders, and subsequently reported to her new duty station in Denver, Colorado, on February 9, 1981. On January 6, 1982, Ms. Harris requested and was granted a 1-year extension to February 9, 1983, to complete the sale

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of her residence in San Jose, which remained unsold due to a depressed housing market. On May 5, 1983, Ms. Harris inquired as to whether expenses incurred in the sale of her old residence, which was scheduled to take place at that time, could still be allowed.

The Department of Health and Human Services advised Ms. Harris that there was no authority to reimburse her sales expenses because she had failed to timely request a further extension of time beyond February 9, 1983. At Ms. Harris' request, the Regional Office then requested a decision from our Office on whether an extension of time could be granted.

A little background is necessary to understand the issues involved in this request. The reimbursement of Federal employees for certain expenses incurred in connection with the residence transactions incident to a transfer of duty station is governed by 5 U.S.C. § 5724a (1976) and regulations issued pursuant thereto by the General Services Administration (GSA). At the time of Ms. Harris' transfer, the applicable regulations governing the time limitation on the sale of a residence were contained in paragraph 2-6.1e of the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR). It required that the settlement on a house sale or purchase be held within 1 year after the transfer, but allowed the agency, upon the employee's written request, to extend the period for an additional year.

This regulation was in effect at the time of Ms. Harris' first request for an extension which was made and granted on January 6, 1982. We note that, had a change not been made to this regulation, the last possible date on which Ms. Harris could have sold her residence and received reimbursement would have been February 9, 1983, because the additional period of time after the initial 1-year period could not have been extended beyond 1 year. William R. Walberg, 58 Comp. Gen. 539 (1979).

Paragraph 2-6.1e of the FTR, however, was subsequently amended by GSA Bulletin FPMR A-40, Supplement 4, 47 Fed. Reg. 44,565, October 8, 1982, to provide an automatic 2-year time period for residential transactions with another year allowed under certain conditions. The paragraph provides, in pertinent part:

"(2) <u>Extension of time limitation</u>.

"(a) Upon an employee's written request, the 2-year time limitation for completion of the sale and purchase or lease termination transactions may be extended by the head of the agency or his/her designee for an additional period of time not to exceed 1 year.

"(b) The employee's written request should be submitted to the appropriate agency official(s) as soon as the employee becomes aware of the need for an extension but before expiration of the 2-year limitation; <u>however, in no case shall the request be submitted later than 30 calendar days after the expiration date unless this 30-day period is specifically extended by the agency</u>.

"(c) Approval of this additional period of time shall be based on a determination that extenuating circumstances, acceptable to the agency concerned, have prevented the employee from completing the sale and purchase or lease termination transactions in the initial time frame and that the residence transactions are reasonably related to the transfer of official station." (Emphasis added.)

The HHS travel Manual Chapter 6-50-00 E2 exactly mirrors the FTR, except that HHS elected not to specifically provide for an extension to the 30-day period. Thus, it eliminated the phrase: "unless this 30-day period is specifically extended by the agency."

The 1982 revision to the FTR was made applicable to employees whose 2-year period had not expired prior to the issuance date, August 23, 1982. Thus, it is applicable to Ms. Harris because her 2-year entitlement period ended February 9, 1983. See FTR paragraph 2-6.1e(3). Thus a third year, until February 9, 1984, became available to Ms. Harris in which to sell her house, provided she made a timely request for an extension beyond 2 years. However, the Department of Health and Human Services decided that, since she had not requested an extension by March 11, 1983

(30 days after expiration of the 2-year period), the time could not be extended. In so deciding, the Departmental officials indicated that under the HHS Travel Manual no exceptions could be made to the 30-day time limit on requests for extensions.

Ms. Harris maintains that an exception should be made in her case because she had no knowledge of the change in the regulations allowing a third year or of the new time limit on requests for extensions. In that regard, she states that she was not aware of a memorandum dated October 25, 1982, on the FTR changes, which was sent by the HHS regional office to managers and division heads.

We think the Department of Health and Human Services had an obligation to inform recently transferred employees, such as Ms. Harris, of the 1982 changes made in the Federal Travel Regulations concerning relocation expenses. Aside from the memorandum mentioned above, there appears to have been no effort to notify those employees of the changes. Moreover, we note that the October 25, 1982, memorandum, in explaining the additional 1-year period for residence transactions, did not mention any time limit for filing requests for the additional period.

Aside from the lack of notice, we have a fundamental problem with the Department's position in this case. The Federal Travel Regulations are issued by the General Services Administration and are intended to provide a uniform interpretation and application of the Federal travel laws throughout the Government. Even though the several departments and agencies have limited authority to further regulate where the FTR does not cover a specific agency situation, the basic watchword is uniformity.

In implementing the statutory authority to reimburse real estate expenses incurred by transferred employees, the General Services Administration determined that a third year should be allowed for employees to complete residential sales or purchases. The additional 1-year period is not automatic but is to be based on the agency's determination that extenuating circumstances prevented an earlier completion of the transaction and that the transaction is reasonably related to the transfer. We believe that the additional time should be liberally allowed to transferred employees in view of the depressed housing market in recent years and in order to carry out the congressional intent to reimburse employees for the expenses of selling and buying residences incident to transfer.

In further providing that the request for additional time should be made as soon as the employee becomes aware of the need for an extension, but not later than 30 days after the expiration of the initial 2-year period, the FTR amendment also permits agencies to specifically extend the 30-day period.

We understand that the Department of Health and Human Services interpreted the 1982 amendment to FTR paragraph 2-6.1e(2)(b) to mean that the 30-day limit on requests would apply to all employees, unless the Department by regulation provided for a longer period on a blanket basis.

We believe that the General Services Administration, in limiting the time to submit requests for extensions, intended to set out a uniform 30-day rule for all agencies, but also intended to allow each agency to make exceptions to that rule in individual cases where the circumstances would justify such action. Therefore, we do not think Ms. Harris should be denied the benefit of individual consideration of her request for an extension of time on the basis of the Department's misinterpretation of the FTR admendment which precluded extension in individual cases.

In these circumstances, we see no objection to the Department's granting Ms. Harris an exception to the 30-day time limit and considering her request for an additional year in which to complete the sale of her house.

for Milton J. Socolar
Comptroller General
of the United States