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

B-178305

July 13, 1973

Mr. Marcial C. Chavez
440 Stevens Road
Mountain View, California 94040

Dear Mr. Chavez:

This is in response to your request for reconsideration of your claim for reimbursement of expenses incurred by you in connection with your wife's travel from Manila, Philippines, to San Francisco, California, on August 20, 1971, which was disallowed by our Transportation and Claims Division settlement of September 7, 1972.

According to our records, while assigned to U.S.S. Independence, at Portsmouth, Virginia, you received a permanent change of station to Naval Air Station Moffett Field, California, by orders dated March 23, 1971. You were granted 60 days' delay en route chargeable as leave prior to reporting to your new station on June 10, 1971. Reportedly you were married on May 24, 1971, at Paranaque, Rizal, Philippines, while on leave.

In addition, our records indicate that your wife performed travel to her new residence at San Francisco, California, on a commercial airline of foreign registry (Philippine Airlines), for which you paid \$519, as well as a Philippine passport fee of \$18 and an airport tax of \$1.55. The Bureau of Naval Personnel, Washington, D.C., reports that travel via Military Airlift Command (MAC) aircraft was available from Clark Air Base, Philippines, to Travis Air Force Base, California.

The transportation of dependents of members of the uniformed services is governed by the Joint Travel Regulations (JTR) promulgated pursuant to the pertinent statute, 37 U.S.C. 406. In consonance with the purpose of the statute, paragraph M7060 of the regulations provides that:

Except upon graduation from a service academy (see par. M7064), a member who acquires a dependant subsequent to the date of his departure (detachment) from his old permanent duty station incident to permanent change-of-station

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orders but on or before the effective date of those orders will be entitled to transportation of such dependent from the place where the dependent is acquired to the new permanent station not to exceed the entitlement from the old to the new permanent duty station.

Dependent's transportation from an overseas area to the United States ordinarily is limited to circumstances where the dependent incident to the member's accompanied tour at an overseas unrestricted station, resides overseas. In 51 Comp. Gen. 485 (1972), copy enclosed, we hold that where a member at a restricted station overseas travels to a foreign country where he marries and then travels with his wife to his next permanent duty station in the United States, that the member is not entitled to dependent overseas transportation.

Likewise, where a member assigned to sea duty departs from his vessel, marries in a foreign country, and returns with his wife to the United States for duty at his new permanent station, there is no entitlement to dependent overseas transportation, dependent travel being limited to travel within the United States not exceeding the distance from the point of the member's arrival in the United States from sea duty, to his new permanent station in the United States.

Moreover, since your wife traveled by foreign aircraft, reimbursement of any part of the expenses incurred for that travel is clearly prohibited by paragraphs M7000-7 and M2150-1 of the JTR in the absence of a showing that the travel could not have been performed on a ship or aircraft registered under the laws of the United States. See decision B-160269, May 8, 1967, copy enclosed. Accordingly, the disallowance of your claim for dependent's travel from Manila, Philippines, to San Francisco, California, is sustained.

While the circumstances surrounding your claim are unfortunate, we may authorize payment of claims from public funds only if such payment is in accord with the applicable law and regulations.

Sincerely yours,

Paul G. Dembling

Acting
Comptroller General
of the United States