



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

30822

B-177701

April 18, 1973

Mr. Paul H. Kolou
Box 222
College Park, Maryland 20740

Dear Mr. Kolou:

Your letter of November 6, 1972, requests, in effect, that we reconsider the action taken in our Office Settlement of October 13, 1972, which allowed in part your claim for reimbursement of expenses incurred in connection with official moves you made as a civilian employee of the Department of the Navy, but which disallowed certain other expenses for which you had sought reimbursement. You state that you made two moves within a 2-year period for the Department of the Navy, and ask that we review all the vouchers you have submitted in connection with those moves. In accordance with your request we have carefully reviewed your entire file, including reconsideration of our recent Settlement Certificate dated December 19, 1972, which disallowed your claim for reimbursement of transportation expenses for your dependents. We are also in receipt of your temporary quarters subsistence itemization dated February 27, 1973, submitted on a revised basis to show only your expenses, your original claim having been disallowed for the reason your children were included.

The record indicates that your first duty station was the Naval Applied Science Laboratory (NASL) in Brooklyn, New York, where you were appointed as a physicist on December 11, 1967. Since the position to which you were appointed had been classified as a manpower shortage position, you were entitled to reimbursement for the costs of moving your family and your household effects from Lowell, Massachusetts, your residence at the time of your appointment, to Brooklyn upon agreeing to remain in Government service for 12 months from the date of your appointment. However, for reasons that are not clear in the record, it appears that you did not sign the required agreement until July 28, 1969, and that orders authorizing your move were not issued until August 5, 1969. Those orders authorized shipment and storage of your household goods and transportation of your four children and your wife, who is listed as Beverly Jean, from Lowell to Brooklyn. The record further indicates, however, that you obtained a decree nisi for divorce from Beverly Jean on June 16, 1967, which decree became absolute on December 17, 1967. The custody of your minor children was given to your former wife and you were directed to pay her the sum of \$300 per month for their support.

[Reconsideration of Transportation Expense Claim]

BEST INTEREST AVAILABLE

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The earliest dated voucher in the file itemizing and claiming the expenses incident to your move to Brooklyn and employment with NASL is dated September 10, 1970. That voucher claims reimbursement for turnpike and bridge tolls and mileage at the rate of 12 cents per mile for travel by private automobile from Lowell to Brooklyn and for the shipment of household effects between those two points. It also claims reimbursement for the movement of household effects and for mileage in connection with a move from Lowell to Chicago, Illinois, in August 1968. This move is apparently the one referred to in your letter of November 6, 1972, wherein you state that your children changed their residence for educational reasons from Lowell, Massachusetts, to Chicago, Illinois. Of those claimed expenses, you have been reimbursed \$522.40 for shipment of 4,250 pounds of household effects on a commuted rate basis from Lowell to Brooklyn, \$4 for turnpike and bridge tolls and \$14.10 for mileage at the rate of 6 cents per mile for travel from Lowell to Brooklyn.

Subsequently, as the result of a transfer of function, you were transferred from NASL to the U.S. Naval Ordnance Laboratory (NOL), White Oak, Silver Spring, Maryland, on September 15, 1969. The travel authorization issued in connection with that transfer authorizes travel and transportation for four dependent children and your wife, who again is listed as Deverly J. Koloc. In connection with that transfer, you claimed expenses for a house hunting trip for yourself and your wife, Deanna M. Koloc, to Washington, D.C., mileage at the rate of 12 cents per mile and tolls for travel by private vehicle from Brooklyn to Washington, and for travel by commercial airline for your four children from Waterloo, Iowa, to Washington. In addition you have claimed reimbursement for the costs of moving household goods from Brooklyn to Washington and from Chicago to Washington, and temporary quarters subsistence in the amount of \$1,016.63 for expenses incurred by you and your children in the Washington area from September 11, 1969, through October 3, 1969. Of the expenses claimed, you have been allowed the expenses of the house hunting trip for yourself only, the expenses of your travel from Brooklyn to Washington for yourself only, a miscellaneous expense allowance in the amount of \$200, and expenses of moving your household goods from Brooklyn to Washington. Since you had been given an advance of \$1,800 in connection with the move to Washington the allowable expenses together with those found allowable from your original move to Brooklyn, were applied to the advance, leaving a balance due the Government in the amount of \$78.29. Your letter of November 6 states that you provide the entire financial support for your

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four children and asks that the Government reimburse you for what it would have cost had your children moved with you from Lowell to Brooklyn and then from Brooklyn to Washington.

Paragraph C7001-1 of the Joint Travel Regulations (JTR) concerning travel and transportation of dependents and transportation of household goods provides as follows:

1. WHEN AUTHORIZED. Travel and transportation expenses of dependents may be authorized in connection with an employee's permanent change of station from one duty station to another. For a househunting trip for the spouse incident to an employee's transfer, see par. C4107. Transportation expenses of dependents may be authorized in connection with travel to first duty stations of appointees to manpower shortage positions.

"Dependent" is defined in paragraph C1100 in pertinent part as follows:

DEPENDENT. Any of the following named members of the employee's household at the time he reports for duty at his permanent duty station or performs authorized or approved renewal agreement or separation travel; spouse; children (including stepchildren and adopted children) unmarried and under 21 years of age or physically or mentally incapable of supporting themselves regardless of age * * *. (Emphasis added.)

Since the record indicates that a decree nisi for divorce was granted you on June 16, 1967, nearly 6 months prior to the date you were appointed at NASL, and the custody of your children was granted to your former wife, there is no basis for the reimbursement of dependents' travel in connection with your move from Lowell to Brooklyn since your children were not members of your household at the time you reported for duty in Brooklyn. As to your claim for mileage allowance at the rate of 12 cents per mile for travel from Lowell to Brooklyn, paragraph C6200-3 of JTR provides for payment of 12 cents per mile only when the employee and three or more members of his immediate family occupy the automobile; payment is limited to 6 cents per mile when the employee alone occupies the automobile. Since the record does not show that any member of your immediate family accompanied you on the trip, reimbursement was correctly

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limited to 6 cents per mile for your permanent duty travel from Lowell to Brooklyn. Further, as to your claim for movement of household goods and travel from Lowell to Chicago in August 1968 there is no authority for Government payment of those expenses since your travel orders only authorized travel between Lowell and Brooklyn. Nor is there authority for applying the constructive cost of moving your family between Lowell and Brooklyn to the cost of the move between Lowell and Chicago since, as previously discussed, they were not "dependents" for travel purposes under the applicable definition in JTR.

The same regulations are similarly applicable to disposition of your claims in connection with your move from Brooklyn to Washington. Since your children were legally in the custody of your former wife and were apparently living with her in the Chicago area, there is no basis whereby the Government would be obligated to pay for their transportation from Waterloo, Iowa, to Washington, D.C., nor for the constructive cost of their travel from Brooklyn to Washington, since they were not members of your household at the time you reported for duty at NOL. In this regard we note that you and your children maintained separate places of abode during the period from September 11, 1969, through October 3, 1969, since your former wife was staying with your children. The courts in construing the word "household" have generally referred to the most common dictionary definition of the word, namely, "those who dwell together under the same roof and compose a family; a domestic establishment." Johnson v. State Farm Mutual Automobile Insurance Co., 252 F. 2d 158, 161; Heidhoefer v. Automobile Insurance Co. of Hartford, Conn., 182 F. 2d 269, 272. Under that definition your children would not be members of your "household" at the time you reported for duty and therefore not "dependents" under the governing regulations for either transportation purposes or for payment of temporary quarters subsistence expenses under JTR. This would hold true despite the allegation that you provide the entire financial support for your children and that they might qualify as "dependents" for other purposes, such as income tax.

On the basis of your revised daily itemization of expenses dated February 27, 1973, by which you eliminated expenses originally stated as attributable to the children for the purpose of claiming temporary quarters in lieu of subsistence for them, we are authorizing an allowance in your favor in the amount of \$260, the maximum allowable under the formula as set forth in Office of Management and Budget Circular No. A-56, as revised June 26, 1969. Section 2.5d thereof limits the

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daily rate to not in excess of 75 percent of the maximum statutory per diem rate (\$16 during the period of your claim) for the first ten days; for the second ten days, two-thirds of the daily rate as established for the first ten days; and for the third ten days, one-half of the daily rate as established for the first ten days.

As to the movement of your household goods, there is no basis, as previously discussed, for Government payment of the cost of moving household goods from Chicago, Illinois, to Washington, D.C., the allowance being only for the cost of moving your goods from Brooklyn to Washington. This amount appears to have been properly computed and allowed in the amount of \$898.50 on the computed rate basis.

Your claim for mileage in connection with your permanent duty travel from Brooklyn to Washington was correctly limited to 6 cents per mile since the record indicates that you made this trip alone. However, upon showing that you and your present wife, Deanna Koloc, were married at the time of your transfer to KOL on September 15, 1969, then she would be entitled to a travel allowance in connection with her move to Washington in February 1970. Further, a showing that you and Deanna were married prior to the date of your house hunting trip would also entitle you to reimbursement for expenses incurred by her on your house hunting trip which were previously disallowed. Evidence of your marriage should be other than copies of your wife's 1969 wage and tax statements, as already included in the file, since these are not indicative of the exact date of marriage.

Accordingly, the previous disallowances of your claims are sustained as indicated. Your current indebtedness in the amount of \$78.29 will be offset against the amount indicated for allowance as temporary quarters subsistence, and a Settlement Certificate issued in your favor for the balance. Further, if you submit the above-mentioned documents showing the date of your marriage prior to September 15, 1969, you will be entitled to reimbursement accordingly.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States