

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

FILE: B-182998

DATE: AUG 1 1975

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MATTER OF:

Entitlement to travel expenses of
dependents - Sgt. Henry W. Simmons, USA, Retired

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DIGEST:

Where dependents of Army Sergeant traveled to his intended home of selection prior to any determination by headquarters responsible for issuing orders, to issue orders directing his retirement, the member is not entitled to reimbursement for travel expenses incurred by them.

This decision is in response to the letter of October 7, 1974, of Sergeant First Class Henry W. Simmons, Retired, requesting reconsideration of his claim for dependent travel expenses, which was disallowed by settlement of the Transportation and Claims Division of this Office dated March 12, 1974.

In the spring of 1966, Sergeant Simmons decided to retire on the date of the expiration of his term of service, October 31, 1966. In anticipation of his retirement, his dependents traveled on June 11, 1966, from his duty station, Fort Huachuca, Arizona, to Charleston, South Carolina, the place Sergeant Simmons designated as his home of selection upon retirement. However, no orders directing his retirement had been issued at this time. On July 22, 1966, the member agreed to serve another two years to meet the Army requirements for acceptance of promotion from staff sergeant to sergeant first class and on October 25, 1966, orders were issued directing Sergeant Simmons' discharge on October 30, 1966, and re-enlistment on October 31, 1966. No permanent change of station was involved.

Under the applicable provisions of Volume I, Joint Travel Regulations, which were promulgated in accordance with 37 U.S.C. 406(c), Sergeant Simmons is not entitled to reimbursement for the travel expenses of his dependents. Paragraph M7000 of the regulations in effect at the time of their travel stated in pertinent part:

"Members of the Uniformed Services are entitled to transportation of dependents at Government expense upon a permanent change of station * * * for travel performed from the old station to the new permanent station or between points otherwise authorized in this volume, except:

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"8. for any travel of dependents performed prior to receipt of orders directing a permanent change of station or prior to receipt of official notice that such orders would be issued (See par. M7003-4);"

Paragraph M7003-4 as in effect at the time of the dependent travel in this case, states in pertinent part:

"A member entitled to transportation of dependents in accordance with par. M7000 is authorized a monetary allowance in lieu of transportation in kind for travel of dependents performed at personal expense prior to issuance of permanent change-of-station orders, provided the voucher is supported by a statement of the commanding officer, or his designated representative, of the headquarters issuing the change-of-station orders that the member was advised prior to the issuance of change-of-station orders that such orders would be issued. * * *"

Paragraph M3003 defined the expression "permanent change of station" to include "the change * * * from last duty station to home * * * upon * * * retirement."

Under prior decisions of this Office dealing with these regulations, dependent travel allowances may not be paid unless a decision to issue the change-of-station orders has actually been made and all the provisions of such order have been determined. See 52 Comp. Gen. 769 (1973); B-149196, August 21, 1973; B-160968, April 14, 1967. As was stated in 52 Comp. Gen. at 770: "General information as to the time of eventual release from active duty has consistently been held to be insufficient to meet the requirements of the regulations."

From the evidence submitted it is apparent that at the time of the travel performed by the dependents of Sergeant Simmons, there had been made no firm determination to issue retirement orders. No statement by the commanding officer of the headquarters issuing the orders, that Sergeant Simmons was advised prior to their issuance that they would be issued, as required by the regulations, has been submitted. Therefore, the claim must be denied.

R. F. KELLER

Deputy Comptroller General
of the United States