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*L. Wilcox*

**DECISION**



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

*PLM I*

FILE: B-191989 DATE: December 29, 1978

MATTER OF: *personal memo*  
*Reimbursement of*  
Virginia Goodman - Taxicab fares between office  
and residence in case of necessity

DIGEST: 1. Paragraph 1-2.3e of the FTR was not intended to authorize payment of taxicab fares where the use of public transportation is merely inconvenient. Commuting on other than the employee's regular schedule involves a degree of additional inconvenience and for an employee who regularly uses public transportation, the most common form of inconvenience is variation in bus or train schedules. The requirement of FTR para. 1-2.3e of infrequency of scheduled public transportation is not satisfied by a mere showing that public transportation is not as readily available as at the height of rush hour.

2. The authority of FTR para. 1-2.3e to reimburse taxicab fares when an employee who is dependent on public transportation is required to work overtime is intended to be exercised only in limited situations under stringent agency controls. An employee with a Monday-through-Friday work-week required to work overtime on weekends until 5:30 p.m., and to commute from work in the early evening hours corresponding to the time he normally commutes from work to home, may not be authorized taxicab fare on the sole basis that in the winter his travel occurs after sunset. Such factors as added risk and curtailment of public transportation would be for consideration.

AGC 00399

By letter dated May 8, 1978, Ms. Vera Herzog, Authorized Certifying Officer, ACTION, has requested a decision concerning application of the Federal Travel Regulations (FPMR 101-7) para. 1-2.3e (May 1973) to the taxicab fare claims of three ACTION employees. The three employees, Virginia Goodman, Arnita Gaskins, and Lucretia LaRoche, worked overtime on weekends in January of 1978. Ms. LaRoche also worked overtime on Saturday and Sunday, August 21 and 22, 1976, and on the prior Thursday and Friday. On the weekends for which claims are submitted, the employees

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worked overtime at their regular places of business between 8 a.m. and 5:30 p.m. On Thursday and Friday, August 19 and 20, 1976, Ms. LaRoche remained at ACTION headquarters until 7:15 p.m., 2 hours beyond the end of her regular workday. Each claims taxicab fare for all or a part of the distance between the office and her residence upon completion of overtime work.

In claiming reimbursement for taxicab fares totaling \$8.60 incurred on Saturday, January 14, and Sunday, January 15, 1978, Ms. Goodman states that the express bus by which she normally commutes from work on weekdays, and which delivers her to a stop one block from her residence, does not run on weekends. She explains that she took a taxicab from work rather than traveling by two non-express buses to avoid the five-block walk from the bus stop to her home. Ms. Gaskins claims reimbursement for taxicab fare of \$9 plus a tip of \$1 for Saturday, January 7, 1978, and for fares of \$7 plus tips of \$1 each for January 14 and 15, 1978, for transportation between her office and residence. Although she offers no explanation for the \$2 difference between the fares claimed, Ms. Gaskins explains that on weekdays she takes a train to a bus stop and waits 40 minutes to catch a bus that lets her off four blocks from her residence. On weekends the connecting bus comes every hour and 15 minutes. On weekdays, Ms. LaRoche takes a bus to the end of the bus line and travels by carpool from there to her residence. Ms. LaRoche claims taxicab fares of \$2.70 for each of seven trips from the end of the bus line to her residence on August 19, 20, 21, and 22, 1976, and on January 7, 14, and 15, 1978. Each of the three claimants states that the area in which she lives is unsafe and each claims to have taken a taxicab for reasons of personal safety.

The certifying officer disallowed the claims, having determined that the circumstances of transportation did not meet the conditions of entitlement as set forth at FTR para. 1-2.3e, which provides as follows:

"e. Between residence and office in cases of necessity. Reimbursement for the usual taxicab fares paid by an employee for travel between office and home may be authorized or approved incident to the conduct of official business at an employee's designated post of duty when the employee is dependent on public

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transportation for such travel incident to officially ordered work outside of regular working hours and when the travel is during hours of infrequently scheduled public transportation or darkness. Agencies are expected to establish stringent administrative controls at sufficiently high levels which ensure that reimbursements are authorized only when justifiable and when all circumstances set forth herein are met."

With respect to Ms. Goodman's and Ms. Gaskins' claims, the certifying officer states that she is unconvinced that the justifications offered demonstrate that public transportation was other than inconvenient. Ms. LaRoche's claim was disallowed since her transportation by taxicab was over a segment of the journey for which public transportation would not have been available in the course of her normal weekday commuting.

The record indicates a difference of opinion within ACTION regarding the proper interpretation of FTR para. 1-2.3e. The submission is accompanied by a letter dated May 11, 1978, from the Deputy Director, Office of Administration and Finance, characterizing the certifying officer's disallowance of the claims as evidencing an overly literal construction of the regulation to preclude payment of taxicab fares.

The authority of FTR para. 1-2.3e to pay taxicab fares is a limited exception to the well-established rule that an employee must bear the cost of commuting between his residence and official duty station. His personal responsibility extends to all commuting between home and office even though the total cost of such transportation may be increased by the requirement to perform additional work outside regular duty hours. Thus, in Matter of Richard E. Bollinger and Adam E. Muckenfuss, B-189061, March 15, 1978, and Matter of George F. Clark, B-190071, May 1, 1978, we held that the claimants could not be reimbursed mileage for commuting between their homes and their regular places of duty to perform additional work on nonworkdays or after regular working hours.

Paragraph 1-2.3e was not intended to authorize payment of taxicab fares where use of public transportation is merely inconvenient. Most any employee who finds it necessary to commute to

or from work on other than his regular schedule is subjected to a degree of inconvenience that he does not normally encounter. For an employee who regularly uses public transportation, the most common form of inconvenience is a variation in bus or train schedules. The fluctuation in frequency of public transportation service that occurs in response to rush-hour commuting demands is in itself no more than inconvenience and, in the context of the phrase, "infrequently scheduled public transportation," the requirement of infrequency is not satisfied by a mere showing that public transportation is not as readily available as at the height of rush hour. The use of taxicabs based on infrequency of scheduled public transportation could be based on factors such as an unusual risk of harm to the employee, and unreasonable and lengthy delays because of curtailment of service.

As drafted, the regulation is directed specifically at the transportation situation of an employee who is required to stay late to perform overtime work after his regular duty hours. The term "hours of darkness" contemplates the situation in which an employee is faced with the necessity to use public transportation during late evening hours when few people are using public transportation. If literally construed, the regulation would permit payment of the taxicab fare of an employee whose regular workday ends at 4:30 p. m. and who, in the winter months of early sunset, works overtime until 5:30 p. m. Reimbursement of taxicab fares clearly was not contemplated under such circumstances. Absent unusual circumstances, we consider it beyond the authority of agencies under FTR para. 1-2.3e to reimburse an employee's taxicab fare for transportation on weekdays during those early evening hours when much of the employed population is commuting from work.

We do not intend to suggest that taxicab fares may not be paid for commuting in the early evening hours of weekend days in connection with overtime work. We stress merely that the fact that such commuting may occur on weekends after sunset in the winter months normally is not itself a sufficient basis to authorize reimbursement under para. 1-2.3e. The fact that, in some areas, transportation is curtailed on Saturdays or Sundays is certainly a factor for consideration in determining whether to authorize taxicab fares.

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Because of the variation of local conditions it is not possible for our Office by, decision, to state other than general concepts, such as set forth above, for the operation of the regulation. The regulation by its terms cautions agencies to establish stringent administrative controls in exercising their responsibilities thereunder. Determinations by agencies under it will not be questioned by this Office unless clearly outside the scope of the regulations as interpreted in this decision.

The submitted cases present situations on which reasonable persons could disagree as to the application of the regulation. With the exception of Ms. LaRoche's claim for taxicab fares for 2 days in August of 1976 the three claimants' use of taxicabs occurred after hours of darkness on weekend days, but during early evening hours, corresponding to the times they commute home from work on weekdays; i. e., 5:30 p. m. The claimants state that they live in unsafe areas and took the taxicabs for personal safety. Further, there was a curtailment of transportation on the days in question.

Ms. LaRoche's claim is for taxicab fares only from the end of the bus line to her residence. From Monday through Friday she normally commutes this distance by carpool which, understandably, does not operate other than on the carpool members' usual commuting schedule. Apparently there is no public transportation available for this segment of the trip and it is for this reason that the certifying officer concluded that Ms. LaRoche was not dependent on public transportation for the travel for which she claims reimbursement. The certifying officer's determination comports with the specific language of FTR para. 1-2.3e. However, the purpose of the regulations was to provide for the transportation of Government expense of employees who, by reason of overtime work requirements, cannot as a practical matter commute to and from work other than by taxicab. An employee who does not own a car, who has no public transportation available to her and who commutes on her regular workdays as a carpool rider is in as untenable a transportation posture with respect to overtime work requirements as any employee who normally rides a bus not scheduled to run at the time he finishes work. We believe that the taxicab fares of such individuals may be paid under FTR para. 1-2.3e where clearly warranted.

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In the circumstances, if after administrative review it is concluded that approval of the claims is proper under the regulation as interpreted in this decision, they may be certified for payment.

Acting

  
Comptroller General  
of the United States