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DECISION



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

FILE: B-194350

DATE: September 14, 1979

MATTER OF: ^{Claim for?} Boyd D. Robinson - Temporary Quarters Subsistence Expenses ^{for Visiting Mother-In-Law}

DIGEST: Employee's mother-in-law who resides in Belize, Central America, with her husband and six children was visiting employee's family on a 3-month visa at time of his transfer and was dependent upon him for support during her visit. Employee may not be reimbursed for temporary quarters subsistence expenses incurred for her since she was not member of employee's immediate family within purview of 5 U.S.C. § 5724a(a)(3) and FTR 2-1.4d.

DLG02746

Mr. Charles Oakley, Unit Certifying Officer, Black Hills National Forest, Forest Service, United States Department of Agriculture (USDA), requests a decision on the claim of Mr. Boyd D. Robinson, an employee of the Forest Service, for temporary quarters subsistence expenses (TQSE) for his mother-in-law. The National Finance Center, USDA, has disallowed this claim and has declined to comply with Mr. Oakley's request that it be submitted to the General Accounting Office for settlement.

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The mother-in-law, Mrs. Josefina Moreno, is a citizen of Belize, Central America, where she resides with her husband and six children. At the time of Mr. Robinson's transfer she was in the United States on a 3-month visa and visiting with the Robinson family. The terms of the visa stipulated that the Robinsons had to assume financial responsibility for Mrs. Moreno and that she could not work during her stay in the United States. She was dependent upon Mr. Robinson for support at the time the expenses in question were incurred.

Section 5724a(a)(3) of title 5, United States Code, authorizes the payment of TQSE for a transferred employee and his immediate family in accordance with regulations prescribed by the President. The President delegated his regulatory authority to the Administrator of General Services in Executive Order No. 11609, July 22, 1971, 36 F.R. 13747. Paragraph 2-1.4d(1) of the Administrator's regulations, the Federal Travel Regulations (FTR), defines immediate family to include a dependent mother-in-law who is a member of the employee's household at the time he reports for duty at his new permanent duty station. Paragraph 2-1.4d(2) defines a dependent as one who receives more than half of his or her support from the employee or one who receives support in a lesser amount from the employee but the amount received is necessary to maintain a reasonable standard of living. See

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Federal Property Management Regulations, Temporary Regulation A-11, Supplement 4 (April 29, 1977), Attachment A, page 25, and 55 Comp. Gen. 462 (1975).

Therefore, to qualify for TQSE as a member of an employee's immediate family a mother-in-law must meet two requirements. She must be a member of the employee's household and she must be dependent upon the employee. Mrs. Moreno does not meet either of these requirements. She is a member not of Mr. Robinson's household but of the household she maintains with her husband and six children in Belize. She was merely a visitor with Mr. Robinson's family at the time of his transfer and there is no evidence that she was dependent upon him for support other than during her visit. See Matter of Marjorie J. Lowry, B-189818, February 14, 1978, wherein it was held that an employee's mother who resided with the employee 5 months of the year and maintained a separate residence for the other 7 months was not a member of the employee's household.

Accordingly, Mr. Robinson's mother-in-law is not a member of his immediate family within the purview of 5 U.S.C. § 5724a(a)(3) and the implementing FTR 2-1.4d and his claim for TQSE incurred for her may not be paid.


Deputy Comptroller General
of the United States