DECISION

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

26199

FILE: B-210467 DATE: September 12, 1983

MATTER OF: Lieutenant Colonel Bruce L. Harjung, USMC

DIGEST:

Notwithstanding a Marine Corps regulation authorizing a mileage allowance and per diem from an alternate aerial port of debarkation to a new permanent duty station incident to a transfer from outside the United States to the United States, for the purpose of recovering a relocated privately owned vehicle, the member's entitlement is limited to allowances based on travel from the appropriate aerial port of debarkation serving the new station to the new station, in the absence of an amendment to the Joint Travel Regulations.

Is a mileage allowance and per diem authorized for a member's travel from an aerial port of debarkation to a new station when incident to a permanent change of station from overseas the member selects a different aerial port of debarkation than the one serving his new station? Additionally, if the member arrives at the aerial port of debarkation serving his new station is he entitled to the allowances to the selected aerial port of debarkation? The answer to both questions is no, as will be explained.

These questions were submitted by Major M. K. Chetkovich, USMC, Disbursing Officer, Marine Corps Base, Camp Pendleton, California, and have been assigned Control No. 83-2, by the Per Diem, Travel and Transportation Allowance Committee.

Lieutenant Colonel Bruce L. Harjung, USMC, was ordered to make a permanent change of station from Okinawa to Camp Pendleton, California, in July 1982. Los Angeles International Airport is the appropriate aerial port of debarkation for Camp Pendleton. Apparently, it is Marine Corps policy to allow a member under such circumstances to select an aerial port of debarkation nearest the place where his relocated privately owned vehicle is located. In Colonel Harjung's case, his family and his privately owned vehicle were at Quantico, Virginia. As a result he chose

St. Louis as the nearest aerial port of debarkation. When Colonel Harjung traveled, however, he arrived at Los Angeles International Airport. He then traveled by commercial air and privately owned vehicle to Quantico and then to Camp Pendleton. He is claiming a mileage allowance plus per diem on a constructive basis from Los Angeles to St. Louis and then from St. Louis to Camp Pendleton.

Colonel Harjung's claim is based on an April 1982 Commandant of the Marine Corps message (ALMAR 111/82), which provides in part that when a member has a relocated privately owned vehicle, an alternate aerial port of debarkation may be selected for the purpose of picking up the vehicle. The regulation also provides that the member is entitled to a mileage allowance and per diem from the aerial port of debarkation nearest the relocated vehicle to the new duty station.

The disbursing officer notes that there does not appear to be any provision of Volume 1 of the Joint Travel Regulations (1 JTR) authorizing this entitlement and she asks whether payment may be made in this case on the basis of ALMAR 111/82. She indicates that Colonel Harjung's claim has been settled under 1 JTR, paragraph M4159, by paying a mileage allowance and per diem from Los Angeles International Airport, the appropriate aerial port of debarkation for Camp Pendleton, to Camp Pendleton.

In commenting on this situation, the Commandant of the Marine Corps supports payment of the claim on the basis of ALMAR 111/82. He advances the opinion that, which aerial port of debarkation is used is not a travel entitlement issue to be determined under the Joint Travel Regulations, but rather, is a matter to be decided by the service concerned. Additionally, he notes that ALMAR 111/82 is in accordance with Matter of Fedderman and Espiritu, 60 Comp. Gen. 564 (1981); and 60 Comp. Gen. 562 (1981).

Prior to dealing with the entitlements in this case certain assumptions must be made. Presumably "relocated privately owned vehicle" refers to the member's vehicle that was relocated incident to the travel of his dependents to a designated place in connection with his transfer to Okinawa, a restricted station. Travel to a designated place by

dependents in these circumstances is authorized under 1 JTR, paragraph M7005. When the member is transferred from a restricted station to a non-restricted station in the United States, transportation of his dependents and household goods from the designated place to the new station is authorized at Government expense. However, the member's entitlement is limited to travel from the old station to the new station. He does not receive any entitlements for his travel to or from the designated place where his dependents, household goods, and privately owned vehicle are located.

We can not agree with the view that the port of debarkation is not a travel entitlement issue but rather is a matter for determination by the service concerned. Paragraph M4159-1-3 of 1 JTR provides that allowances may be paid for the official distance between the appropriate aerial or water port of debarkation serving the new station and the new station in connection with permanent change-of-station travel from outside the United States to a new station in the United States. Clearly, this is a travel entitlement issue since it affects the travel costs to the Government on permanent changes of station. To authorize alternate ports of debarkation which do not service the member's new station would be tantamount to authorizing circuitous travel to the member's new station at Government expense, which was never intended. See 54 Comp. Gen. 850 (1975) and 47 Comp. Gen. 440 (1968). Accordingly, we must conclude that the appropriate aerial port of debarkation in this case is Los Angeles.

While two decisions of this Office were cited by the Marine Corps in support of the authorization contained in ALMAR 111/82, a discussion of only one, 60 Comp. Gen. 562 (1981), will sufficiently explain our position. That decision involved travel entitlements of members who because of their assignments are entitled to transportation of their dependents and household goods to a designated place. We concluded that the Joint Travel Regulations could be amended to provide travel and transportation entitlements to the member in such cases before and after the permanent change of station if the travel was based on the need of the member to assist in arranging for transportation of dependents, household or personal effects, or a privately owned vehicle.

Amendments to Volume 1 of the Joint Travel Regulations authorizing travel in the circumstances described above have not been issued. Accordingly, no authority for such travel existed at the time of Colonel Harjung's change of station.

We recognize that the pertinent provision of ALMAR 111/82 was designed to defray the costs incurred by a member in traveling to the location of his dependents, household or personal effects, or privately owned conveyance incident to his return from a restricted station. However, 37 U.S.C. § 411 requires that regulations promulgated pursuant to 37 U.S.C. § 404 (which provides for members' travel entitlements) be uniform as far as practical in application to all the services. As a result an individual service is not authorized to promulgate regulations allowing an entitlement which has not been authorized by Volume 1 of the Joint Travel Regulations.

Accordingly, the settlement of Colonel Harjung's claim on the basis of mileage allowance and per diem for his travel from Los Angeles to Camp Pendleton was proper, and his claim for allowances from Los Angeles to St. Louis and then to Camp Pendleton may not be allowed.

for Milton J. Socolar
Comptroller General
of the United States