

**DECISION**



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

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PLM 2  
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**FILE:** B-215569

**DATE:** January 11, 1968

**MATTER OF:** Julie M. Gunderson

**DIGEST:**

1. Travel orders may not be changed retroactively to increase or decrease entitlements after travel is performed. Where a travel order was altered after it was signed to permit travel by privately owned vehicle as in the interest of the Government, the employee should be limited to reimbursement of the cost that would have been incurred by common carrier unless it is shown that the provision authorizing travel in the Government's interest was a part of the approved travel when the travel was performed.
2. The 2-day per diem rule does not apply when travel to a temporary duty station is performed on Friday if the employee works on Saturday even if the work performed is not considered official work time for pay purposes.

A certifying officer questions the payment of mileage and per diem in connection with the temporary duty travel performed by Ms. Julie M. Gunderson, an employee of the Department of Health and Human Services.<sup>1/</sup> The employee's claim for per diem while she was at her temporary duty station is allowed. However, her claims for mileage and per diem while traveling by privately owned vehicle, which are not limited by comparison to common carrier costs, may not be allowed on the basis of the record presented.

**BACKGROUND**

Ms. Julie M. Gunderson, an employee of the Office of Civil Rights, Region X, Department of Health and Human

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<sup>1/</sup> Mr. Robert A. Carlisle, Certifying Officer, Region X, Department of Health and Human Services, submitted the questions.

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Services, whose duty station is Seattle, Washington, was detailed to the Office of Civil Rights, Region VII, in Kansas City, Missouri, from January 14 to May 9, 1983, under travel order 83-12, as amended. This travel order authorized Ms. Gunderson to travel from Seattle to Kansas City by privately owned vehicle, not to exceed the cost of common carrier. Per diem was reduced after the first 30 days and again at the end of 90 days in accordance with departmental regulations governing extended temporary duty assignments. Ms. Gunderson leased an apartment in Kansas City during her assignment.

Before the end of her detail Ms. Gunderson was given a second detail to Kansas City, not to exceed 120 days, commencing on May 16, 1983, 10 days after the termination of the first detail. She returned to her duty station in Seattle on May 6, using a round-trip airline ticket issued by the Kansas City Office. She continued to maintain her leased apartment between the details, and her car remained in Kansas City. While she was at her duty station, her agency canceled the second detail and issued travel authorization 83-42 for travel to Kansas City "to finalize transition resulting from the employee's recently completed detail."

Under the new travel authorization Ms. Gunderson was authorized to travel to Kansas City by air coach on May 20 and to return to Seattle by privately owned vehicle at 20 cents per mile not to exceed the cost of travel by common carrier. At some point the following statement, appearing in a different typeface, was added to the travel order: "POV authorized to bring back employee's personal effects and government documents. (In best interest of Government, as freight charges would have been more costly.)" We have been furnished several signed copies of this order, one of which does not contain the added language. Another copy contains the written notations: "This is original T.O. Enables POV use" and relating to the added language "added, on advice/suggestion of A.O."

The employee returned to Kansas City on Friday, May 20, 1983, using the remainder of the previously issued airline ticket. She departed Kansas City by automobile on May 25 and arrived in Seattle on May 31. On June 20, 1983, an amendment to travel authorization 83-42 was signed. This travel order purported to authorize return to Seattle by

common carrier with travel by privately owned vehicle authorized not to exceed the cost of common carrier and to change the provisions of the original order relating to per diem rates.

The certifying officer has asked our determination of Ms. Gunderson's entitlements for her travel back to Kansas City. Specifically he asks if the travel order is valid, if her per diem should be reduced, and if the agency acted properly in authorizing travel on a Friday instead of on Monday.

#### DISCUSSION

##### Travel to Kansas City on Friday

An employee who is scheduled to perform temporary duty on a Monday may not be paid per diem for two consecutive nonworkdays when the employee for his or her personal convenience departs on Friday in order to avoid traveling on the weekend. Two-day Per Diem Rule, 56 Comp. Gen. 847 (1977). In this case the employee proceeded to the temporary duty site on Friday in order to perform work on Saturday. Since work was performed on Saturday, whether officially recorded as time worked for pay purposes or not, the 2-day per diem rule does not apply since by its terms it applies only to delays over 2 consecutive nonworkdays. Accordingly, Ms. Gunderson is entitled to the actual subsistence reimbursement claimed between May 20 and 25, 1983, if otherwise correct.

##### Per Diem in Kansas City

The certifying officer indicates that under departmental regulations governing per diem rates in connection with extended temporary duty assignments an employee's reduced per diem is continued when the employee returns to a temporary duty station within 10 workdays. Ms. Gunderson left Kansas City on Friday, May 6, 1983, and returned to Kansas City on Friday, May 20, 1983, arriving at 7:30 p.m. Since the workday was over before she returned to Kansas City on May 20, a conclusion that she had been absent for 10 workdays would not be unreasonable. Under that interpretation, departmental regulations requiring reduced per diem would not have been violated in authorizing actual expenses not to exceed \$75 per day for the return trip.

Since the information provided by the claimant shows that her expenses during May were increased because she was entitled to subsistence expenses for only a limited number of days, but incurred apartment and furniture rental charges for the full month, the authorization of the maximum actual subsistence rate does not appear unreasonable. Therefore, Ms. Gunderson should be reimbursed her costs while in Kansas City from May 20 to 25, limited only by the \$75 maximum.

#### Return Travel by Privately Owned Vehicle

The original version of travel order 83-42 apparently was signed on May 18, 1983, authorizing the employee to travel from Seattle to Kansas City and return. Return travel was to be by privately owned vehicle, and, as originally written, reimbursement was to be at the rate of 20 cents per mile not to exceed the cost of common carrier. This order contained a statement, apparently added after it was first typed, which authorized travel by privately owned vehicle as being in the interest of the Government. The fact that we have a signed copy of this order which does not include this added authority indicates that the authority to travel by privately owned vehicle in the interest of the Government was added after the travel order was signed.

On June 20, 1983, after travel was completed, the travel order was amended to authorize return travel by air coach with permission to use a privately owned vehicle by personal preference, not to exceed the cost of travel by common carrier.

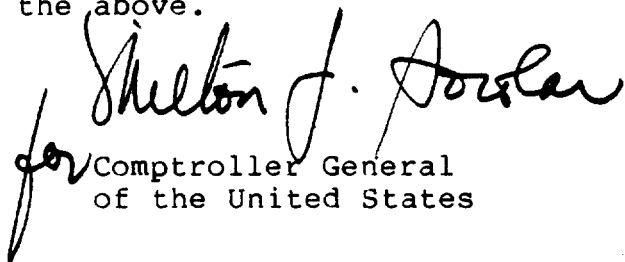
The rule regarding retroactive modification or amendment of travel orders is for primary consideration under the facts presented. Under that rule the right to travel allowances vests in the traveler at the time the travel is performed and the allowances may not be modified retroactively so as to increase or decrease the right to reimbursement which has accrued. There is an exception to this rule in that when an error or omission is apparent on the face of the order it may be corrected or completed retroactively to show the original intent of the order issuing authority. Dr. Sigmund Fritz, 55 Comp. Gen. 1241 (1976) and cases cited therein.

The record does not establish clearly what Ms. Gunderson's orders provided at the time her return

travel to Seattle was performed. As noted previously, we know that language authorizing return travel by privately owned vehicle as being in the interest of the Government was not a part of the travel order when it was signed by the issuing authority. However, we do not know whether this language was inserted with the full knowledge and approval of the issuing authority at some time before the return travel took place.

Since we cannot establish on the present record proper authorization for return travel by privately owned vehicle as being in the best interest of the Government, reimbursement may not be allowed on this basis. If evidence is produced to demonstrate such authorization prior to the travel, reimbursement of full mileage and per diem for travel time by automobile would be allowable. When an authorized official determines that travel performed by privately owned vehicle is in the interest of the Government and that determination is made part of the travel order, reimbursement may be denied after travel has been performed only if the determination was contrary to controlling law or regulation.

The certifying officer's questions are answered as stated herein, and the employee's voucher may be certified, only in accordance with the above.

  
for Comptroller General  
of the United States