



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Louise B. Wise
File: B-251231
Date: September 2, 1993

DIGEST

1. A "family member" who is incapable of caring for himself at an employee's overseas post of duty is authorized to travel at government expense with the employee who is traveling under medical evacuation orders. Although all such "family members" are usually listed on the employee's residence and dependency report prescribed by Foreign Affairs Manual, Vol. 3, § 124.3, the employee, in accord with an agency practice pertaining to employees who are married to other employees of the agency, listed one "family member" on her residence and dependency report, and her spouse listed the other "family member" on his report. In these circumstances, an agency may pay for the travel of a "family member" who is listed on one spouse's residence and dependency report but not on the spouse's report who is being medically evacuated.

2. Foreign Affairs Manual, Vol. 3, § 698.10-2, states that rest and recuperation (R&R) travel should be scheduled at the least possible cost and to take advantage of other official travel by the employee. This does not require a retroactive reduction to the employee's reimbursement for R&R travel performed in April which might have been, but was not, combined with medical evacuation travel due to pregnancy which was planned in March and performed in May. The authorization of the R&R travel was within the discretion of the agency, and in this case it was authorized, and the record does not show that the employee misled the agency to provide a basis for an exception to the general rule that an employee should not be denied reimbursement for travel performed as authorized.

DECISION

At issue in this case is whether Ms. Louise B. Wise, an employee of the U.S. Agency for International Development (AID) serving in Uganda, is entitled to reimbursement for the travel of one of her children who accompanied her in traveling to the United States under her medical evacuation orders. The question arises because Ms. Wise had not declared this child as her dependent for allowances purposes on her residence and dependency report. A second issue is whether the reimbursement for Ms. Wise's, her husband's, and their children's rest and recuperation travel, which had already been approved and paid, and completed less than 2 months earlier than Ms. Wise's medical evacuation, should be retroactively reduced because her medical evacuation travel occurred such a short time later.¹

We conclude that Ms. Wise may be paid travel allowances incident to her medical evacuation travel for the child she had not declared as a dependent, and we find insufficient basis to conclude that her medical evacuation travel retroactively affects reimbursement for the rest and recuperation travel that had previously occurred.

BACKGROUND

Ms. Wise and her husband were both employed by AID and both assigned to the AID Mission in Kampala, Uganda, where they resided together as a "tandem couple," with their two sons. Ms. Wise formally declared one of their sons as her dependent on her residence and dependency report filed with AID for allowance and benefits purposes, and her husband declared the other son as his dependent on his residence and dependency report.

After becoming pregnant in late 1991, Ms. Wise had several discussions with medical officers, and she decided to follow the standard procedure for those assigned in Kampala, which was to be evacuated to the United States on medical travel to deliver her baby. Approval of this medical travel was given by the medical director in Washington and cabled to the mission in Kampala on March 7, 1992. The cable also included a reference to Vol. 3, Foreign Affairs Manual (FAM), § 686.2(c) and described the authority therein for the mission director to approve the travel of "family members" who are incapable of caring for themselves at post to accompany the pregnant mother. Mrs. Wise states that in

¹Ms. Kathleen G. LeBlanc, Controller and Authorized Certifying Officer, USAID Mission to Uganda, Kampala, Uganda, submitted these questions.

early March she discussed with the mission executive officer her plans to have her two children (aged 5 and 8) accompany her under that authority.

In early April 1992, Ms. Wise, her husband and two sons went on rest and recuperation travel (R&R) approved by the mission in Kampala. On May 20, Ms. Wise formally requested the mission director to include her two children on her medical evacuation travel order to authorize them to travel at government expense when she returned to the United States to give birth. On May 26, the mission director denied the request. After Ms. Wise had been evacuated to the United States and had taken her two children with her at her expense, she appealed to the agency's Committee on Exceptions on July 1, 1992, to have her two children retroactively included on her medical evacuation travel order under the authority of 3 FAM § 686.2(c).² On August 10, 1992, the Committee on Exceptions granted the appeal and directed that Ms. Wise's medical evacuation travel order be amended to include her two children. The mission director accomplished this August 26, 1992.

DISCUSSION

The first question is whether the Committee on Exceptions could direct the inclusion on Ms. Wise's evacuation travel order of the child who is not declared on her residence and dependency report as her dependent.

Section 686.2(c) of 3 FAM authorizes a "family member" incapable of caring for himself or herself at post to travel with the patient being medically evacuated [such as Ms. Wise] and be included in the medical travel order.³ Ordinarily, a child would be considered a "family member" of his mother unless there is a compelling reason to conclude otherwise. The definitions section in 3 FAM § 681.6 that applies to section 686.2(c) defines "Dependents" as members

²The Committee on Exceptions may relieve excess travel costs in certain circumstances, but it has no authority to approve an employee's request that would violate the Foreign Service Act of 1980, or any other law or Comptroller General decision. See 6 FAM § 121.1-4. The provisions of the FAM governing allowances for dependents' travel, applicable in this case, are statutory regulations implementing provisions of the Foreign Service Act of 1980. See especially, 22 U.S.C. § 4081(5)(B) (1988).

³The certifying officer does not question that Ms. Wise is entitled to travel allowances for the child who is listed on Ms. Wise's residence and dependency statement as a dependent.

of an employee's family, including children, as indicated in the employee's personnel file maintained by the agency. Although section 681.6 does not specifically designate which document in the employee's personnel file is to indicate his or her dependents, or family members, the document that is normally used to identify dependents of AID employees for government-paid travel is the residence and dependency report prescribed by 3 FAM § 124.3, and maintained in the official personnel file.

Instructions to the employee for completing the residence and dependency report pertaining to dependents state that all (emphasis supplied) qualifying family members, other than a spouse, who will normally travel at government expense and reside abroad with the employee should be named in the "Family Dependents" block of the report. Had Ms. Wise been the only AID employee of her family rather than part of a tandem couple, presumably she would have included the names of both of her children in the "Family Dependents" block of the report, and there would have been no doubt that both of her children would have qualified as "family members" under section 686.2(c). However, we understand that it is a normal practice, although not prescribed by regulation, for the spouses of a tandem couple, in completing their residence and dependency reports, to apportion the family dependents between them as they decide. This practice is to prevent a duplication of benefits due to a family dependent being included on both spouses' travel orders when both are traveling, such as in a relocation situation. In this case each spouse included one of their children on their respective residence and dependency report.

The report itself provides that it may be changed at any time to allow for updates or changes, and in this case, Ms. Wise attempted to determine whether such a change in her report was necessary for her two children to be included on her medical evacuation travel order. In early May, before her evacuation, and before she formally requested the Mission Director to include her children on her travel order, an AID staff member in Washington informed her that "There is no need to do anything with the residency and dependency statement in this circumstance because the medevac regulation identifies the dependent as 'family member'." It appears that this was faulty advice and that it would have been appropriate to make the change. However, since both of Ms. Wise's children qualified and were listed on residence and dependency reports as family dependents according to the usual practice unique to tandem couples, and since Ms. Wise's report could have been changed to satisfy any technical requirement that would have been satisfied had the instructions of the report been followed, we do not question the action of the Committee on Exceptions

to direct that both of her children be included on her medical evacuation order under the authority of 3 FAM § 686.2(c). On that basis she is entitled to reimbursement for the travel of both children.

The second question is whether any adjustment need be made to the reimbursement for the government R&R trip that Ms. Wise and her family took in early April in view of the medical evacuation travel which occurred such a short time later in May. The basis for this question is that 3 FAM § 698.10-2 states: "In scheduling trips, the authorizing officer should seek to make them at the least possible cost to the Government. For example, timing of trips should be arranged to take advantage of: . . . other official travel by the employee or members of family." Apparently, the director of AID's Kampala Mission believes that the R&R travel should have been postponed and combined with the medical evacuation travel, and that if he had been fully aware of the circumstances when he approved the R&R travel for April, he would have delayed it to coincide with the later evacuation travel.

We believe it is significant that 3 FAM § 698.10-2 puts the responsibility of scheduling on the authorizing officer, and 3 FAM § 698.8 states that "The respective overseas establishments of each agency are responsible for scheduling employees and families to take rest and recuperation at Government expense." While the Director might have delayed the R&R travel had he been more aware of the need shortly thereafter for Ms. Wise's medical evacuation, the record does not show an intention on the part of Ms. Wise to mislead him and provide a basis for an exception to the general rule that an employee should not be denied reimbursement for travel performed as authorized. B-216208, Feb. 27, 1985. Accordingly, we see no basis to retroactively reduce reimbursement for the R&R travel that had already been approved, performed, and paid for.



James F. Hinchman
General Counsel