



**Comptroller General  
of the United States**

**Washington, D.C. 20548**

# Decision

**Matter of:** Captain Lorraine M. Souza, USAF

**File:** B-257083

**Date:** January 9, 1995

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## DIGEST

Where member incurs no housing expense at permanent duty station even though the member is not assigned Government quarters, the member is still entitled to receive a Basic Allowance for Quarters under 37 U.S.C. § 403 since there is no requirement either in the statute or the implementing regulations that costs must be incurred to receive the allowance.

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## DECISION

Is a member without dependents who was receiving basic allowance for quarters (BAQ) at her permanent duty station entitled to continue receiving BAQ when she terminates her housing arrangements because of temporary duty incident to a deployment and incurs no housing costs?<sup>1</sup> The member is entitled to continue receiving BAQ while on temporary duty.

The facts giving rise to the questions involve Captain Lorraine M. Souza, USAF, who was living in non-government housing while stationed at Myrtle Beach Air Force Base, South Carolina. She was entitled to BAQ at the without-dependents rate. She received temporary duty orders to deploy to Operation Desert Shield/Storm. Following a briefing where she was told that her household goods could be moved into storage and she could continue to receive BAQ during the deployment, she terminated her lease and moved her household goods into storage. From August 24, 1990, through March 18, 1991, Captain Souza was on temporary duty and was paid BAQ in the amount of \$2,255.34.

The Accounting and Finance Officer (AFO) servicing Captain Souza's account believes that she is not entitled to BAQ because she had no housing costs at her permanent duty station during the time of her deployment on temporary duty.

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<sup>1</sup>This question and related questions are asked by the Director, Defense Finance and Accounting Service (DFAS). The submission has been assigned DFAS Number 93-16-M for control purposes.

The AFO bases his view on certain decisions of this Office and has made a claim against Captain Souza for the amount of BAQ she received during the period of deployment. Captain Souza seeks relief from this debt. The Director of DFAS also asks whether a member not assigned to Government quarters at his permanent station is entitled to BAQ if he incurs no housing costs because he resides with his parents.

Section 403 of title 37, U.S. Code, provides that a member of a uniformed service who is entitled to basic pay is entitled to BAQ if he is not assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service. Executive Order No. 11157 regarding BAQ and the implementing regulations, Department of Defense Finance Management Regulation, Volume 7, Part A, Table 3-2-3, basically reiterate the law. No mention is made of a necessity to incur housing expenses.

The purpose of BAQ is to at least partially reimburse a member for personally procured housing, as shown by the law and the regulations; either the member is provided Government housing or he is entitled to BAQ. How a member who is not provided Government quarters chooses to use the BAQ, which is based on a flat rate system, unlike the Variable Housing Allowance, is not relevant. BAQ is merely the alternate of Government quarters.

Decisions of this Office and various court cases state that BAQ is intended to be a reimbursement for the expense of procuring quarters when none are furnished by the service. However, each of those cases in which such a statement was made involved fact situations where the member was in Government quarters before going on temporary duty and was not entitled to BAQ while away from his permanent duty station, 42 Comp. Gen. 122 (1962); or occupied Government quarters at the permanent station because of the nature of his assignment (special agent) even though he normally could have elected to not have been in Government quarters and received BAQ. Special Agent Michael W. Zigmund, OSI, USAF, B-199728, May 8, 1981.

The decision at 42 Comp. Gen. 122 (1962) was distinguished in our decision at 45 Comp. Gen. 143 (1965), which involved a member who had been assigned Government quarters but prior to her temporary duty to attend college had relinquished the quarters and was receiving BAQ. We concluded that she was entitled to the BAQ for the period of temporary duty. We stated in that decision in referring to 37 U.S.C. § 403 that:

"the plain effect of such provisions is to authorize payment of the basic allowance for quarters to the officer concerned during any period when he or she is entitled to basic pay. . . and he or she is not occupying Government quarters."

Additionally, in 59 Comp. Gen. 489 (1980) we did not object to the payment of BAQ to members, who in anticipation of loss of BAQ because of field duty relinquished their private quarters. In that case, the duty they performed did not meet the definition of field duty. However, they received BAQ without incurring housing expenses.

Accordingly, it is our view that Captain Souza is entitled to BAQ since she was receiving BAQ prior to the temporary duty. Likewise, since the member residing with his parents is not occupying Government quarters, he is entitled to BAQ.

Robert P. Murphy  
General Counsel