



Comptroller General  
of the United States

Washington, D.C. 20548

154528

## Decision

**Matter of:** Staff Sergeant George W. Tehan

**File:** B-260178

**Date:** June 14, 1995

### DIGEST

Claim for reimbursement of medical expenses incurred at civilian treatment center by Army reserve member without prior authorization which claim was denied will not be submitted to Congress under the Meritorious Claims Act, 31 U.S.C. § 3702(d), but should be reviewed again by the Army to ascertain whether authorization would have been granted if line of duty determination had been made in a more timely fashion. If so, our Office would have no objection to reimbursement of appropriately claimed expenses.

### DECISION

This is in response to a request from Staff Sergeant George W. Tehan that our Office submit his claim to Congress under the Meritorious Claims Act (31 U.S.C. § 3702(d)) for medical expenses he incurred at civilian hospital facilities following an automobile accident. We conclude that this matter is resolvable by the Army, and therefore need not be submitted to Congress as a meritorious claim.

On September 28, 1991, Staff Sergeant Tehan was released from a U.S. Army Reserve field training site to attend a wedding and reception and during the return trip was involved in a single car automobile accident in which he sustained severe back injuries. He was hospitalized for 18 days for emergency treatment before being transferred to the Rehabilitation Institute of Chicago for further treatment. Apparently, authorization for the additional expense for the treatment was not requested.

A "Line of Duty" investigation was begun on September 30, 1991, to ascertain whether the accident occurred in the line of duty which would entitle Staff Sergeant Tehan to military medical care. Apparently, questions arose concerning his operation of the vehicle. As a result in January 1992, an initial determination was made that the injuries did not occur in the line of duty. However, in January 1993, following an appeal, the finding was reversed and the injuries were determined to have occurred "in the line of duty." Following this later finding, the Army paid the medical bills relating to the emergency care following the accident. However, because Staff Sergeant Tehan had not

requested or obtained prior authorization for the treatment he received following his emergency care, the remainder of his medical bills were not reimbursed.

The matter was submitted to the Claims Group of this Office by the Army's Office of the Surgeon General with the recommendation that it be submitted to the Congress as a meritorious claim. This recommendation noted the Army's delay in arriving at the favorable line of duty determination and indicated that if Staff Sergeant Tehan had requested medical care from the Army before January 1993, it would have been denied on the basis of the previous adverse line of duty determination.

Regulations governing the medical care of Army reservists are contained in Army Regulation 40-3. Reservists are authorized medical care at government expense for injuries sustained in the line of duty. Medical care from nongovernmental sources may be authorized only if approved in advance, except for emergency situations. Accordingly, by settlement Z-2869056, our Claims Group agreed that the payment of the emergency medical bills of Staff Sergeant Tehan was proper but concluded that there was no basis for additional payments for the nonemergency care given.

Considering the entire record and the fact that the Office of the Surgeon General believes relief should be granted, we believe it appropriate that the Army re-examine the matter. During the year delay in resolving the line of duty determination, Staff Sergeant Tehan was precluded from requesting and obtaining the required approvals. We note that Army Regulation 40-3 does not address the impact of the reversal of a line of duty determination. To establish whether the expenses in question may be properly paid under existing appropriations, we suggest that the Army determine whether further medical treatment would have been approved in this case had the Army arrived at a line of duty determination favorable to Staff Sergeant Tehan in a more timely fashion. If the Army reaches such a determination, our Office will have no objection to reimbursement of the appropriate expenses.

In the alternative, if on re-examination the Army does not resolve the matter, the Army may wish to consider submitting it to the Army Board for the Correction of Military Records, which is authorized under 10 U.S.C. § 1552 to correct a military record to eliminate an error or remove an injustice.

Because these avenues exist for resolution of the matter by the Army under its own authority, the matter is not appropriate for submission to the Congress as a meritorious claim.

/s/  
for Seymour Efros  
Robert P. Murphy  
General Counsel