

B-257916

January 10, 1995

Ms. Jean Shanahan, Chief
Branch of Quality Assurance
Division of Accounting Management
Department of the Interior
Bureau of Indian Affairs
P.O. Box 127
Albuquerque, New Mexico 87103

Dear Ms. Shanahan:

This is in response to your letter dated July 13, 1994,¹ concerning the claim of Ms. for relocation expenses for her 21-year old daughter.

Ms. was transferred from Zuni, New Mexico, to Pawnee, Oklahoma, in January 1994. Her travel authorization authorized certain relocation expenses for "immediate family: daughter only - Age 21."² Upon audit, after Ms. completed her permanent change of station, the Bureau of Indian Affairs disallowed Ms. claim for her daughter's portion of the relocation expenses involved.³ Ms. has now reclaimed that disallowed amount. She notes that her daughter is a dependent member of her immediate family for federal income tax purposes and that she relied on her travel authorization.

The Bureau of Indian Affairs report notes that Ms. daughter was 21 years old at the time of her transfer and is not physically or mentally incapable of self-support, and that the travel authorization erroneously listed her daughter as a member of Ms. "immediate family."

¹Reference: 711/Branch of Payments.

²Travel Authorization No. B-002304034, dated December 27, 1993.

³The total amount of the temporary quarters subsistence expenses, mileage expenses for a second privately owned vehicle, and per diem allowance for Ms. daughter which was disallowed is \$757.36.

For purposes of the Federal Travel Regulation (FTR), 41 C.F.R. § 302-1.4(f) (1994), in relevant part defines "immediate family" to mean any member of the employee's household at the time he/she reports for duty at the new permanent duty station including "(ii) Children of the employee * * * who are unmarried and under 21 years of age, or who, regardless of age, are physically or mentally incapable of self-support."

Since Ms. daughter was 21 years of age and was not physically or mentally incapable of self-support, she did not fulfill either one of the two conditions listed in 41 C.F.R. § 302-1.4(f)(ii) (1994), and cannot be considered as a member of Ms. s immediate family for purposes of the FTR. Hence, Ms. is not entitled to the relocation expenses claimed on behalf of her daughter. See Employee of Federal Agency, B-253911, Nov. 29, 1993.

In response to Ms. contentions, even if her daughter is a dependent member of her immediate family for federal income tax purposes, that does not necessarily mean she would be considered as such for purposes of entitlement to relocation expenses . Also, while it is unfortunate that Ms. relied on the erroneous travel authorization, all federal employees are chargeable with constructive knowledge of the federal statutes and regulations concerning travel and relocation of employees. The FTR is promulgated pursuant to statutory authority, has the force and effect of law, and may not be waived or modified by the employing agency or our Office, even under extenuating circumstances. B-249930.2, Aug. 19, 1993, reconsidering and affirming, B-249930, Jan. 27, 1993. See also , 64 Comp. Gen. 472 (1985).

Accordingly, the claim of Ms. is denied.

Sincerely yours,

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

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DIGEST

Entitlement to relocation expenses for 21-year old daughter of federal employee depends on whether the daughter is considered a member of the employee's immediate family, under the Federal Travel Regulation, 41 C.F.R. § 302-1.4(f)(ii) (1994). Since the daughter did not fulfill either one of the two conditions set forth in that provision, namely (1) persons who are unmarried and under 21, or (2) who, regardless of age, are physically or mentally incapable of self-support, we deny the employee's claim for the relocation expenses of her daughter.