



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

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B-168661

November 15, 1973

The Honorable
The Secretary of the Air Force

Dear Mr. Secretary:

Further reference is made to a letter dated June 1, 1973, from the Assistant Secretary of the Air Force, Manpower and Reserve Affairs, requesting a decision as to whether the principle enunciated in 49 Comp. Gen. 548 (B-168661) (1970), concerning the [payment of station allowances] is for application in the case of remote and isolated Alaskan sites where the movement of dependents, automobiles, and household goods have been authorized concurrently with the movement of the member.

The request has been forwarded by the Per Diem, Travel and Transportation Allowance Committee and assigned PDTATAC Control No. 73-29.

In his letter the Assistant Secretary says that the members involved are assigned to remote and isolated duty posts to which dependents are not permitted to accompany the member and at which dependent support facilities are virtually nonexistent. The dependents have been authorized to travel in a military dependent status to another location in Alaska at which housing, schools, medical support, etc., are available. Members are said to travel from isolated duty stations for periodic visits to the location to which dependents have been authorized to travel.

Since the member's duty station and the residence of his dependents both are in Alaska, the view is expressed that the basic requirements of paragraph 14300-1 of the Joint Travel Regulations (Member with Dependents) were satisfied. Under paragraph 14300-3 of the regulations, dependents are considered as residing in the vicinity of a member's duty station for any period during which they actually reside in the country within which the member's permanent duty station is located.

The Assistant Secretary says further that since our above-cited decision relates to dependents who were authorized to travel to a place outside the United States not in the vicinity of the member's

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duty station and who were not residing outside the United States in a military dependent status, it was believed that the decision was not applicable to circumstances in which a member is assigned to remote and isolated Alaskan sites. Additionally, he states as follows:

"It has since come to the attention of the DoD Per Diem, Travel and Transportation Allowance Committee that the members here under discussion were serving 12-month tours. This introduced the possibility that the provisions of JTR, par. M 7000, item 16, would preclude transportation of dependents under that paragraph and that the provisions of JTR, par. M 7005, would instead be considered to be applicable. If JTR, par. M 7005, were considered to be applicable, then station allowances as prescribed in JTR, par. H 4305, would in turn be applicable rather than the general provisions of JTR, par. H 4301, with the possible requirement to consider these cases as governed by the principle of 49 Corp. Gen. 548. To resolve the issue, the case is referred to you for decision. Less than 100 cases currently are being paid allowances in this area."

It is our understanding that for several years prior to August 1972, members assigned to remote Alaskan sites were authorized travel and station allowances for their dependents on the basis that they were serving accompanied tours. Apparently in August 1972, the Secretary of the Air Force delegated authority to the Commander, Alaskan Air Command, to permit travel by dependents to designated locations in Alaska. It would therefore appear that after that date the travel of members' dependents described in the Assistant Secretary's letter was on the basis of travel to a designated location.

We have also been informed that the members referred to in the Assistant Secretary's letter are assigned to remote isolated locations in Alaska such as Clear, Fire Island and Murphy Dome.

Under the provisions of 37 U.S.C. 405, the Secretaries concerned may authorize the payment of a per diem, considering all elements of the cost of living to members of the uniformed services and their dependents including the cost of quarters, subsistence, and other necessary incidental expenses, to such member "who is on duty" outside the United States or in Hawaii or Alaska, whether or not he is in a travel status.

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Pursuant to the above authority, payment of station allowances is provided in Part G, Chapter 4 of Volume I, Joint Travel Regulations, including allowances for members with dependents. Paragraph H4300 of the regulations defines a "member with dependents" to mean a member:

- "1. * * * who is authorized to have his dependents reside at or in the vicinity of his duty station outside the United States and whose dependents do so reside;
- "2. * * * who is joined by or who acquires dependents while serving outside the United States provided he has at least 12 months remaining on his overseas tour after arrival or acquisition of dependents, or serves the accompanied tour of duty at that station, whichever is considered to be in the best interests of the Government as determined by the Service concerned * * *."

Item 17 (formerly item 16) of paragraph H7000 of the Joint Travel Regulations precludes the transportation of dependents at Government expense for travel to a duty station outside the United States unless the member will have a minimum of 12 months remaining in his overseas tour after scheduled arrival of dependents.

Department of Defense (DOD) Directive 1315.7, October 20, 1970, "Overseas Duty Tours of Military Personnel," provides policies for the length of overseas duty tours and related policies affecting dependents of those members assigned to duty overseas. Enclosure I to the Directive lists the length of tours for members (other than the Defense Attache System) "accompanied by dependents" and "all others," i.e., without dependents. For Clear, Fire Island and Murphy Dome, Alaska, there is no tour for members accompanied by dependents, the only tour authorized being an "all others" tour for 12 months.

Paragraph V.C. of the Directive provides:

- "2. The approval of the Assistant Secretary of Defense (ASD) will be obtained by any Military Department desiring to move dependents to any area where dependents of that Department are not currently authorized. Similarly, commanders will not authorize military personnel to have their dependents

present in the vicinity of their overseas duty station unless the station is within an area where an 'accompanied by dependents' tour is authorized (enclosure 1).

* * * * *

"10. Military personnel who are joined by or who acquire dependents while serving in an overseas area where there is an 'accompanied by dependents' tour, although otherwise entitled, will not be authorized station allowances as members with dependents or to transoceanic or overseas land transportation of dependents at government expense incident to their next permanent change of station unless they have at least 12 months remaining on their overseas tour after arrival or acquisition of dependents, or serve the accompanied tour of duty at that station, whichever is considered to be in the best interests of the government as determined by the Service concerned."

As the members in the described circumstances were serving in a location at or near which dependents were not authorized in accord with the above-cited directive, since no "accompanied by dependents" tour was permitted, there was no entitlement to station allowances as members with dependents.

It appears that after August 7, 1972, the travel of dependents was considered as travel to a designated location when the member was assigned to a restricted location.

Paragraph M7005-1 of the Joint Travel Regulations provides that a member transferred by permanent change-of-station orders to a restricted area will be entitled to transportation of dependents. Subparagraph 2 of this regulation provides that when the old duty station is located in the United States, transportation of dependents is authorized to any of the following places:

"1. any place in the United States the member may designate;

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- "2. the point of actual departure of dependents from the United States in conjunction with travel to a place outside the United States designated by the member;
- "3. Puerto Rico, Alaska, Hawaii, or any territory or possession of the United States, if authorized or approved by the Secretary of the service concerned or his designated representative (in the absence of such authorization or approval, the provisions of item 2 will apply)."

In accordance with paragraph 117001 of the Joint Travel Regulations, if a member certifies that the place designated is in fact the place where his dependents will establish a bona fide residence during the interim period until further transportation is authorized, transportation of dependents is authorized at Government expense to a designated place in Alaska, if authorized or approved by the Secretary of the service concerned, or his designee. Accordingly, after August 7, 1972, transportation of dependents of members serving at remote Alaskan sites would appear to be proper in view of the reported delegation of such authority to the Commander of the Alaskan Air Command and the apparent utilization of such authority.

However, to be entitled to station allowances as a "member with dependents," not only must authority exist for dependent travel to an overseas area--such as in the case of a move to a designated place--but there must also be authority for dependents to reside there in a military dependent status, i.e., on a "with dependents" tour, or in accord with paragraph 114305 of the regulations for a member who was previously authorized a "with dependents" tour.

In 49 Comp. Gen. 548, supra, we stated:

"* * * In cases where dependents, who are not authorized to accompany a member to an overseas duty station, move from the United States to an overseas residence as a designated place, their overseas residence is purely a matter of personal choice and, as such, is separate and apart from the member's overseas duty.

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"Since * * * the dependents would not be residing outside the United States in a military dependent status but because they elected to establish a residence there for personal reasons, it is our opinion that any increased living costs incurred by them do not come within the contemplation of 37 U.S.C. 405."

In the case before us, members serve a 12-month "all others" tour at either Clear, Fire Island, or Murphy Dome, Alaska. There is no provision for an accompanied tour at these locations. In accord with paragraph V.C.2 of DOD Directive 1315.7, dependents are not authorized to be present in the vicinity of such stations where no "accompanied by dependents" tour is authorized. Where, incident to a member's tour of duty at a restricted station, dependents are permitted to choose a designated location in Alaska, Hawaii, Puerto Rico, or a territory or possession of the United States, in lieu of a location in the continental United States, clearly, the choice of a residence in Alaska during the "all others" tour at a remote site in Alaska, cannot serve to change the nature of the member's tour of duty to an "accompanied by dependents" tour. Nor can it afford the member station allowances as a member with dependents which are otherwise available only for a member serving an accompanied tour.

In accord with 49 Comp. Gen. 548, supra, the provisions of paragraph 4305 of the regulations would preclude payment of station allowances as a "member with dependents" where the member's prior permanent duty station was located in the continental United States. Accordingly, your question is answered in the affirmative.

Therefore, the payment of station allowances as members with dependents to members serving "all others" tours at remote and isolated locations in Alaska, is not proper. However, in view of the longstanding administrative practice of allowing station allowances in the described circumstances, and since it appears that payment of such allowances was based on a misunderstanding of the applicable law and regulations, we will not question those payments. However, such practice should be discontinued.

Sincerely yours,

Paul G. Darbling

For the

Comptroller General
of the United States