



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

31154

B-178347

July 9, 1973

Major David S. Terman
272 A South Monaco Street
Denver, Colorado 80220

Dear Major Terman:

You have requested a review of our Transportation and Claims Division settlement dated March 14, 1973, which disallowed your claim for reimbursement for travel of your dependents (\$36.96) and for a dislocation allowance (\$215.40) incident to your humanitarian transfer to Lowry Air Force Base (AFB), Colorado.

On April 23, 1972, while you were stationed at the USAF Hospital (AFIC), Tinker AFB, Oklahoma, your wife and two children traveled from Midwest City, Oklahoma, to Denver, Colorado, where your infant child was admitted to Children's Hospital for observation of an acute illness. Because your child required continuing treatment in Denver, you were granted a humanitarian transfer to the USAF Dispensary, Lowry AFB, Colorado, by Special Order No. A-1106 dated May 31, 1972.

Your claim for a dislocation allowance and reimbursement for the costs of your dependents' travel on April 23, 1972, was disallowed by the settlement of March 14, 1973, on the basis of paragraphs M9003-1 and M7003-4, respectively, of the Joint Travel Regulations (JTR).

Paragraph M7000-8, JTR, specifically provides that transportation of dependents is not authorized at Government expense where the dependents depart the old station prior to issuance of permanent change-of-station orders or prior to receipt of official notice that such orders would be issued. Paragraph M7003-4 provides for payment of a travel allowance for dependents' travel prior to the issuance of orders provided the voucher is supported by a certificate of the commanding officer, or his designated representative, of the headquarters issuing the orders that the member was advised prior to the issuance of the change-of-station orders that such orders would be issued. This latter proviso has reference to instances where all provisions and requirements of the orders to be issued have been finally determined and all that remains to be done is the writing of the orders. See decision B-160968, April 14, 1967, copy enclosed.

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Your present claim is not supported by a statement of the appropriate authority that you were advised prior to the issuance of the change-of-station orders that such orders would be issued. Moreover, it appears that a certificate of this nature properly could not be issued, as it was only after your dependents' travel to Denver on April 23, 1972, that your child's requirement for continued treatment in Denver necessitated your request for a humanitarian transfer, resulting in permanent change-of-station orders dated May 31, 1972, over a month after the travel of your dependents from Midwest City to Denver.

Consequently, reimbursement for the cost of your dependents' travel is not authorized incident to your transfer to Lowry Air Force Base.

With respect to your claim for a dislocation allowance, paragraph H9004-2 of the regulations provides that a dislocation allowance is not payable in the circumstances outlined in paragraph H7000-8, cited above, where the dependents travel prior to the issuance of orders and the voucher is not supported by a certification as to prior notice to the member. In view of the above there is no authority for payment of a dislocation allowance to you as a member with dependents.

However, paragraph H9001-2 provides that the term "member without dependents" includes a member who is not entitled to transportation of dependents under the provisions of paragraph H7000 in connection with a change of permanent station. In this connection, paragraph H9003-1 provides that a member without dependents who is transferred to a permanent station where he is not assigned to Government quarters is entitled to a dislocation allowance. Since you are not entitled to transportation of your dependents under paragraph H7000-8, thus placing you within the definition of a member without dependents in paragraph H9001-2, and you presumably were not assigned to Government quarters at Lowry Air Force Base, you are entitled to a dislocation allowance equal to quarters allowance for one month as a member without dependents (\$178.80) in accord with paragraph H9002 which provides that where a member is, for dislocation allowance purposes, considered a member without dependents he will be paid the basic allowance for quarters prescribed for a member without dependents in his pay grade even though he may have dependents for the purpose of entitlement to basic allowance for quarters.

While we are aware of the unfortunate circumstances surrounding your claim, neither reimbursement for dependent travel nor dislocation allowance at the with dependents rate is allowable under the above

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regulations, incident to your transfer to Lowry AFB. These regulations have the force and effect of law and cannot be waived by this Office. Accordingly, we are instructing our Transportation and Claims Division to allow payment to you in the above amount, if otherwise proper.

Sincerely yours,

PAUL G. DEMBLING
Acting Comptroller General
of the United States