

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

FILE: B-182741

DATE: FEB 28 1975

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MATTER OF: Transportation of household goods--  
Commander John M. Brennan

DIGEST: Military member released from active duty and placed on temporary disability retired list in 1964 and who is not undergoing hospitalization or medical treatment at time of retirement or during the 1-year period thereafter is not entitled to movement of household goods to his home of selection at Government expense under 1 JTR, para. 10260-4 (Change 109, November 1, 1961).

This action is in response to a letter dated October 14, 1974, with enclosures, from Commander John M. Brennan, USA, Retired, 300 Hilltop Drive, Chula Vista, California 92010, requesting reconsideration of our Transportation and Claims Division settlement dated July 29, 1974, which disallowed his claim for reimbursement for the cost of storage and shipment of his household goods to his home of selection subsequent to his placement on the temporary disability retired list on the basis that he failed to ship his household goods within the allowable period after being retired.

The record shows that the member was placed on the temporary disability retired list effective September 18, 1964, and transferred to the permanent disability retired list effective September 18, 1969. Commander Brennan contends that the September 18, 1964 date is incorrect and that it was not until late November 1964 that he was released from active duty. However, as indicated below even if the later date is correct, the member's rights would not be increased.

It appears from the documents which the member has submitted to support his claim that he believes the 1-year limitation for shipment of his household goods begins to run on September 18, 1969, the date he was placed on the permanent disability retired list, rather than September 18, 1964, the date he was placed on the temporary disability retired list.

A member's entitlement to the transportation of household goods incident to his release from active duty and retirement

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is based upon the provisions of law and regulations in effect at the time of his retirement. Since the member was released from active duty on September 18, 1964, he became entitled to travel and transportation allowances for himself, his dependents and his household goods to his home of selection within 1 year after that date by virtue of the provisions of 37 U.S.C. 435 (1964 ed.), and the implementing provisions of the Joint Travel Regulations.

Paragraph 10260 of those regulations (Change 169, dated November 1, 1961, effective August 17, 1961), authorizes home of selection shipments of household effects when a member, who is otherwise eligible, is retired. This regulation further provides in part that, except as provided in subparagraph 4, the household goods to be shipped must be turned over to a transportation officer or carrier for shipment within 1 year following termination of active duty.

The exception to this time limitation contained in subparagraph 4 relates to situations where a member is undergoing hospitalization or medical treatment and provides:

"A member, entitled to shipment of household goods to a home of selection, who is confined in, or undergoing treatment at, a Government hospital (or a civilian hospital at Government expense) on the date of termination of active duty, will be entitled to shipment and storage of household goods \* \* \* except that the right to noncontemporary storage and shipment of household goods to a home of selection will accrue until 1 year after the date of discharge from the hospital or termination of medical treatment, or 2 years after the date of termination of active duty, whichever is earlier. Further extension of this time limit may be approved by the Secretary of the service concerned or his designated representative."

The above-quoted language clearly specifies that as a condition precedent to the application of this exception to the general rule regarding the limiting of the shipment of household goods to the 1-year period following termination of active duty, a member must be undergoing medical treatment at a Government or civilian hospital on the date of his

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termination of active duty. No other exceptions were provided for in paragraph 18260 of these regulations during the period in question.

There is nothing in the file to remotely suggest that the member was hospitalized or undergoing medical treatment at the time of his release from active duty in 1964. Under the regulations then in effect, the member would have to have been hospitalized or undergoing medical treatment at the time of his retirement in order to be eligible for an extension of the 1-year limitation. It is to be noted, that even if the member was hospitalized at the time of his release from active duty and granted such an extension, under the provisions of paragraph 18260-4 he would be entitled to a maximum of 2 years within which to transport his household goods to his home of selection at Government expense.

The record shows the member transported his household goods on October 15, 1973, almost nine years after his release from active duty.

Accordingly, the action taken by our Transportation and Claims Division in Commander Greenman's case is sustained.

R.F. KELLER

Deputy Comptroller General  
of the United States