

DECISION

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

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FILE: B-183814

DATE: MAR 10 1976

MATTER OF: Clarence R. Foltz - Per diem for
lodging in noncommercial quarters

DIGEST: Employee may not be paid per diem under the lodgings-plus system based on payment of \$14 per night for lodging at home of son's neighbor absent information showing that the \$14 amount reflects additional expenses incurred by host as a result of the employee's stay. However, the agency may issue regulations providing that, when it is known in advance that employees will lodge with friends or relatives, it may determine that the lodgings-plus system is inappropriate and establish specific per diem rates under FTR para. 1-7.3c.

Mr. R. G. Bordley, Chief, Accounting and Finance Division, Office of the Comptroller, Defense Supply Agency (DSA), requested a decision concerning the allowability of Mr. Clarence R. Foltz' claim for per diem incident to his temporary duty assignment in Richmond, Virginia, during February 1975. Incident to such duty Mr. Foltz spent 2 of the 3 nights for which lodgings were required in Roanoke, Virginia, where he stayed with his son's neighbor. The propriety of computing the per diem allowance under the lodgings-plus system on the basis of the \$14 amount paid to the son's neighbor for lodgings for each of the 2 nights is questioned since the quarters were in a private residence and the amount paid slightly exceeds the amount paid by Mr. Foltz for commercial accommodations for the intervening night.

In requesting an opinion concerning Mr. Foltz' per diem entitlement, DSA cites our decision 52 Comp. Gen. 78 (1972) which held that claims involving noncommercial lodgings should be supported by information indicating that lodging charges are the result of expenses incurred by the party providing the lodging. The agency states that compliance with this decision is administratively burdensome in view of the difficulty involved in verifying the required cost information. The DSA suggests that per diem allowances payable for lodgings at noncommercial establishments be based instead on the "lowest amount charged for a suitable accommodation available in any commercial lodging within a reasonable distance of the temporary or newly assigned duty station." It is suggested that in the event an

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employee accepts noncommercial lodgings at a higher cost, he be obliged to submit the type of substantiating documentation referred to in 52 Comp. Gen. 78, supra.

Paragraph 1-7.3c of the Federal Travel Regulations (FPMR 101-7) (May 1973) as in effect at the date of Mr. Foltz' temporary duty assignment and at the present time, provides as follows regarding the agency's responsibility for prescribing individual rates when lodgings are required:

"c. When lodgings are required. For travel in the conterminous United States when lodging away from the official station is required, agencies shall fix per diem for employees partly on the basis of the average amount the traveler pays for lodgings. To such an amount (i. e., the average of amounts paid for lodging while traveling on official business during the period covered by the voucher) shall be added a suitable allowance for meals and miscellaneous expenses. The resulting amount rounded to the next whole dollar, if the result is not in excess of the maximum per diem, shall be the per diem rate to be applied to the traveler's reimbursement in accordance with the applicable provisions of this part. If the result is more than the maximum per diem allowable, the maximum shall be the per diem allowed. No minimum allowance is authorized for lodging since those allowances are based on actual lodging expenses. Receipts for lodging costs may be required at the discretion of each agency; however, employees are required to state on their vouchers that per diem claimed is based on the average cost to him for lodging while on official travel within the conterminous United States during the period covered by the voucher. An agency may determine that the lodgings-plus system as prescribed herein is not appropriate in given circumstances as when quarters or meals, or both, are provided at no cost or at a nominal cost by the Government or when for some other reason the subsistence costs which will be incurred by the employee may be accurately estimated in advance. In such cases a specific per diem rate may be established and reductions made in accordance with this part provided the exception from the lodgings-plus method is authorized in writing by an appropriate official of the agency involved."

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Our holding at 52 Comp. Gen. 78, supra, did not involve payment of a per diem allowance under the above-quoted authority. Rather, it involved the payment of a temporary quarters allowance incident to an employee's permanent change of station. Pointing out that the applicable regulation provided for payment of a temporary quarters allowance based upon actual receipts, we stated:

"We point out that in the past we have allowed reimbursement for charges for temporary quarters and subsistence supplied by relatives where the charges have appeared reasonable; that is, where they have been considerably less than motel or restaurant charges. It does not seem reasonable or necessary to us for employees to agree to pay relatives the same amounts they would have to pay for lodging in motels or meals in restaurants or to base such payments to relatives upon maximum amounts which are reimbursable under the regulations. Of course, what is reasonable depends on the circumstances of each case. The number of individuals involved, whether the relative had to hire extra help to provide lodging and meals, the extra work performed by the relative and possibly other factors would be for consideration. In the claims here involved as well as similar claims we believe the employees should be required to support their claims by furnishing such information in order to permit determinations of reasonableness."

The above rule, which has been applied in B-180623, August 14, 1975, and B-182135, November 7, 1974, is dictated by the language of paragraph 2-5.4 of the FTR which, in part, limits reimbursement for occupancy of temporary quarters to subsistence expenses actually incurred.

We believe that the principles expressed in 52 Comp. Gen. 78, supra, are generally applicable to the determination of a per diem rate for other than temporary quarters subsistence expenses. However, the language of paragraph 1-7.3 of the FTR, quoted above, and the language of that regulation as revised effective May 19, 1975, permit the establishment of a "specific per diem allowance" upon an administrative determination that the lodgings-plus system is inappropriate to a given set of circumstances.

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We have recognized that the lodgings-plus system may well be inappropriate in the situation where an employee occupies a trailer or other recreational vehicle in lieu of commercial facilities while on a temporary duty assignment. In such cases we have held that it would be appropriate for the agency involved to establish a specific per diem rate to be paid in connection with the employee's occupancy of a mobile home or similar accommodation. B-175322, April 28, 1972, and B-178310, June 6, 1973.

In line with the cited cases we believe it would be appropriate for DSA, as well as other agencies, to establish a specific per diem rate when it is known in advance that employees will not use commercial facilities but stay with friends or relatives. We do not, however, agree with DSA's suggestion that the per diem rate payable should be based on the lowest amount charged for suitable commercial accommodations in the area, even where the agency is justified in establishing a specific per diem rate under 1-7.3c of the FTR. As was stated in 52 Comp. Gen. 78, supra, it is neither necessary nor reasonable for an employee to pay commercial rates to friends or relatives for lodgings or meals. In our opinion, a reasonable basis for reimbursing friends or relatives for the use of noncommercial lodgings or meals would be an amount considerably less than motel or restaurant charges.

In view of the above Mr. Foltz may not be paid a per diem allowance based on the \$14 daily amount claimed as lodging expenses inasmuch as that rate appears to have been designed to assure his recovery of a maximum per diem allowance and inasmuch as he has provided no information indicating that the \$14 amount bears any relation to the additional expense incurred by his son's neighbor as a result of his stay. The agency should request Mr. Foltz to supply additional information which will permit it to make a determination of a reasonable lodging cost for the purpose of computing the per diem allowance in accordance with the guidelines in 52 Comp. Gen. 78. In order to facilitate the processing of claims for per diem in the future, DSA may issue regulations under FTR § 1-7.3c providing for establishment of specific per diem rates in situations where employees will lodge with friends or relatives.

~~DEPUTY~~

~~Deputy~~ Comptroller General
of the United States