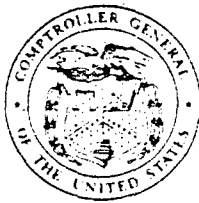


DECISION

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

60198

FILE: B-184386

DATE: NOV 21 1975

MATTER OF: Robert B. Andre - Reimbursement for Travel Expenses

97700

DIGEST:

Military member retired and received mileage allowance under Joint Travel Regulations (JTR) for travel from last duty station (Tucson, Arizona) to selected home (Springfield, Virginia). He was concurrently appointed to manpower shortage position thereby becoming eligible for greater mileage allowance plus per diem for travel from residence (Tucson, Arizona) to point of employment (Washington, D.C.) under Federal Travel Regulations (FTR). He may receive larger amount authorized under FTR less amount already received under JTR since allowances are similar and there is no duplicate payment.

This action is in response to a request for an advance decision received from the Authorized Certifying Officer, Office of the Assistant Secretary for Administration, Department of Housing and Urban Development (HUD), concerning the claim of Robert B. Andre for mileage and per diem for change of station travel from Tucson, Arizona, to Washington, D.C., as a new appointee to HUD.

Mr. Andre retired from the United States Air Force shortly before his appointment to HUD. As authorized by 1 Joint Travel Regulations, para. M4158 (change 234, August 1, 1972, and change 254, April 1, 1974), Mr. Andre received a mileage allowance of 6 cents per mile from his last duty station (Tucson, Arizona), to his selected home (Springfield, Virginia) upon retirement. We are assuming that Mr. Andre received his appointment to HUD, or was given assurances that he would receive his appointment, while he was still a resident of Tucson, Arizona. He traveled from Tucson to Washington between August 24, 1974, and September 1, 1974, and his appointment to HUD took effect on September 15, 1974. Mr. Andre's travel request for this trip was executed December 4, 1974, and was subsequently approved January 13, 1975. His travel voucher, dated December 4, 1974, to HUD claims \$25 per diem for 7 days and 4 cents per mile for 2,250 miles, resulting in a total claim of \$265.

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The general rule is that, unless otherwise provided by statute or regulation, employees must place themselves at their first duty station without expense to the Government. 22 Comp. Gen. 885, 886 (1943). However, section 5723 of title 5, United States Code (1970), provides an exception for manpower shortage positions in pertinent part as follows:

"(a) Under such regulations as the President may prescribe and subject to subsections (b) and (c) of this section, an agency may pay from its appropriations—

"(1) travel expenses of a new appointee,
* * * to a position in the United States for
which the Civil Service Commission determines
there is a manpower shortage * * *

* * * * *

from his place of residence at the time of selection
or assignment to his duty station. * * *"

The position to which Mr. Andre was appointed, Computer Programmer, GS-0334, had been designated a manpower shortage position by the Civil Service Commission. Federal Personnel Manual ch. 571, appendix A (1969 ed. July 9, 1973). Consequently, Mr. Andre was eligible for travel expenses properly authorized or approved by HUD in accordance with the Federal Travel Regulations (FPMR 101-7) para. 2-1.5f (May 1973).

The fact that Mr. Andre traveled before he was appointed does not defeat his entitlement to travel expenses as section 5723(c) of title 5, United States Code (1970) provides that:

"An agency may pay travel and transportation expenses under subsection (a) of this section whether or not the individual selected has been appointed at the time of the travel."

Additionally, the fact that his travel request was not executed and approved until after the travel was performed does not defeat his entitlement. B-167963, October 17, 1969.

Mr. Andre has claimed a mileage allowance of 4 cents per mile rather than the 12 cents per mile authorized by the FTR because the Air Force

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has already reimbursed him for the trip from Tucson, Arizona, to Springfield, Virginia, at the rate of 8 cents per mile. It appears that Mr. Andre received his civilian appointment concurrently with his release from the Air Force and is otherwise eligible to be reimbursed in the full amount authorized under the FTR. Therefore, the key issue is whether reimbursement by the Air Force for mileage under the Joint Travel Regulations (JTR) precludes reimbursement by HUD for the 4 cents per mile difference in the mileage allowances, plus the per diem allowance.

. In decision B-157413, October 13, 1965, a member of the Armed Forces who was released from active duty and, concurrently with his release, was appointed to a civilian position elected to transport household goods under authority pertaining to his military status. While his claim for further reimbursement under civilian regulations was denied because it would have constituted a duplicate reimbursement, it was stated that the member was entitled to the larger of the two allowances. It was also indicated that when military and civilian allowances are computed in the same terms and the employee has received the smaller amount, he may then receive the difference between the two if he is otherwise eligible for the larger amount.

In decision B-181994, April 23, 1975, 54 Comp. Gen. 892, a female civilian employee was allowed mileage and per diem for a permanent change of station even though her husband, a military member, received permanent change of station expenses under the JTR for the move. The only limitation was that the couple could not receive duplicate payments for the same purpose.

In the instant case, Mr. Andre is not claiming a duplicate payment; he is claiming the difference between the lesser amount already paid him under the JTR and the greater amount for which he is eligible under the FTR. The JTR provides for a mileage allowance which covers transportation, subsistence, lodging, and incidental expenses. The additional mileage and per diem allowances claimed under the FTR cover the same types of expenses. Therefore, Mr. Andre may be reimbursed by HUD for the difference per his voucher, if otherwise proper.

K.F. KELLER

Comptroller General
of the United States