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JTR

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DECISION



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

SEP 29

FILE: B-186677

DATE: SEP 29 1976

MATTER OF: [REDACTED] USMC

DIGEST:

Marine Corps member on temporary duty assignment who commuted 120 miles daily between his permanent residence and temporary duty station, is entitled to be paid mileage allowance for such travel, but not to exceed amount he would have received had he remained at temporary duty station, where commuting travel was not approved as advantageous to Government but was instead merely permitted for reasons of member's personal convenience. See 1 JTR, M4212, ch. 252.

This action is in response to a letter dated May 7, 1976, from the Disbursing Officer, Marine Corps Finance Center (reference CDO-RPP-jm 7240), requesting an advance decision as to the propriety of making payment on a voucher in the amount of \$418.60, in favor of Sergeant Major [REDACTED], USMC, [REDACTED], who claims entitlement to be reimbursed for travel expenses incurred incident to a temporary additional duty assignment at Camp Pendleton, California. The request was forwarded to this Office by the Per Diem, Travel and Transportation Allowance Committee and assigned Control No. 76-14.

The record shows that by Special Order No. 3524-75, dated September 25, 1975, issued by the Third Marine Aircraft Wing, Marine Corps Air Station, El Toro, California, the member was directed to perform temporary additional duty from on or about September 26, 1975, for 90 days at the Marine Corps Base, Camp Pendleton, California. Item number four of the member's written orders provided in pertinent part as follows:

"In accordance with paragraph 4451, JTR, if temporary additional duty in excess of twenty-four (24) hours is to be performed at an installation of the uniformed services and government quarters are not available, maximum per diem is payable, you are directed to obtain a certification as to the availability of government quarters, government mess and (for officers only) officers mess (open) from the installation commander, or his designated representative.

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"UTILIZATION OF GOVERNMENT-QUARTERS AND/OR
MESS IS DIRECTED IF AVAILABLE"

It is reported that the temporary additional duty location was 46 miles from the member's permanent duty station at El Toro, California, and 60 miles from his residence at Pullerton, California. Government quarters and messing facilities were available at Camp Pendleton during the time the member performed temporary additional duty there, but he chose not to utilize them. Instead, he elected to commute daily via privately owned vehicle between his residence and Camp Pendleton.

On December 19, 1975, the member submitted a voucher in which he claimed travel expenses of \$418.60. This amount apparently represents the round trips which he performed daily for 65 days between El Toro and Camp Pendleton, California, at the rate of 7 cents per mile. The submission indicates that field disbursing officers were reluctant to pay the amount claimed because it exceeded the per diem allowance which would have been payable had the member remained at Camp Pendleton and utilized Government quarters there during the period of his temporary additional duty assignment.

Based on the foregoing, the following questions are presented:

"a. Does the restriction contained in paragraph M4201-15 apply when the one-way commuting distance is 60 miles, as in the case of [REDACTED]? Is there a limitation to the distance that a member may commute under this paragraph?

"b. Can the limitation contained in paragraph M4212 be applied when the transportation expenses for commuting is greater than the per diem allowance payable had the member not commuted?

"c. Does paragraph M4201-15 automatically provide entitlement to transportation expenses for this type of temporary duty

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(other than that requiring authorization or approval under Part K, Chapter 4, Joint Travel Regulations and paragraph M4203-3b?)

"d. Do the member's orders as written prohibit him from commuting from his residence to his temporary duty station and return to his residence daily?

"e. May orders restrict members from commuting daily to a nearby temporary duty station?

"f. Finally, is paragraph M4212 applicable only when, during a period of temporary duty, a member returns occasionally to his permanent duty station or his permanent residence for personal reasons?"

Section 404 of title 37, United States Code, provides that under regulations prescribed by the Secretaries concerned, a member of the uniformed service is entitled to travel and transportation allowances for travel performed away from his designated post of duty regardless of the length of time he is away from that post. Regulations promulgated pursuant to that authority are contained in Volume I, Joint Travel Regulations (1 JTR).

Paragraph M4201-15, 1 JTR, provides that no per diem allowance is payable for temporary duty performed away from the member's permanent duty station at a place to which he commutes daily from his permanent quarters. However, it provides that transportation expenses incident to this type of temporary duty assignment may be paid in lieu of such per diem, under the provisions of paragraph M4203 when travel is from outside the metropolitan area of the temporary duty station.

Subparagraph M4203-3a, 1 JTR, provides that when a member performs authorized travel at personal expense pursuant to a temporary duty assignment he is entitled to a monetary allowance in lieu of transportation at the rate of 7 cents per mile for the official distance of the ordered travel. Subparagraph M4203-3b, 1 JTR, further provides that when the use of a privately

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owned conveyance is authorized or approved as advantageous to the Government for travel between the member's place of abode and his temporary duty station, instead of reporting to his permanent duty station, and thence to the temporary duty station, the member is entitled to reimbursement for the distance traveled between place of abode and the temporary duty station.

As a limitation to the foregoing, paragraph M4212, 1 JTR (change 252, February 1, 1974, in effect at the time of the member's temporary duty assignment), provides as follows:

"When a member returns to his permanent duty station (including home from which he usually commutes to his permanent duty station daily) for personal reasons during a period of temporary duty, he shall be entitled to allowances as prescribed in this Part for temporary duty travel for the travel performed from temporary to permanent duty station and return, provided, that in no instance will reimbursement for such travel exceed the amount he would have received had he remained at the temporary duty station. No allowances shall be credited to a member for any day the member was in a leave status."

We have previously expressed the view that this provision applies to travel performed on a daily commuting basis for reasons of personal convenience, and that its application is not limited to occasional or weekend type return trips to the permanent duty station. B-158945, June 9, 1966.

In the present case, the member was directed to utilize Government quarters and messing facilities, if available, at the temporary duty station. It has been reported that they were available. While it is apparent he was not required to remain at Camp Pendleton and could commute between his permanent residence and the temporary duty station there is nothing in the file to show that these trips were for any reason other than his own personal convenience. Therefore, the member's travel allowance is necessarily limited by the provisions of paragraph M4212, 1 JTR.

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Accordingly, the member is entitled to receive a mileage allowance for travel performed between his permanent residence and Camp Pendleton, California, during the period of his temporary duty assignment, not to exceed the amount he would have received as per diem had he remained at the temporary duty station, for the period in question, together with a mileage allowance for travel performed from his residence to Camp Pendleton on September 30, 1975, and return on December 3, 1975. Questions a, b, c and f are answered accordingly.

The travel voucher, which is returned, may not be paid as is but may be processed for payment in accordance with the conclusion reached herein.

With regard to questions d and e, since no issue of excess payment of Federal funds is raised in this case, it is unnecessary for us to consider the reasonableness of permitting the member to commute 120 miles daily between his home and the temporary duty station. In this regard, we note that the question of whether the member could or should have been restricted to Government quarters at the temporary duty station involves a matter primarily for consideration by the Marine Corps.

R.F. KELLER
Acting Comptroller General
of the United States

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MILEAGE

Military personnel

Travel by privately owned automobile

Between residence and temporary duty station

1954

[Faint, mostly illegible text, likely a table or list of entries]

TRAVEL EXPENSES

Military personnel

Use of other than Government facilities

Actual expense reimbursement

TRAVEL EXPENSES

Military personnel

Temporary duty

Reimbursement