DECISION

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

FILE: B-190389 DATE: JAN 3 1978

MATTER OF: Chief Master Sergeant Morris L. Riley, USAF

DIGEST: A member's contention that the holding in 56 Comp. Gen. 767 (1977), concerning reimbursement of telephone installation charges, should be applied retroactively is rejected since that decision was a changed interpretation of 31 U.S.C. 679 (1970), which overruled or modified previous decisions and, therefore, is to be given prospective application only. Accordingly, a claim which arose before date of that decision may not be considered under the new rule announced therein.

This action is in response to a letter dated September 6, 1977, from Captain F. J. Dargavage, Accounting and Finance Officer, Shaw Air Force Base (AFB), South Carolina, requesting an advance decision concerning the claim of Chief Master Sergeant Morris L. Riley, USAF, [redacted], for reimbursement of charges he incurred for reconnecting his private telephone when he was required to move from his Government quarters to other Government quarters due to a Government quarters renovation project. The request has been assigned PDTATAC Control No. 77-33 by the Per Diem, Travel and Transportation Allowance Committee.

The claim arose as a result of a Government ordered renovation of Sergeant Riley's living quarters at Shaw AFB. In compliance with Government orders, effective December 3, 1976, Sergeant Riley relocated his residence. One expense of the relocation was the $31 telephone installation charge Sergeant Riley paid on January 18, 1977, and for which he now claims reimbursement.

The issue presented by this case is whether retroactive effect may be given to the holding of our decision

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in 56 Comp. Gen. 767 dated July 6, 1977, in which we overruled previous decisions and held that the claim presented in that case and similar claims "which arise in the future," could be paid. We held that under specified circumstances, telephone installation charges, incident to a required relocation, would be a reimbursable expense since it appeared that Congress did not intend that 31 U.S.C. 679 (1970) prohibit payment of such charges. It is contended by the claimant that this holding should not be limited to prospective application since it "did not establish an entitlement that would be effective after July 6, 1977, rather it reaffirmed an entitlement * * *" that had existed since the effective date of the statute.

We have consistently followed the well-established rule that when a decision constitutes an original interpretation of a statutory provision it is regarded as effective from the effective date of such provision. See 39 Comp. Gen. 455 (1959), 40 Comp. Gen. 14 (1960), and 53 Comp. Gen. 148, 154 (1973). However, in cases where a decision overrules or modifies a previous decision, the new rule applied in the later decision is generally held applicable to the case being decided and to cases arising in the future. That is, generally such a decision has not been regarded as retroactively effective but has been given a prospective application only. See 54 Comp. Gen. 1042, 1049 (1975); 52 Comp. Gen. 99, 105 (1972), 36 Comp. Gen. 84 (1956), and 27 Comp. Gen. 686, 688 (1948). The obvious purpose of that rule is to preserve vested rights and obligations of the Government and individuals which were based on rules set out in prior decisions and upon which the parties relied.

It is clear that our decision in 56 Comp. Gen. 767 was not an original interpretation of 31 U.S.C. 679 in relation to expenses incurred for reconnecting telephones in similar circumstances since three previous decisions had reached a contrary conclusion in interpretating the same statutory provision. 55 Comp.

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Gen. 932, 936 (1976); 54 id. 661 (1975) and B-141573, January 5, 1960. Therefore, since our decision in 56 Comp. Gen. 767 does not constitute an original interpretation of the statute in question, but instead constitutes a changed interpretation which modifies or overrules prior decisions, as was indicated in the decision it is to be given prospective application only, except as to the claim being considered there.

Since Sergeant Riley's claim arose before July 6, 1977, the date of 56 Comp. Gen. 767, it may not be considered under the new rule announced in that decision. Since under prior decisions claims for telephone charges such as Sergeant Riley's were held not to be allowable, his claim may not be allowed. Accordingly, payment on the voucher submitted is not authorized, and it will be retained in this Office.

R.F. KELLER

Deputy Comptroller General
of the United States