

Hooper



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** Carl M. Bauer - Separate Maintenance Allowance  
**File:** B-192267.2  
**Date:** February 17, 1989

## DIGEST

The Separate Maintenance Allowance (SMA) authorized in 5 U.S.C. § 5924 to be paid to an employee when assigned to a post in a foreign area that is dangerous, unhealthful, or where living conditions are adverse in order to enable the employee to meet the additional expenses of maintaining a spouse or dependents elsewhere, may not be paid to an employee when his wife has maintained a separate household for more than 2 years before he was assigned to work in Saudi Arabia. Since the assignment overseas was not the cause for the maintenance of separate households, the employee is not entitled to SMA.

## DECISION

This decision is in response to an appeal filed by Carl M. Bauer from a determination reached by our Claims Group in Settlement Certificate Z-2865034, June 10, 1988, denying his claim for a Separate Maintenance Allowance (SMA) for his wife incident to his relocation from California to Saudi Arabia in 1985. We affirm the denial of his claim.

## BACKGROUND

Mr. Carl M. Bauer, an employee of the General Services Administration (GSA), was officially transferred in 1985 from Menlo Park, California, to Saudi Arabia for a 2-year period. Mr. Bauer traveled to Saudi Arabia unaccompanied by Mrs. Bauer. It is for this 2-year period that Mr. Bauer requests that SMA be paid since he had to maintain a separate household elsewhere for his wife who continued to live in Saipan while Mr. Bauer lived in Saudi Arabia. Mr. Bauer has given several reasons for separation ranging from continuing financial difficulties to the Saudi Arabian climate.

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The GSA in a letter dated May 27, 1986, rejected Mr. Bauer's claim. The GSA concluded that Mr. Bauer's situation did not warrant a grant of SMA since the relocation to Saudi Arabia "was not the proximate cause for you and your spouse to maintain separate households." The basis for this conclusion was the fact that Mr. and Mrs. Bauer had maintained separate households for more than 2 years before his departure for Saudi Arabia. Our Claims Group upheld GSA's denial.

Mr. Bauer has appealed the denial of SMA because he says no weight has been given to the valid hardship reasons which necessitated separate households for him and his wife at the time of his assignment to Saudi Arabia. He explains that he was previously transferred in April 1982 from Saipan, Mariana Islands, to Menlo Park, California. In March 1983, due to critical financial considerations, his wife returned to Saipan to resume her career there as a Japanese Tour-Package Director. He further explains that in September 1985, when he was transferred to Saudi Arabia, he opted for an unaccompanied tour because of continuing financial hardship and his wife's career needs. He believes that these facts meet the statutory requirement in 5 U.S.C. § 5924(3) for SMA based on special needs or hardship.

#### OPINION

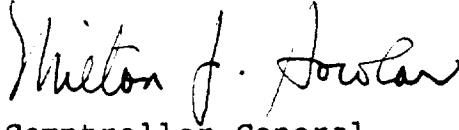
Separate Maintenance Allowances are authorized by 5 U.S.C. § 5924(3) (1982) under the following conditions:

"(3) . . . to assist an employee who is compelled or authorized, because of dangerous, notably unhealthful, or excessively adverse living conditions at the employee's post of assignment in a foreign area, or for the convenience of the Government, or who requests such an allowance because of special needs or hardship involving the employee or the employee's spouse or dependents, to meet the additional expenses of maintaining, elsewhere than at the post, the employee's spouse or dependents, or both." (Emphasis supplied.)

Mr. Bauer does not dispute that his wife maintained a household apart from him more than 2 years prior to his assignment in Saudi Arabia and did not reside with him at the time of his transfer. Thus, the maintenance of a separate household for Mrs. Bauer in Saipan, and the expense thereof, existed prior to and independent of Mr. Bauer's transfer to Saudi Arabia.

The language of section 5924(3) clearly states that the SMA is intended to alleviate "the additional expense" of maintaining a separate household away from the foreign post of duty. In Mr. Bauer's case, he had no additional expense in that regard arising from his transfer to Saudi Arabia. We must therefore agree with the General Services Administration that the relocation was not the proximate cause of the need to maintain separate households.

Accordingly, we find Mr. Bauer ineligible to receive a separate maintenance allowance based upon his spouse's residence in Saipan, and his appeal is denied.

*for*   
Comptroller General  
of the United States