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DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES

WASHINGTON, D. C. 20548

*[Entitlement of Military Members to Basic Allowance for Quarters and Temporary Lodging Allowances]*

FILE: B-194807

DATE: May 27, 1980

MATTER OF: BAQ and TLA for members on sea or field duty

- DIGEST:
1. The prohibition contained in 37 U.S.C. § 403(c) against payment of BAQ to members without dependents while on field or sea duty of 3 months or more applies to temporary as well as to permanent duty assignments.
  2. Temporary lodging allowance (TLA) may be paid under current regulations on return to permanent station of a member without dependents who must give up his permanent housing while on temporary duty away from his permanent station for extended periods. However, it may be prudent to amend the regulations to specifically provide guidelines for payments of TLA in this situation. TLA may be authorized regardless of whether the member actually loses entitlement to BAQ for the period of temporary duty, by being assigned to field or sea duty provided it is clear that the member reasonably anticipated loss of BAQ under the temporary duty deployment and that is the reason the member relinquished his quarters.

The Commandant of the Marine Corps has requested our decision on several questions concerning the entitlement to basic allowance for quarters (BAQ) and temporary lodging allowances (TLA) of members who are assigned to temporary additional duty away from their permanent stations in Hawaii. The request has been assigned Control Number 79-12 by the Per Diem, Travel and Transportation Allowance Committee.

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### Background

The Marine Corps' questions arise because of the provision in 37 U.S.C. 403(c) which requires that BAQ be terminated for members without dependents while they are on field duty or sea duty for a period of 3 months or more.

The Marine Corps advises that it has a program under which members permanently stationed in Hawaii are assigned to temporary additional duty in connection with unit deployment. Members so assigned are away from their permanent station for as long as 7 months, and many, while absent, serve on sea duty or field duty for 3 months or more.

At the commencement of deployment, those members living in Government bachelor housing are dispossessed of their quarters in order to make the space available for assignment to other members who, while the deployed members are away, initially arrive for permanent duty or return with another unit completing deployment. Those members residing in private housing who have no dependents for BAQ and who deploy under orders contemplating field or sea duty of 3 months or more are also compelled to vacate their permanent quarters incident to deployment in most instances, because they anticipate losing entitlement to BAQ with which to maintain their quarters during the deployment.

Upon return to their permanent station, both categories of members who were required to surrender their permanent quarters incident to deployment must frequently occupy temporary lodging facilities from commercial sources while seeking permanent quarters on the local economy or awaiting assignment or reassignment to Government quarters.

In view of these circumstances the Marine Corps presents several options which would authorize either a continuation of BAQ entitlement or entitlement to TLA.

### Questions

The first question is whether the prohibition contained in 37 U.S.C. 403(c) (1976) against the payment of

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BAQ to members without dependents while on field or sea duty applies to temporary as well as to permanent assignments. For the following reasons, we hold that it does apply to both.

Section 403(c), in requiring termination of BAQ for members without dependents while on field or sea duty, makes the exception that "[f]or purposes of this subsection, duty for a period of less than three months is not considered to be field duty or sea duty." However, it makes no distinction between temporary and permanent duty. Thus, it is the length of the assignment that is crucial--not whether the assignment is permanent or temporary. We have specifically held that a member assigned to temporary additional duty on board ship for 3 months or more loses his entitlement to BAQ during that period. Matter of Lieutenant William R. Miller, USCGR, B-195691, January 8, 1980.

In view of the answer to the first question, a second question is asked. That is, may the loss of entitlement to basic allowance for quarters or the termination of assignment to Government quarters be considered a reason beyond the control of a member that makes it necessary for him to vacate his permanent quarters incident to commencement of a temporary additional duty assignment contemplating field or sea duty of 3 months or more for the purpose of paying him TLA under the existing regulations incident to his return from the assignment?

The Marine Corps explains that members without dependents must give up their permanent housing when they begin temporary additional duty away from their permanent stations. When these members return to their permanent stations at the end of their temporary additional duty, they have no permanent quarters to return to, and thus they must often stay in hotels while awaiting assignment to Government quarters or looking for private housing.

Temporary lodging allowance is authorized under 37 U.S.C. 405 (1976) which is a broadly worded statute authorizing the Secretaries concerned to pay a per diem--

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"considering all elements of the cost of living to members of the uniformed services under their jurisdiction and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses, to such a member who is on duty outside of the United States or in Hawaii or Alaska, whether or not he is in a travel status."

The Joint Travel Regulations (1 JTR), para. M4303-1, item 2, contain the Secretaries regulations providing for TLA--

"whenever the overseas commander designated by the Service concerned determines that, for reasons beyond the control of the member, it has become necessary for a member once established in permanent quarters in the vicinity of the member's duty station to vacate such permanent quarters, permanently or temporarily and utilize hotel or hotel-like accommodations in the vicinity of his permanent duty station while seeking other permanent quarters or pending reoccupancy of the permanent quarters formerly occupied, as the case may be; \* \* \*"

The Marine Corps asks whether members in the described situations may be considered to have vacated their permanent quarters for reasons beyond their control and are thus eligible for TLA under 1 JTR, M4303-1, item 2, when they return to their permanent stations.

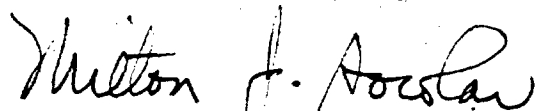
The situation described by the Marine Corps seems to fall within the provisions of paragraph M4303-1, item 2. In addition we note that the situation of a member returning from temporary duty in the situation described is similar to that of a member upon initial reporting at a new duty station pending assignment to quarters or completion of arrangements for permanent accommodations when Government quarters are not available. Thus, we would not object to payment of TLA in the situations described by the Marine Corps.

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The last question to be answered is whether the allowable payment of TLA would be different if the member concerned were entitled to BAQ during part of his temporary additional duty assignment or if, after relinquishing his quarters on the basis of his orders contemplating sea or field duty of 3 months or more, his entitlement to BAQ continued throughout his absence because the field duty or sea duty did not eventuate as contemplated?

Temporary lodging allowance is intended to reimburse a member whenever the service concerned determines that, for reasons beyond his control, it is necessary for him to vacate his permanent quarters. Therefore, in the circumstances described by the Marine Corps, we would not object to payment of TLA if it can be established that the member had to relinquish his quarters because in view of his deployment he reasonably expected that he would lose his BAQ entitlement. It is our view that the fact that because of unanticipated circumstances the member actually did not lose, or only partially lost, BAQ entitlement need not prevent him from being paid TLA.

While as is indicated above, we would not object to payment of TLA under current regulations in the described circumstances, the services may find it prudent to revise the regulations to specifically cover these circumstances.



For the Comptroller General  
of the United States