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DECISION



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

FILE: B-197401

DATE: June 11, 1980

MATTER OF: Linda A. Montz, Second Lieutenant, USAR

DIGEST: Member living with her dependents in Hawaii, who is ordered to active duty in Hawaii with temporary duty en route in Texas is not entitled to dependent travel at Government expense from her home of record in California to which dependents traveled at personal expense on receipt of the orders, back to Hawaii, notwithstanding amendment to the orders authorizing such travel, since the place from which she was ordered to active duty is the same as her first permanent duty station. See 1 JTR para. M7053.

[Entitlement]
The issue is whether Linda A. Montz, Second Lieutenant, U.S. Army Reserve, is entitled to transportation for her dependents at Government expense incident to being ordered to perform active duty in the same general area as where she received her orders to active duty. For the following reasons Lieutenant Montz is not entitled to transportation of her dependents at Government expense.

This question was presented by a Finance and Accounting Officer, Headquarters United States Army Support Command, Hawaii, and was assigned PDTATAC Control No. 80-3, by the Per Diem, Travel and Transportation Allowance Committee.

By orders dated April 4, 1979, Lieutenant Montz was ordered to active duty and was assigned to Tripler Army Medical Center, Manalua, Hawaii. The orders also stated that she was to perform temporary duty en route to the medical center at Fort Sam Houston, Texas, for a period of approximately 6 weeks.

At the time she received her orders for active duty she was living with her husband, a Navy member, and her children in Navy Government quarters in Ewa Beach, Hawaii. Upon receipt of her orders Lieutenant Montz and her dependents traveled from Hawaii to El Segundo, California, her home of record. The dependents traveled at personal

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expense. Subsequently, she traveled to Fort Sam Houston to perform temporary duty while her dependents remained in El Segundo, California.

While Lieutenant Montz was performing temporary duty at Fort Sam Houston her orders were amended to authorize concurrent travel of her dependents from El Segundo, California, back to Hawaii. Pursuant to this amendment Government Transportation Requests were issued for the travel of her dependents from Los Angeles to San Francisco to Travis Air Force Base, California, and then to Hawaii.

Upon arrival in Hawaii Lieutenant Montz and her dependents returned to the same Navy Government quarters that they had resided in when she had received her active duty orders. Based on the above it appears that the travel performed by the dependents was for personal convenience. Therefore, the Finance and Accounting Officer is of the opinion that Lieutenant Montz is not entitled to dependent travel from El Segundo, California, to Hawaii.

Section 406 of title 37, United States Code (1976), provides that a member of a uniformed service who is ordered to make a change of permanent station is entitled to transportation in kind for his dependents, to reimbursement therefor, or to a monetary allowance in place of that transportation. Implementing regulations of 37 U.S.C. 406 are found in Chapter 7, Volume 1 of the Joint Travel Regulations (1 JTR). Paragraph M7000 of these regulations provides that, with certain exceptions, members of the uniformed services are entitled to transportation of dependents at Government expense upon a permanent change of station for travel performed from the old station to the new permanent station or between points otherwise authorized. Permanent change of station includes the change from home or from the place from which ordered to active duty to the first permanent duty station. 1 JTR Appendix J.

In addition, when a member called to active duty is first assigned to a temporary duty station and is subsequently

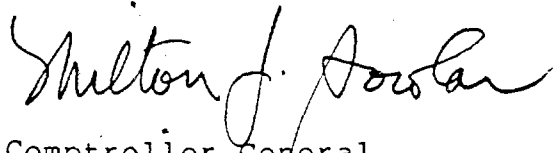
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ordered to make a permanent change of station, he is entitled to transportation of his dependents at Government expense for travel performed to the permanent station, provided that entitlement does not exceed that from his home of record or the place from which ordered to active duty to his first permanent duty station. Paragraph M7053 1 JTR. In the case of a reservist who is not enlisted, commissioned or appointed for immediate active duty the term "place from which ordered to active duty" means the place to which orders to active duty are addressed. 1 JTR Appendix J.

These regulations have been consistently interpreted as entitling members of the uniformed services upon orders to active duty to transportation of their dependents at Government expense from the place from which ordered to active duty or from the home of record to the permanent station. See 39 Comp. Gen. 76 (1959). Lieutenant Montz's dependents were residing with her in Hawaii when she received her orders to perform active duty. It was not until she received those orders that her dependents traveled to California. Since her dependents were located in Ewa Beach, Hawaii, where her orders to active duty were received, she is only entitled under the regulations to be reimbursed for their transportation from that point to her first permanent duty station, Tripler Army Medical Center, Hawaii. B-156867, July 6, 1965.

Although Lieutenant Montz's orders were amended to allow for concurrent travel of her dependents, these travel orders do not give rise to any entitlement since they are contrary to the law and regulation.

Accordingly, Lieutenant Montz is not entitled to transportation for her dependents at Government expense in these circumstances.



For the Comptroller General
of the United States