

DECISION

18836 Diamond PL
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-199758

DATE: July 15, 1981

MATTER OF: BAQ for Members on Temporary Duty, a
Portion of Which Constitutes Sea Duty

DIGEST: A member forfeits basic allowance for quarters (BAQ) for any period of sea duty for 3 months or more. 37 U.S.C. § 403(c). A member assigned to such sea duty is not entitled to receive BAQ when he begins temporary duty ashore, which interrupts his sea duty, unless the orders to perform shore duty effectively terminate the member's sea duty. When the shore duty is merely an adjunct to the sea duty and does not alter the nature of the temporary duty from sea duty to shore duty, then the entire period is considered sea duty.

The Principal Deputy Assistant Secretary of Defense (Comptroller) has requested our decision on a member's entitlement to basic allowance for quarters (BAQ) during a period of temporary additional duty, a portion of which constitutes sea duty. The request has been assigned Committee Action Number 551 by the Department of Defense Military Pay and Allowance Committee.

The 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 sea duty for a period of 3 months or more. The Committee is unsure of the application of our decision at 59 Comp. Gen. 192 (1980) which held that a Coast Guard member who was on sea duty for more than 3 months, with intermittent periods of a few days on shore, was not entitled to BAQ.

The Committee states that it is not uncommon for aviation squadrons and embarked troops assigned to temporary additional duty aboard a naval vessel to be ordered ashore to permit use of the vessel for other operational commitments. While these members are ashore they may be assigned duties that are not considered to be sea duty or field duty as defined by Executive order pursuant to 37 U.S.C. § 403(j). The Committee perceives an injustice to these members to be denied BAQ while performing temporary additional duty under conditions that are not considered to be sea or field duty.

[Entitlement of Military Member To BAQ for Periods of Sea Duty]

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Temporary additional duty is a form of temporary duty performed away from the member's permanent station when he is expected to return directly to the permanent station. We have held that 37 U.S.C. § 403(c) requires termination of BAQ whether the sea duty is temporary or permanent. 59 Comp. Gen. 486, 488 (1980).

In view of the above, the Committee presents the following set of facts for our consideration: A member, otherwise entitled to BAQ without dependents at the permanent station, was temporarily assigned to a vessel for 6 months to perform duties defined as sea duty. During the deployment, he was periodically ordered ashore to perform duties that are not considered to be sea duty and upon completion of such temporary additional duty he was directed to return to the vessel. During the period of deployment on board the vessel and during periods of duty ashore he was provided Government quarters. Under those facts the Committee asks the following questions:

"1. If the period of duty defined as 'sea duty' was four months and the period of duty ashore not so defined was two months, would the member lose entitlement to BAQ for the entire period of TAD?

"2. If the period of duty defined as 'sea duty' was two months and the period ashore was four months, would the member lose entitlement to BAQ for the entire period of TAD?

"3. If the deployment was extended to nine months while the vessel was at sea and the period of duty defined as 'sea duty' was three months and one day and the period ashore was five months and 29 days, would the member lose entitlement to BAQ for the entire period of TAD?

"4. If the period of duty defined as 'sea duty' was three months and one day and the period ashore was two months, would the member be entitled to BAQ for the two month period ashore?

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"5. If the answer to four above is no, may the DODPM [Department of Defense Military Pay and Allowances Entitlements Manual] be amended to provide that the loss of entitlement is only for the period of duty defined as 'sea duty'?"

Pursuant to 37 U.S.C. § 403(c) the member will lose entitlement to BAQ as of the date he is to begin duty on board the vessel. In view of the fact that his orders are to perform duties defined as sea duty for 6 months, this statute necessitates forfeiture of BAQ commencing with his temporary duty assignment.

In 59 Comp. Gen. 192 (1980), the member was held to have performed more than 3 months of sea duty, and we denied entitlement to BAQ, although in the course of his duties on board the vessel he received further temporary duty orders to perform duties ashore. While these orders interrupted the member's duty on board the vessel for 3 short periods from 2 to 4 days each, the member was deployed on temporary duty to the vessel and that deployment did not change. There is no indication that the member's sea duty was terminated when he was ordered to perform temporary duty ashore. The member's time ashore was merely supplemental to his sea duty and was not considered to have changed the nature of his temporary duty assignment.

We recognize that once the deployment begins, circumstances may arise which would require that the member perform temporary duty ashore. In our view, if the member receives orders to perform duties ashore and such orders effectively terminate the member's sea duty, so that the duties ashore cannot be considered a mere adjunct to the sea duty, the member may begin receiving BAQ as of the date the temporary shore duty commences. Such shore duty must amount to a change in the character of the member's temporary duty and not be supplemental to the original temporary sea duty orders as in 59 Comp. Gen. 192.

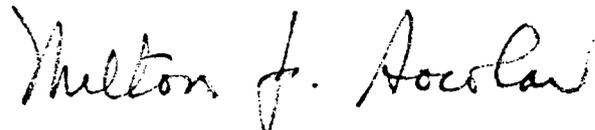
A member continues to receive BAQ while on temporary duty if he is receiving BAQ at his permanent station as long as the temporary duty is not sea or field duty. See DODPM Table 3-2-3, Rule 14. Whether the member is

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entitled to BAQ during the period he was performing sea duty, prior to the time he was ordered ashore, depends on the length of time he was performing sea duty. In accordance with 37 U.S.C. § 403(c), if that period of time was less than 3 months the member is entitled to BAQ for that period. However, if that time was 3 months or more, he is not entitled to BAQ. If the member's sea duty is terminated by duty ashore, as explained above, and he is later returned to sea duty, the 3-month period prescribed in section 403(c) begins again.

The situations presented are hypothetical and the facts given do not answer the question of whether the sea duty was performed continuously or whether it was broken by intermittent periods of temporary duty ashore. Furthermore, it is not stated whether the orders to perform duty ashore terminated the sea duty and thus changed the member's temporary duty to shore duty, or whether the periods ashore were similar to those in 59 Comp. Gen. 192 which did not break the member's sea duty. As explained above, these facts are essential to a determination of the member's entitlement to BAQ in each situation presented.

With the explanation of the principles provided here and a full knowledge of the facts of each actual situation which may arise, the individual's entitlement to BAQ should be ascertainable. However, doubtful cases may, of course, be submitted to our Office for determination.



Acting Comptroller General
of the United States