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DECISION

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

FILE: B-204347**DATE:** December 23, 1981

MATTER OF: Master Sergeant Howard R. Harper - Claim
for Hospitalization Benefits

DIGEST: Army National Guard member contracted disease during a 5-day period of full-time training duty performed pursuant to 32 U.S.C. § 502(f) (1976). The member is not entitled to hospitalization benefits provided under 32 U.S.C. § 318 (1976) since the period of his training duty did not exceed 30 days.

This action is in response to a letter dated August 4, 1981, from the National Guard Bureau, Departments of the Army and the Air Force, requesting a decision regarding benefits for an Army National Guard member who contracts a disease during a 5-day period of full-time training duty performance pursuant to 32 U.S.C. § 502(f) (1976). We concur with the National Guard Bureau's view that a line-of-duty determination is not necessary since a National Guard member who is disabled from disease in the line of duty is not entitled to medical benefits provided under 32 U.S.C. § 318 (1976) unless the period of his ordered duty exceeds 30 days.

Master Sergeant Howard R. Harper, a member of the Iowa National Guard, was ordered to perform full-time training duty for the period January 18 through 22, 1981. After reporting for duty, the member suffered an illness and was admitted to the Clayton General Hospital in Iowa on January 20, 1981. In connection with a Report of Investigation concerning the matter the Office of Legal Advisor, National Guard Bureau, determined that a line-of-duty determination was not necessary under 32 U.S.C. § 318 because of the disease since the period of his ordered training duty did not exceed 30 days.

In its submission, the Bureau states that the State of Iowa disputes the Office of Legal Advisor's determination that 32 U.S.C. § 318 is controlling, and contends that, instead, statutory provisions pertaining to the Regular Army govern the resolution of Sergeant Harper's case by virtue of 10 U.S.C. § 3686.

Section 318 of title 32, United States Code, provides that:

"A member of the National Guard is entitled to the hospital benefits * * * pensions, and other

B-204347

compensation provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever he is called or ordered to perform training duty under section 502, 503, 504, or 505 of this title--

"(1) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

"(2) for any period of time, and is disabled in line of duty from injury while so employed." (Emphasis added.)

It is undisputed that Sergeant Harper had a disease rather than an injury. Since this disability occurred during a period of training duty which did not exceed 30 days, the member is not entitled to benefits provided under 32 U.S.C. § 318. See also National Guard Regulation No. 40-3 (1978).

The State of Iowa maintains that the 30-day requirement stated in 32 U.S.C. § 318(1) does not apply to Sergeant Harper's claim because 10 U.S.C. § 3686 (1976) extends to members of the National Guard all benefits provided Regular Army members, including medical benefits for illness or disease.

Section 3686 of title 10, United States Code, provides in pertinent part that:

"For the purposes of laws providing benefits for members of the Army National Guard of the United States and their dependents and beneficiaries--

"(2) full-time training or other full-time duty performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard under sections 316 and 502 through 505 of title 32 * * * shall be considered active duty for training in Federal service as a Reserve of the Army * * *."

The legislative history of this section indicates that its purpose was to equalize the benefits to which National Guard members and members of Reserve components are entitled. S. Rep. No. 1795, 82d Cong., 2d Sess. Section 3686 of title 10, United States Code,

B-204347

merely serves to equate service in the National Guard with service in a Reserve component of the Army for the purpose of certain benefits, and provides no additional benefits to members of the National Guard other than those granted to members of the Army Reserve.

In keeping with this policy, statutes providing medical benefits for Army Reserve members parallel those pertaining to Army National Guard members. Specifically, 10 U.S.C. § 3721(1) (1976) provides that a Reserve member is entitled to hospitalization benefits whenever "he is called or ordered to active duty * * * for a period of more than 30 days, and is disabled in line of duty from disease while so employed."

In view of the above, we concur with the view of the National Guard Bureau that 32 U.S.C. § 318 is controlling and that a line-of-duty determination is not necessary in Sergeant Harper's case under the provisions of 32 U.S.C. § 318, since the member's disability occurred during a period of training duty which did not exceed 30 days, and he is not entitled to hospitalization benefits in any case.

Harry D. Jan Claus
For Comptroller General
of the United States