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DECISION



21306
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-204794

DATE: March 26, 1982

MATTER OF: Inabel B. Lindsay - Reimbursement of
Lodging Expenses

- DIGEST:**
1. Public member of the White House Conference on Aging's National Advisory Committee whose home is in Washington, D.C., may be reimbursed the cost of 2 nights' lodging incurred in connection with meetings held in Bethesda, Maryland. Under section 205 of the 1981 White House Conference on Aging Act, Pub. L. No. 95-478, committee members are authorized the same travel expenses as authorized under 5 U.S.C. § 5703 for intermittent employees serving as experts and consultants. Under section 5703, intermittent employees serving as experts or consultants are reimbursed their necessary travel expenses, not to exceed the maximum prescribed rate, while traveling away from their homes or regular places of business for official purposes, regardless of whether such activity takes place within the metropolitan area of their home or regular place of business.
 2. Neither the general rule that a Federal employee may not be paid per diem or actual expenses at the employee's permanent duty station nor the Department of Health and Human Services' travel policy that such allowances are not permitted in the metropolitan area of the employee's permanent duty station is applicable to an advisory committee member who is authorized travel expenses on same basis as intermittent expert or consultant under 5 U.S.C. § 5703.

The issue presented in this case is whether Ms. Inabel B. Lindsay, a public member of the National Advisory Committee for the 1981 White House Conference on

Aging (WHCOA) may be reimbursed the cost of 2 nights' lodging incurred in connection with scheduled committee meetings held at the National Institutes of Health in Bethesda, Maryland. The claim was forwarded to this Office by Mr. Clarence E. Smith, an authorized certifying officer, Department of Health and Human Services (HHS), Washington, D.C. For the reasons stated below, we hold that Ms. Lindsay may be reimbursed the cost of the 2 nights' lodging, for the high rate geographical area.

Ms. Lindsay is a public member of the National Advisory Committee appointed under section 205(a) of the 1981 White House Conference on Aging Act, Pub. L. No. 95-478, October 18, 1978, 92 Stat. 1553. That section provides for the establishment of an advisory committee composed of professional and public members to assist in the planning, conducting, and reviewing of the White House Conference on Aging.

In connection with its duties, the WHCOA schedules periodic meetings of the advisory committee in centralized locations for discussions of issues pertinent to the Conference. Travel Order No. 1-5154-04, dated October 24, 1980, authorized committee members to travel to Washington, D.C., during the week of November 16-20, 1980, for meetings. Ms. Lindsay, who lives in Washington, D.C., attended the meetings which were actually held at the National Institutes of Health in Bethesda, Maryland, on November 18 and 19, 1980. She incurred 2 nights' lodging expense at the Holiday Inn in Bethesda in connection with the meetings and submitted a claim requesting a total of \$110 reimbursement for the 2 nights.

Her claim was not certified for payment on the basis of (1) paragraph 1-7.6a, Federal Travel Regulations (FTR) (FPMR 101-7, May 1973, as amended) which prohibits the payment of per diem instead of subsistence either at the employee's permanent duty station or the place of abode from which the employee commutes daily to his or her official station, and (2) HHS travel policy as contained in HEW Travel Manual Chapter 5-50-00 which precludes reimbursement of official travel expenses in the metropolitan area of the employee's permanent duty station.

In her letter to HHS, requesting a review of her claim, Ms. Lindsay explains that:

"Because I am severely handicapped, someone picked me up at my home at the above address and drove me to the meeting. The meetings continued until approximately 11:00 p.m. each night. At that time there was no one available to take me home. Because it would have been very difficult for me to go home alone (in addition to being unsafe at that time of night), I stayed at the hotel.

"Since the meeting also lasted quite late the following night (November 19) I again stayed at the hotel. I do not drive and finding someone to drive back and forth from Washington to Bethesda would have been extremely difficult, if not impossible. Without lodging in the Bethesda area, I would not have been able to attend the meetings."

Ms. Lindsay's voucher has been administratively approved by Dr. Jarold A. Kieffer, Staff Director for the WHCOA Advisory Committee, who states that her lodging was incurred for the convenience of the committee and not for her own convenience. He informed us that the Rules and Issues Subcommittee whose members, including Ms. Lindsay, were staying at the Holiday Inn, met informally each night after the day's formal meetings to discuss the Conference agenda.

In regard to the travel expenses of members of the WHCOA Advisory Committee, section 205(b) of the 1981 White House Conference on Aging Act provides that Committee members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under 5 U.S.C. § 5703 for persons employed intermittently by the Federal Government. Section 5703, in turn provides:

"An employee serving intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis, or serving without pay or at \$1 a year, may be allowed travel or transportation expenses, under this subchapter, while away from his home or regular place of business and at the place of employment or service."

Under section 5702(c) of the same subchapter, the actual and necessary expenses of official travel are reimbursable, in lieu of a per diem allowance, for travel to high rate geographical areas designated as such in the Federal Travel Regulations. Bethesda, Maryland, is within Montgomery County, Maryland, a high rate geographical area, for which actual expenses not to exceed \$75 per day, were authorized at the time of Ms. Lindsay's travel. See FTR paragraph 1-8.6, as amended by FPMR Temp. Reg. A-11, Supp. 11, effective October 5, 1980.

In interpreting section 5703 and similar sections authorizing travel expenses for intermittent employees serving as experts and consultants, we have stated that their purpose is to reimburse a traveler for any additional cost of transportation, subsistence, and other expense to which he may be put by reason of his traveling on official business away from his home or regular place of business. 28 Comp. Gen. 192 (1948). This is so regardless of whether such activity takes place within the metropolitan area of the intermittent employee's home or regular place of business. 55 Comp. Gen. 199 (1975). The determining factor is whether additional expenses are necessarily incurred on account of the performance of official travel.

For example, in our decision in B-143631, August 12, 1960, a claim for per diem was allowed where the intermittent employee's home in Palisades Park, New Jersey, was only 12 miles from his duty station in New York City and was considered within the metropolitan area. We held that the employee was entitled to per diem for travel in the metropolitan New York area since the employee incurred subsistence expenses over and above the normal expenses which would be incurred by an employee at a place of duty

within a commuting area because of his duties which required him to accompany foreign nationals into New York, often overnight.

Individuals employed intermittently in the Government service as consultants or experts are allowed travel and transportation expenses, not to exceed the maximum prescribed rate, while traveling on official business for the Government away from their homes or regular places of business and while at places of Government employment or service. See FTR paragraph 1-1.2b, and HEW Travel Manual, Chapter 1-70-20. Therefore, the general rule that a Federal employee may not be paid a per diem allowance or actual subsistence expenses at his permanent duty station is not applicable here. Likewise, the HHS travel policy which precludes reimbursement in the metropolitan area of the employee's permanent duty station is not applicable.

There is no doubt in this case that Ms. Lindsay incurred additional expenses because of her advisory committee duties and that travel to her home would have been impracticable due to the lateness of the meetings. Furthermore, the lodging expenses were administratively authorized and approved by the agency as necessarily incident to travel on official business and were within the allowable rates prescribed by the FTR.

In light of the above, Ms. Lindsay is entitled to be reimbursed the cost of the 2 nights' lodging expenses as necessary travel expenses incident to and attributable to her official travel on behalf of the advisory committee.

for Milton J. Dorlan
Comptroller General
of the United States