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DECISION



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

FILE: B-205403

DATE: January 8, 1982

MATTER OF: Technical Sergeant Gary K. Zahrt, USAF

- DIGEST:**
1. Due to administrative error, a service member's eligibility for a deferral of permanent change of station due to lack of facilities necessary for one of his dependents was not discovered until after his arrival, with dependents, at the new station. He was then reassigned to another station. There is no legal authority to reimburse the member for extra expenses relating to the two changes of station in excess of travel and relocation allowances set by statute and regulation, allowances already received by the member.
 2. Accelerated reassignment of a service member due to administrative error is not an event of an unusual nature unlikely to recur. Claim for additional expenses relating to such a reassignment does not contain such elements of legal liability or equity as to warrant submission to the Congress under the Meritorious Claims Act of 1928.

This decision is in response to a request from Technical Sergeant Gary K. Zahrt, USAF, for reconsideration of our Claims Group's denial of his claim for additional reimbursement of expenses he indicates he incurred for transportation, lodging, food, clothing, laundry and household goods in connection with permanent changes of station in 1980. For the reasons set forth below, we sustain the denial of the claim. In addition, we concur with our Claims Group's conclusion that the claim does not contain such elements of legal liability or equity as would warrant reporting it to the Congress under the Meritorious Claims Act of 1928.

In July 1980, Sergeant Zahrt was reassigned on permanent change-of-station orders from Sheppard Air Force Base, Texas, to Incerlik, Turkey. Because one of his dependents required special educational and medical facilities unavailable at Incerlik, Sergeant Zahrt was eligible for a deferral from the overseas assignment. Due to an administrative error, Sergeant Zahrt's eligibility for the deferral was not established until after he and his family had arrived in Incerlik, on August 29, 1980. Once

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the lack of appropriate facilities at Incerlik became apparent and Sergeant Zahrt's eligibility for a deferral was established, he was reassigned to Offutt Air Force Base, Nebraska. He and his family arrived at Offutt on December 26, 1980.

Due to his accelerated change of station, Sergeant Zahrt's household goods and personal automobile were not delivered to him until well after his return to the United States. As a result, Sergeant Zahrt was without his household goods and automobile from July 1980 until March 1981. Because of this, Sergeant Zahrt and his family were subjected to a number of additional personal expenses, such as the procurement of winter clothing and basic household items, as well as miscellaneous additional transportation expenses (including the expense of traveling from Nebraska to New Orleans to pick up the automobile upon its arrival in March 1981). Sergeant Zahrt requests reimbursement for these additional personal expenses. In addition, although the record shows that Sergeant Zahrt was paid the full amount of permanent change-of-station allowances due him for the two changes of station (including dislocation allowance, travel, dependents' travel, and temporary lodgings allowances), he contends that his actual expenses for the two moves were well in excess of the amount that he was reimbursed. Sergeant Zahrt requests reimbursement for these excess amounts.

In denying Sergeant Zahrt's claim, our Claims Group correctly stated the general rule that our Office may not authorize reimbursement for expenses beyond the allowances granted by the appropriate statutes and regulations. In this case, there is no legal basis for reimbursement of Sergeant Zahrt's personal household expenses beyond those covered by appropriate temporary lodging and dislocation allowances or basic allowance for quarters, even if such expenses were increased as a result of administrative error. See B-191403, March 31, 1978. The same is true for Sergeant Zahrt's claim for miscellaneous transportation expenses incurred while his automobile was in transit; that is, there is no authority to authorize reimbursement for increased transportation expenses he may have incurred while he was without his automobile. See B-180631, November 12, 1974. Similarly, there is no legal basis to pay the extra travel expenses of a member of the uniformed services to travel to a port of debarkation to pick up his automobile after a permanent change of station. See 40 Comp. Gen. 156 (1960); B-159299, June 13, 1966.

As for any additional travel expenses incurred during the two changes of station, there is no legal basis to pay Sergeant Zahrt

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any amount in excess of the travel and per diem rates set by statute and regulations, which the record shows he was paid.

Recognizing the absence of statutory or regulatory authority for reimbursement of his additional expenses, Sergeant Zahrt principally requests reconsideration of our Claims Group's disallowance based on the application of the Meritorious Claims Act of 1928, 31 U.S.C. § 236 (1976). The Meritorious Claims Act provides that:

"When there is filed in the General Accounting Office a claim or demand against the United States that may not lawfully be adjusted by the use of an appropriation theretofore made, but which claim or demand in the judgment of the Comptroller General of the United States contains such elements of legal liability or equity as to be deserving of the consideration of the Congress, he shall submit the same to the Congress by a special report containing the material facts and his recommendation thereon."

This remedy is an extraordinary one and is used in cases involving circumstances of an unusual nature unlikely to recur. See B-164814, August 10, 1970. To report to the Congress a particular case when similar equities exist or are likely to arise with respect to other claimants would constitute preferential treatment over others in similar circumstances. See B-180631, November 12, 1974.

Although the circumstances of this case are unfortunate, they are not "of an unusual nature unlikely to recur." The accelerated reassignment or other sudden change in assignment of members of the uniformed services, whether due to changes in staffing needs or due to correction of administrative error, is not uncommon. Compare 55 Comp. Gen. 932 (1976) (base closings). Thus, even though accelerated reassignment due to an administrative failure to determine eligibility for a deferral of assignment to a particular base because of lack of certain facilities may be a rarity, the additional expenses of accelerated relocation are frequently imposed upon other members for a variety of other reasons. We cannot conclude, therefore, that Sergeant Zahrt's claim contains such elements of equity as to be deserving of our reporting it under the Meritorious Claims Act for the consideration of the Congress.

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Accordingly, our Claims Division's determination is sustained.

Harry D. Van Cleave
for the Comptroller General
of the United States