

**DECISION**

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

PLM-1  
Botsford  
118758

**FILE:** B-206258

**DATE:** June 16, 1982

**MATTER OF:** Philip A. Jarmack - Reimbursement of Relocation Expenses - IPA Assignment

- DIGEST:**
1. An employee stationed in Chicago, Illinois, was given an Intergovernmental Personnel Act (IPA) assignment to Phoenix, Arizona, and was subsequently transferred to Washington, D.C. Action of the certifying officer in suspending reimbursement of the expenses of a house-hunting trip from Phoenix to Washington and expenses of selling a home in Phoenix is proper. No such reimbursement is provided under the IPA and since Phoenix was not his permanent duty station such expenses are not reimbursable under 5 U.S.C. §§ 5724 and 5724a.
  2. A computation based on the constructive cost of a house-hunting trip from Chicago to Washington is correct since Chicago was the employee's old duty station. Reimbursement of relocation expenses incurred by the employee in selling his Chicago residence is proper since the administrative intent was to transfer the employee at a later date so that he would not be returning to his old duty station.
  3. According to Federal Claims Collection Standards an employee may be permitted to repay his debt in regular installments over a period of not more than 3 years (see 4 C.F.R. § 102.9). The agency should charge interest on that debt, in conformity with the Treasury Fiscal Requirements Manual.

Mr. Clarence E. Smith, a certifying officer with the Department of Health and Human Services (DHHS), raises seven questions regarding an employee's entitlement to reimbursement for relocation expenses associated with a change of permanent duty station after an Intergovernmental Personnel Act assignment. The certifying officer's settlement is correct for the reasons that follow.

BACKGROUND

Mr. Philip A. Jarmack was employed by the DHHS in Chicago, Illinois, when he was detailed to Arizona's Department of Economic Security in Phoenix under the Intergovernmental Personnel Act of 1970, 5 U.S.C. §§ 3371-3376 (1976). That assignment, which originally was to last from September 10, 1978, to September 10, 1979, was extended for an additional year. On September 15, 1980, Mr. Jarmack reported to Washington, D.C., his new permanent duty station.

Mr. Jarmack traveled from Phoenix to Washington pursuant to a travel order which authorized reimbursement for transportation of his dependents and his household goods, temporary quarters, residence transactions, and a miscellaneous expenses allowance. In addition, Mr. Jarmack and his wife were authorized a house-hunting trip from Phoenix to Washington which they took from September 5 to September 9, 1980. On January 13, 1981, Mr. Jarmack filed a partial travel voucher, which included expenses for the November 13, 1980, sale of his residence in Phoenix. That voucher was paid on March 18, 1981. Subsequently, Mr. Jarmack was informed that due to the provisions of paragraph 2-6.1 of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) which provide for reimbursement of the expenses of selling a residence only if it is located at the old permanent duty station, he should not have been reimbursed for the expenses associated with the sale of his Phoenix residence because Phoenix was not his permanent duty station during the IPA assignment. However, the expenses Mr. Jarmack incurred in selling his residence in Chicago were credited against his indebtedness. In addition, Mr. Jarmack was informed that in connection with his house-hunting trip, he was entitled only to the constructive costs of roundtrip travel between Chicago and Washington because FTR paragraph 2-4.1 provides for reimbursement of a house-hunting trip between the old and new duty stations.

Mr. Jarmack contends that due to the circumstances surrounding his work assignments from 1978 to 1980, Phoenix was his permanent duty station in fact during that period, thus entitling him to reimbursement for real estate expenses associated with the sale of his Phoenix residence

and for roundtrip travel between Phoenix and Washington. The certifying officer has asked if there is any basis for Mr. Jarmack's claim and has posed several specific questions. We believe that the settlement of Mr. Jarmack's account was proper, but will address his arguments for reimbursement and answer the certifying officer's questions.

The facts of this situation are somewhat confusing. When Mr. Jarmack was assigned to Phoenix, his travel order, dated August 1, 1978, listed Chicago as his present duty station and provided that his travel was to be "From Chicago, Illinois, to Phoenix, Arizona, and return to assignment location \* \* \*." On September 8, 1978, a Standard Form 50 (SF-50), Notification of Personnel Action, was processed reassigning Mr. Jarmack from Chicago to Washington effective September 10, 1978. After completion of his IPA assignment, on September 17, 1980, Mr. Jarmack was issued a travel order providing for a permanent change of station from Phoenix to Washington. On November 7, 1980, a SF-50 was processed, which changed the name of the employing office in Washington listed on the September 8, 1978, SF-50, and provided that travel and transportation expenses were authorized and approved. On January 17, 1981, another SF-50 was processed which changed the location of his duty station to Chicago, effective September 10, 1978, and deleted the remarks concerning travel and transportation on the November 7, 1980, SF-50. A final SF-50 was processed on January 22, 1981, providing that Mr. Jarmack's change of station to Washington was effective September 11, 1980. On that SF-50 it was stated that "EMPLOYEE ENTITLED TO MOVE ON CONCLUSION OF IPA ASSIGNMENT TO CHICAGO AND SUBSEQUENT PCS TO WASHINGTON. THEREFORE TRAVEL AND TRANSPORTATION FROM PHOENIX TO WASHINGTON IS AUTHORIZED IN THE BEST INTEREST OF THE GOVERNMENT. TRAVEL AND TRANSPORTATION EXPENSES AUTHORIZED AND APPROVED \* \* \*."

Mr. Jarmack contends that Chicago was not his official duty station from September 10, 1978, to September 10, 1980, because his salary and timekeeper designations were transferred to Washington. He also contends, however, that Washington was not his new official station during that time because he did not relocate to Washington to assume the duties of a new position. He claims that assignments and duty stations other than Washington were being considered for him until September 1980, when he was definitely

informed that Washington was to be his new duty station. The conclusions Mr. Jarmack draws from these contentions are as follows;

- "(1) A permanent change of old official station was effected in 1978. Therefore, authorization of old residence transaction expenses is required.
- "(2) By not effecting any other station as the now official permanent duty station, Phoenix, Arizona became the new official station of fact. Therefore, authorization of new residence transaction expenses at the new official station in 1978 is required.
- "(3) Based on new management decision communicated to the employee in August of 1980 to effect permanent assignment to Washington, D.C., authorization of residence transaction costs at the old official station (Phoenix, Arizona) and new official station (Washington, D.C.) are required.
- "(4) Based on the facts that around September 1980, management for the first time definitely informed the employee that Washington, D.C. would be the new permanent duty station and that Phoenix was the only official station of fact at the time, the house hunting trip from Phoenix to D.C. is reimbursable."

#### QUESTIONS

The certifying officer has posed the following questions:

##### Question No. 1

"Can there be any question that Phoenix, Arizona was indeed his temporary duty station for purposes of his IPA detail, or does Mr. Jarmack have basis in law to support his argument that USC 5724 and 5724a covered his assignment to Phoenix, Arizona, as a permanent change of station since at the very outset there was no intent to return him to Chicago, Illinois, his old official station?

Question No. 2

"Mr. Jarmack contends that Chicago, Illinois was not his official duty station during the period September 10, 1978 through September 10, 1980. Would relocation of the employer administrative functions (i.e., payment of salary and timekeeper designation) contradict the agency designation of Chicago as his official duty station.

Question No. 3

"Mr. Jarmack contends that Washington, D. C. was not his new official duty station during the period September 10, 1978 through September 10, 1980, since he was not re-located to nor did he report to this station. Can you agree that Washington, D. C. did not meet the definition of new permanent official duty station?

Question No. 4

"I determined that Mr. Jarmack qualified, for reimbursement of expenses he incurred in the sale on September 8, 1978 of his residence at Chicago, Illinois, his old official duty station, upon his reporting for duty in Washington, D. C. his new official duty station, on September 15, 1980. Was I correct in allowing his claim?

Question No. 5

"In the event you determine that the househunting trip origin was properly Chicago, Illinois, are you in agreement with the action I followed on November 17, 1981 to recompute the comparative househunting claim?

Question No. 6

"In the event the answer to Questions No. 1 and/or No. 4 are negative, Mr. Jarmack has requested he be authorized an extended payback period (i.e., 36 months) for refund to the Government of the remaining indebtedness resulting from the erroneous payments. Should we collect the funds immediately including use of salary deduction, if applicable?

Question No. 7

"Should the Government assess an interest charge against this remaining indebtedness? If so, at what appropriate rate and on what date would such charges begin to accrue?"

ANALYSIS AND CONCLUSION

We have held that an IPA assignment is not a permanent change of station. William S. Harris, B-183283, August 5, 1975, reconsideration denied October 15, 1976; Donald B. Kornreich, B-170589, September 18, 1974. Furthermore, section 3373(a) of title 5, United States Code, provides that a Federal employee assigned to a state or local government under the Intergovernmental Personnel Act is either--

"(1) on detail to a regular work assignment in his agency; or

"(2) on leave without pay from his position in the agency."

We cannot agree with Mr. Jarmack that 5 U.S.C. §§ 5724 and 5724a covered his assignment to Phoenix. Since IPA assignments are not regarded as permanent changes of station, employees so assigned are entitled to reimbursement for certain but not all of the expenses provided under 5 U.S.C. §§ 5724 or 5724a. This is so not by virtue of those subsections themselves which apply only to a change of permanent duty station, but by virtue of the specific authority contained in 5 U.S.C. § 3375(a). That section provides for payment of travel expenses associated with IPA assignments as follows:

"§ 3375. Travel Expenses

"(a) Appropriations of an executive agency are available to pay, or reimburse, a Federal or State or local government employee in accordance with--

"(1) subchapter I of chapter 57 of this title, for the expenses of--

"(A) travel, including a per diem allowance, to and from the assignment location;

"(B) a per diem allowance at the assignment location during the period of the assignment; and

"(C) travel, including a per diem allowance, while traveling on official business away from his designated post of duty during the assignment when the head of the executive agency considers the travel in the interest of the United States;

"(2) section 5724 of this title, for the expenses of transportation of his immediate family and of his household goods and personal effects to and from the assignment location;

"(3) section 5724a(a)(1) of this title, for the expenses of per diem allowances for the immediate family of the employee to and from the assignment location;

"(4) section 5724a(a)(3) of this title, for subsistence expenses of the employee and his immediate family while occupying temporary quarters at the assignment location and on return to his former post of duty; and

"(5) section 5726(c) of this title, for the expenses of nontemporary storage of household goods and personal effects in connection with assignment at an isolated location."

The intent of DHHS to assign Mr. Jarmack to a new permanent duty station rather than returning him to Chicago at the termination of his IPA assignment does not change the character of that assignment from a period of temporary duty to a transfer of permanent duty station.

The case of William S. Harris, cited above, involved facts similar to those surrounding Mr. Jarmack's case. Mr. Harris was employed by the Department of Labor in Kansas City, Missouri, when he was sent to Jefferson City

on an IPA assignment. The Department of Labor terminated that assignment before its completion and appointed Mr. Harris to a new position in Dallas, Texas. Mr. Harris submitted a claim to this Office for reimbursement of expenses associated with the sale of a residence in Jefferson City. We pointed out that Kansas City remained Mr. Harris' permanent duty station until his transfer to Dallas and therefore held that he could be granted the allowances he would have received incident to a transfer from Kansas City to Dallas. We denied his claim for reimbursement of the expenses of selling his home in Jefferson City, however, since Jefferson City was his temporary duty station, not his old permanent duty station. We see little difference between Mr. Harris' situation and Mr. Jarmack's situation. When Mr. Jarmack's IPA assignment began, Chicago was his permanent duty station and when it ended, Washington became his permanent duty station. Just as in Harris, we believe Mr. Jarmack is entitled to the allowance of a permanent change of station from Chicago to Washington.

Although there is controversy as to the date the agency intended to transfer Mr. Jarmack, we believe his entitlements are the same regardless of whether September 8, 1978, or January 22, 1981, is considered to be the date of his transfer. While FTR paragraph 2-1.5 provides that all reimbursable travel and transportation must begin within 2 years from the effective date of the employee's transfer, paragraph 2-1.4j provides that the effective date of transfer is the date on which the employee reports for duty at his new official duty station. Thus, even though more than 2 years elapsed between September 10, 1978, the date DHHS first purported to assign Mr. Jarmack to Washington and September 15, 1980, when he reported for duty in Washington, that presents no obstacle to his reimbursement.

In summary, our answer to the certifying officer's first 3 questions is that, according to the provisions of the Intergovernmental Personnel Act, Phoenix, Arizona, was clearly a temporary duty station for Mr. Jarmack. Since the facts show that a permanent change of station occurred between Chicago and Washington, Mr. Jarmack is entitled to reimbursement of the expenses he would have incurred had he moved directly from Chicago to Washington.



The fourth question the certifying officer asked is whether it was proper for him to allow reimbursement of the expenses Mr. Jarmack incurred in connection with the sale of his residence in Chicago. We believe that such reimbursement was proper. We do note that while the certifying officer states that the sale of the Chicago residence took place on September 8, 1978, the SF-50 which indicated he would not return to Chicago was also issued on that date. Although an employee ordinarily should not incur expenses for relocation until after he has received transfer orders, we have allowed reimbursement to an employee notified of a transfer by less formal means if the expenses were incurred after a clear expression of administrative intent to transfer him. See James E. Wallace, B-205187, December 23, 1981, and cases cited. There is an agency memorandum in the file in which it is stated that DHHS had decided in late August, 1978 to reassign Mr. Jarmack from Chicago to Washington effective September 10, 1978, with an interrupted reporting date due to a 1 year IPA assignment.

Mr. Jarmack disputes the fact that Washington, D.C., was to be his new permanent duty station at the time he sold his residence. However, there is sufficient evidence in the record to indicate that he would not be returning to Chicago. In addition to the SF-50 mentioned above there was a general reorganization taking place at DHHS in 1978 in which it was contemplated that Mr. Jarmack and nine other Acting Regional Administrators would be reassigned. Further, another employee was appointed Regional Administrator on September 18, 1978, to the position vacated by Mr. Jarmack. Thus, it seems clear that the administrative intent was to transfer Mr. Jarmack at a later date, and that he would not be returning to Chicago, his old duty station. Under these circumstances, Mr. Jarmack may be reimbursed for the expenses he incurred in the sale of his Chicago residence.

In answer to the certifying officer's fifth question, we see no problem with his computation of the constructive cost of a house-hunting trip from Chicago to Washington and return since Chicago was his old duty station. See FTR paragraph 2-4.1a.

The certifying officer's final two questions concern the collection of Mr. Jarmack's indebtedness. He has asked whether Mr. Jarmack may be authorized an extended pay-back period or whether the indebtedness should be collected immediately. He also has asked if an interest charge should be assessed against the remaining indebtedness and if it should, on what date the charges should accrue and at what rate.

Part 102, title 4 of the Code of Federal Regulations sets forth the Federal Claims Collection Standards, Section 102.9, which concerns collection of a debt in installments, provides that:

"\* \* \* if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. The size and frequency of such installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible the installment payments should be sufficient in size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than \$10 per month should be accepted in only the most unusual circumstances."

While there is no general statutory provision authorizing agencies to assess interest on delinquent accounts, the courts have recognized the right to assess interest as a measure of damages for delay in payment of an obligation. Accordingly, we have held that agencies may charge interest on overdue accounts. Indeed, 4 C.F.R. § 102.11 provides that:

"In the absence of a different rule prescribed by statute, contract, or regulation, interest should be charged on delinquent debts and debts being paid in installments in conformity with the Treasury Fiscal Requirements Manual."

We have held interest may only be charged, however, when (1) the rate of interest is not so high as to constitute a penalty (2) the interest is assessed only after proper

notice of the debt (including intent to charge interest) is given, and (3) the debt itself is liquidated. 59 Comp. Gen. 359 (1980).

While it appears that Mr. Jarmack's debt was liquidated (the amount was made certain) when the suspension notice was issued on November 17, 1981, we do not believe interest may be charged from that date because there is no evidence that DHHS complied with the notice requirements explained above.

With regard to the rate of interest which should be charged, paragraph 8020.20c of the Department of the Treasury Cash Management Regulation (Treasury Fiscal Requirements Manual) provides as follows.

"Authorized Scheduled Payment of Delinquent Accounts. Agreements whereby debtors pay overdue amounts over a period of time should be reviewed on an individual basis given an agency's authority to extend credit and in consideration of the intent of an agency's operations and programs. Agencies should apply late charges for these arrangements, and may utilize a rate for such charges equivalent to a borrowing rate of a Treasury debt instrument with the same duration period issued at the time the arrangement is consummated." (Emphasis added.)

We understand that information concerning the current rate may be obtained from the Bureau of Government Financial Operations, Division of Government Accounts and Reports, Appropriation and Investment Branch, Department of the Treasury.

Thus, in accordance with the regulations cited above, DHHS may authorize an extended payment period for Mr. Jarmack and may charge interest on the debt after first giving notice to Mr. Jarmack of its intent to charge interest.

*for* *Harold R. Van Cleave*  
Comptroller General  
of the United States