

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

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FILE: B-210205**DATE:** August 24, 1983**MATTER OF:** Lieutenant Colonel James W. Sanders, USMC

- DIGEST:**
1. Marine was transferred from an unrestricted duty station in North Carolina to a restricted duty station in Okinawa. He moved his dependents from North Carolina to his home of record in Dallas, Texas. Subsequently, two of his dependents joined him at personal expense in Okinawa. Upon completion of the Okinawa tour, he was assigned on a permanent change of station to Hawaii. Instead of designating Dallas as his dependents' residence and requesting dependent travel at Government expense from North Carolina to Dallas, at the instruction of travel personnel in Okinawa he filed a claim for and received dependent travel allowances from North Carolina to Seattle, Washington, the dependents' point of debarkation to Okinawa. He should have received dependent travel allowances only from his old duty station to the home in Dallas and then directly from Dallas to his new duty station in Hawaii.
 2. Marine is entitled to travel allowances for his travel from a restricted overseas duty station to his family residence in Dallas, Texas, and then to his new duty station in Hawaii. Although two of his dependents did not remain in Dallas during his entire tour of duty in Okinawa but joined him there for a part of that tour, the Marine was faced with necessity to return to Dallas to disestablish his family's residence there and prepare for his family's move to the new duty station.

The Disbursing Officer, Headquarters, Fleet Marine Force, Pacific, Camp H. M. Smith, Hawaii, has asked us

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for an advance decision determining whether Lieutenant Colonel James W. Sanders, USMC, is entitled to his own transportation at Government expense from his overseas station to his home of record in the United States and then to his new duty station, or whether he is limited to transportation directly from his old to his new duty station. The Per Diem, Travel and Transportation Allowance Committee assigned the submission Control Number 83-5 and forwarded it to us.

Background

Colonel Sanders was ordered to a 12-month tour of duty in Okinawa, Japan, beginning in July 1981. The tour was restricted; that is, his dependents were not authorized to accompany him at Government expense but, instead, he was entitled to move them to a designated location in the United States. On June 19, 1981, Colonel Sanders left his old duty station at Cherry Point, North Carolina, and he, his wife and two of his children traveled to his home of record, Dallas, Texas. He used a "self-help move" to transport some of his household effects to Dallas. On July 5, 1981, Colonel Sanders departed Dallas and arrived in Okinawa. His wife and one son, at personal expense, subsequently joined him in Okinawa on August 19, 1981. Another son went to Lubbock, Texas, to attend college, and his daughter, who was already permanently residing in Texas, remained there.

Instead of designating Dallas as his family's residence and requesting that the Government pay for his family's travel there, at the instruction of Marine Corps travel personnel in Okinawa, Colonel Sanders filed a claim for and received dependent travel from his old duty station in Cherry Point, North Carolina, to Seattle, Washington, the point of his wife and son's debarkation to Okinawa.

In April 1982, Colonel Sanders was notified of a permanent change of station from Okinawa to Camp H. M. Smith, Hawaii. Colonel Sanders' wife and son left Okinawa and returned to Dallas at personal expense in May and June 1982, respectively. Ten days prior to his departure from Okinawa, Colonel Sanders requested and received a travel advance for his travel to Dallas. On June 27, 1982, Colonel Sanders joined his family in Dallas and remained there until the latter part of July 1982, when he and his family moved to Camp H. M. Smith, Hawaii.

The Marine Corps Finance Center, Kansas City, Missouri, has determined that since Colonel Sanders' wife and son resided with him in Okinawa for a substantial part of the assignment, Okinawa, rather than Dallas, should be considered the family's bona fide residence. Accordingly, they concluded that Colonel Sanders was not entitled to travel expenses for his return trip to Dallas under paragraph 5501, Volume 1, Joint Travel Regulations (1 JTR).

For the reasons set forth below, we find that Colonel Sanders should have received dependent travel allowances for his dependents' travel in June 1981 from his old duty station in Cherry Point, North Carolina, to Dallas, Texas (rather than from Cherry Point to Seattle), and then directly from Dallas to his new duty station at Camp H. M. Smith, Hawaii, incident to his change of station in July 1982. We also find that Colonel Sanders should receive travel allowances for his own travel from Okinawa to Dallas, and then on to his new duty station in Hawaii.

Dependents' Travel Entitlements

Travel and transportation allowances for dependents of members of the uniformed services are governed by 37 U.S.C. § 406 (1976). Implementing regulations for those travel and transportation entitlements are found in 1 JTR.

Paragraph M7005-1, 1 JTR, provides that when a member is transferred by permanent change-of-station orders to a restricted area, transportation of dependents is authorized from the old permanent station to an appropriate destination. In such circumstances, when the old permanent station is located in the United States, transportation is authorized under paragraph M7005-4-1 to any place in the United States the member may designate. Additionally, 1 JTR, paragraph M7001, provides that in those instances where transportation of dependents is authorized at Government expense to a place designated by the member, entitlement to transportation of dependents will be contingent upon the certification of the member concerned that the place designated is in fact the place where his dependents will establish a bona fide residence.

In this case, based upon the advice of travel personnel in Okinawa, Colonel Sanders did not designate Dallas, Texas, as his family's bona fide residence. As noted above, however, his home of record is Dallas, Texas, and upon completion of his assignment in Cherry Point, North Carolina, he moved his family along with their belongings to Dallas. His wife and a son resided in Dallas for most of July and August 1981, before joining him in Okinawa. His other two children remained in Texas. Although two of his dependents were in Okinawa when he was notified of a permanent change of station, they returned to Dallas prior to traveling to the new duty station in Hawaii. Subsequently, Colonel Sanders returned to Dallas. Under these circumstances, we find that Colonel Sanders should have received dependent travel allowances from his old duty station in Cherry Point, North Carolina, to Dallas, Texas, not to Seattle, Washington. See Matter of Moore, et al., B-195643, April 24, 1980.

Moreover, when a member of the uniformed services is transferred by permanent change-of-station orders from a restricted assignment to an unrestricted assignment, transportation of his dependents is authorized under paragraph M7005-6-1 of 1 JTR, from the place at which dependents are located on receipt of the orders or from the place to which dependents were moved at Government expense, whichever results in the lesser entitlement, to the member's permanent station. In similar factual situations to Colonel Sanders' we have construed paragraph M7005-6-1 to authorize dependents' travel from the residence in the United States to the next duty station although the dependents had joined the member in Okinawa for a substantial portion of the member's tour of duty there. Matter of Moore, et al., cited above. Similarly, in Colonel Sanders' case we find that he is entitled to transportation of his dependents at Government expense from their Dallas, Texas, residence to the next duty station in Hawaii.

Member's Travel Entitlements

The member's return travel from Okinawa to a designated location in the United States and then to Hawaii is governed by 37 U.S.C. § 411b (1976). That provision authorizes transportation at Government expense for members stationed overseas who are ordered to make a

permanent change of station to another overseas station (including Hawaii and Alaska) who travel in connection with authorized leave from the last duty station to a place approved by the Secretary concerned and from that place to his designated post of duty, if either his last duty station or designated post of duty is a restricted area in which dependents are not authorized. Implementing regulations for this provision are found in chapter 5, Part J, of 1 JTR.

One of the purposes of this law, as expressed in House Report No. 93-711, December 11, 1973, 93d Congress, was to provide travel and transportation allowances between consecutive overseas assignments in order that service members might return to the location of their dependents and assist in the packing and moving of their families, household and personal effects. See, Matter of Moore, et al., cited above.

In this case, while Colonel Sanders' wife and son resided with him during part of the Okinawa assignment, he was still faced with the necessity to return to Dallas to disestablish the residence there and prepare for the move to Hawaii. Therefore, under these circumstances and in light of our above determination, under 1 JTR, paragraph M5501-2d, Colonel Sanders is entitled to travel allowances for his travel in June and July 1982 from Okinawa to Dallas and then on to Hawaii.

for *Harry R. Van Clave*
Comptroller General
of the United States