

**DECISION**

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

**FILE:** B-217447

**DATE:** April 24, 1986

**MATTER OF:** Transportation of Household Goods

**DIGEST:**

Under current regulations service members who have their household goods and automobiles shipped to an overseas duty station in anticipation of the family move are not entitled to return transportation if the family, for personal reasons, changes its plans and does not join the member. The applicable statute, 37 U.S.C. § 406(h), is broad enough to provide authority for regulations authorizing return transportation of the household goods and privately owned vehicle independent of travel by the member or the dependents in these circumstances when the service finds that the transportation is in the best interest of the member or the dependents and the United States. To the extent they are inconsistent herewith, 49 Comp. Gen. 695 (1970) and 44 Comp. Gen. 574 (1965) are overruled.

This action is in response to a request from the Department of Defense asking that we reconsider our conclusions in 49 Comp. Gen. 695 (1970) regarding shipment of household goods and privately owned vehicles independent of travel by a member or his dependents.<sup>1/</sup> In that decision we found that advance transportation of uniformed services members' household goods and privately-owned vehicles may not be provided from overseas independent of travel of members' dependents. Upon reconsideration of the matter we find that the applicable statutory authority does not prohibit transportation of household goods and vehicles under the circumstances described. Therefore, we do not object to amendment of travel regulations to provide for such transportation.

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<sup>1/</sup> The request was submitted by Assistant Secretary of the Air Force, Tidal W. McCoy, Chairman, Per Diem, Travel and Transportation Allowance Committee.

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### Background

We have been requested to reconsider the question of whether the Joint Travel Regulations may be amended to provide for return of household goods at Government expense from an overseas station to a designated place in the United States when dependents, for personal reasons, do not join the member as originally intended. The Defense Department points out that it is a recurring problem for members and their dependents when household goods have been shipped in anticipation of the member's permanent change of station from the United States to an overseas location and the family, for personal reasons, does not join the member.

The Department notes that the member is faced with a number of problems when the household goods may not be shipped back at Government expense. The member must either pay for storage of his goods while his family does without them, he must pay for their return shipment or he may be forced to sell his household goods and have his family replace them. In addition, the Department points out that a rising number of dependents perform travel overseas and, upon arrival, almost immediately request an advance return to the United States, traveling essentially to qualify for return shipment of their household goods. This causes the services to incur the extra expense of the dependents' transportation, an expense which could be avoided by changing the current rule.

### Authority For Transportation

Authority for travel and transportation of dependents, baggage, household effects, and privately-owned vehicles is found at 37 U.S.C. § 406. The transportation at Government expense may be authorized in connection with a change of duty station for the member. Exceptions to the requirement that the transportation be in connection with a change of duty station are found in sections 406(e) and 406(h).

Section 406(e) provides that when orders directing a permanent change of station for a member have not been issued or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage and household effects, the Secretaries of the services may

authorize movement of dependents, baggage and household effects in cases involving "only unusual or emergency circumstances" incident to some military operation or requirement.

Section 406(h) of title 37, as added by Public Law 88-431,<sup>2/</sup> provides authority for transportation beyond the limited authority provided in 406(e) for "unusual or emergency circumstances." Section 406(h) provides in pertinent part:

"(h) In the case of a member who is serving at a station outside the United States or in Hawaii or Alaska, if the Secretary concerned determines it to be in the best interests of the member or his dependents and the United States, he may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects--

"(1) authorize the movement of the member's dependents, baggage, and household effects at that station to an appropriate location in the United States or its possessions and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, as authorized under subsection (a) or (b) of this section; and

"(2) authorize the transportation of one motor vehicle that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents to that location by means of transportation authorized under section 2634 of title 10."

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<sup>2/</sup> § 1(a), 78 Stat. 439 (1964).

### Analysis

As is indicated above, the issue presented here, whether the Joint Travel Regulations may be amended to allow return transportation of household goods when dependents do not perform the travel as originally scheduled, has been addressed by this Office in 49 Comp. Gen. 695. In that case we found that there was no authority to allow amendment of the regulations to authorize movement of household effects independently of the movement of dependents. That decision relies heavily on a prior decision, 44 Comp. Gen. 574 (1965), in which we held that section 406(h) did not provide authority for evacuation of the household effects and vehicle of a member without dependents. In 44 Comp. Gen. 574 we noted that section 406(e) had been interpreted in the regulations to authorize transportation of household effects and vehicles contingent on an authorization for transportation of dependents. We reviewed the legislative history of section 406(h) and came to the conclusion that section 406(h) was not intended to have any broader scope in that respect.

Subsequent to the decision in 49 Comp. Gen. 695, we reexamined the scope of section 406(h) in considering whether it provided authority for the shipment of the household effects and vehicle of members without dependents when they are discharged under other than honorable conditions while stationed overseas. See 55 Comp. Gen. 1183 (1976). We noted that in adding section 406(h), Congress primarily was concerned with providing authority, in addition to the limited authority in section 406(e), for the advance movement of dependents, and thus the legislative history is primarily concerned with that specific subject. Upon reexamination of our previously held positions, and in view of facts presented there, we found that the language of section 406(h) was broad enough to provide authority for transportation of household effects and vehicles of members without dependents in the circumstances of that case.

To the extent they were inconsistent with the above, we therefore overruled 44 Comp. Gen. 574, 49 Comp. Gen. 695, and another related decision, 45 Comp. Gen. 442 (1966). See 55 Comp. Gen. 1183, at 1185-86. Thus, we have modified somewhat our original position concerning the scope of section 406(h) so that it is now considered to apply to members without dependents in certain cases.

We have again examined the language and legislative history of section 406(h). We find that there is no language in the statute which makes dependent travel a prerequisite for movement of household goods, baggage or a vehicle. It provides that dependents, household goods, baggage and privately-owned vehicles may be transported at the discretion of the Secretary under certain conditions.

The legislative history of Public Law 88-431, which added section 406(h), shows that Congress recognized the limitations of section 406(e) and provided broader authority for transportation of dependents, household goods, baggage and privately-owned vehicles.

The Senate Armed Services Committee report on the bill which became Public Law 88-431 emphasizes that the Department of Defense felt that advance movement of dependents, baggage and household goods was desirable under conditions which did not qualify as unusual or emergency circumstances. Such transportation would be provided under this addition to the statute. The report specifically mentions compelling unforeseen family problems, financial or marital problems and changes in a member's status which, at times, make advance return of dependents, baggage, household goods and vehicles in the best interest of the member and the United States. S. Rep. No. 1284, 88th Cong. 2d Sess. 1-2 (1964).

The House Armed Services Committee report on that bill explains that the limitations of the then-current authority had been found to be too restrictive to meet the needs of the services. It points out also that the problems caused by the dependents, their baggage, household goods and vehicles can place an additional administrative burden on the overseas commander and have adverse effects on the sponsor's performance and the operational readiness of combat forces. H. Rep. No. 415, 88th Cong. 1st Sess. 1-2 (1963).

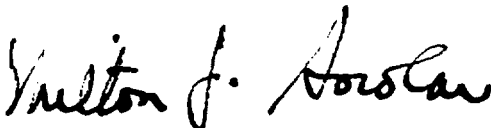
The legislative history shows that Congress was concerned about the restrictive limitations of section 406(e) and intended to provide flexibility for movement of dependents and their effects when it was found in the best interest of the member or his dependents, and the United States. Thus, section 406(h) was intended to allow the

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personal problems of the member and his dependents to be considered, unlike the strictly military occurrences or emergencies covered by section 406(e). As pointed out by the Department in its submission, the same considerations (personal family problems, administrative burdens on the overseas commander and adverse effects on the member) arise in the situation where the dependents originally intend to accompany the member, but for personal reasons are unable to perform the travel and the household effects have already been shipped in anticipation of the move.

It is now our view, therefore, that 37 U.S.C. § 406(h) is broad enough to provide authority for transportation of household goods for members stationed outside of the continental United States independent of the travel of dependents, where the family originally intends to accompany the member but is unable to perform the travel and the service finds that such transportation is in the best interest of the member or his dependents and the United States. Thus, we would not oppose the suggested amendment to the regulations.

To the extent that the holdings in 44 Comp. Gen. 574 and 49 Comp. Gen. 695, supra, are inconsistent with this decision, they no longer will be followed.

*for*   
Comptroller General  
of the United States