



The Comptroller General  
of the United States

Washington, D.C. 20548

Unit 2

136410

## Decision

Matter of: Laurie S. Meade, Jr. - Official Travel -  
Per Diem - Shared Lodgings  
File: B-222155  
Date: July 25, 1988

### DIGEST

1. The Food and Drug Administration reduced the per diem rate authorized for a group of employees performing official travel to attend a training course, based on an agency policy of arranging for shared hotel accommodations to be made available to groups of employees when they are attending training courses, as a means of reducing their lodging expenses. There is nothing inherently objectionable about this policy under the applicable laws and regulations, and the reduction of authorized per diem is consistent with the requirement of the Federal Travel Regulations that per diem rates be reduced when lodgings are available at a reduced cost. Hence, an employee who elected to have single accommodations as a matter of personal preference may not be allowed per diem at a higher rate on the basis of a theory that the shared lodgings policy is invalid.

2. Federal agencies are not required by law to establish identical maximum expense reimbursement rates for different employees performing the same or similar travel assignments, but reimbursement rates should be reasonably fixed under uniform policies applicable to all employees. Under this standard the Food and Drug Administration properly adopted a uniform policy of reducing per diem rates for employees on group training assignments when they are able to reduce their lodging expenses by sharing hotel accommodations, and of granting exemptions when room sharing is unavailable for a particular employee or would be unreasonable because of a medical problem or other factor.

### DECISION

The question presented here is whether the Food and Drug Administration (FDA) may reduce the per diem rate authorized for employees attending training courses based on a policy of arranging for the employees to share hotel accommodations at the training site so that they may reduce their lodging

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expenses.<sup>1/</sup> We have no legal objection to the policy adopted by the agency in the particular circumstances described. We consequently deny a claim for additional per diem submitted by an agency employee, Mr. Laurie S. Meade, Jr., who questions the propriety of that policy.

#### BACKGROUND

Food and Drug Administration officials state that beginning with fiscal year 1985 the agency instituted a policy as a cost saving measure of arranging double lodging accommodations for employees at training courses of less than 30 days' duration. Under this policy FDA encourages and assists employees to share accommodations, and per diem rates are based on the availability of shared lodgings. The agency does not directly lease hotel rooms through government contract, however, nor does the agency attempt to impose an involuntary requirement on employees that they share hotel rooms.

Instead, FDA officials report that the employees are responsible for obtaining and paying for their own lodging accommodations. After a group of employees has been selected to attend a particular training course, however, the members of the group are furnished with a list of the prospective attendees so that they may choose a person with whom they would prefer to share lodgings. Employees who do not select roommates by mutual agreement from among the group may be randomly assigned a roommate of the same sex. Employees who elect not to share accommodations through these procedures may obtain single accommodations of their choice, but their reimbursement is limited based on the fact that shared lodgings at a reduced price are available to them.

The FDA officials report further that exemptions from this double occupancy policy are granted on a case-by-case basis. Thus, in situations where there are an odd number of men or an odd number of women who are willing to share a room, the odd person is exempted and is authorized per diem at a higher rate. In addition, persons may be granted exemptions from the double occupancy policy for reasons of physical handicap, medical necessity, or other compelling factors.

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<sup>1/</sup> This action is in response to a request for a decision received from Mr. David Petak, Chief, Accounting Branch, HFA-120, Food and Drug Administration, Public Health Service, Department of Health and Human Services.

The agency has forwarded for our decision a claim for additional per diem submitted by Mr. Laurie S. Meade, Jr., an FDA employee who suggests that this policy may be improper. Mr. Meade was directed to travel from his permanent duty station at Arlington, Virginia, to Baltimore, Maryland, for the purpose of attending a course of instruction at Baltimore between September 23 and 27, 1985. At that time, a maximum per diem rate of \$75 was established under law and regulation for Baltimore. The agency reduced the per diem rate to \$68 for the training course in a memorandum dated August 22, 1985, which was sent to Mr. Meade and the other attendees. The memorandum provided this explanation:

"The per diem rate has been set at \$68, including tax. This figure was arrived at by averaging double occupancy rates of a number of hotels/motels in the area and adding the meal allowance as follows:

"Average double room rate including tax	\$67.25
"Half of double room rate	= 33.63
"Meals (45% of \$75)	= <u>33.75</u>
	67.38
"Per diem rate rounded to	\$68.00"

The memorandum also provided information to assist employees in selecting roommates if they so desired, and also explained that the reduced rate would not apply to an individual exempted from the double occupancy policy.

Mr. Meade was not exempted from this shared accommodation program. As a matter of personal preference, however, he obtained single hotel accommodations at the rate of \$49.95 per day during the 4-day training course. Under the double occupancy policy, his reimbursement for lodgings was limited to \$33.63 per day. He questions the propriety of this limitation and claims additional amounts apparently on the theory that this policy is invalid.

In requesting our decision concerning Mr. Meade's claim, FDA officials ask generally whether the agency's double occupancy policy, as well as the practice of granting exemptions from that policy on a case-by-case basis, are permissible under the applicable statutes and regulations.

#### ANALYSIS AND CONCLUSION

A provision of the Government Employees Training Act, as amended, and as codified at 5 U.S.C. § 4109(a), authorizes the head of an agency, under regulations prescribed by the

Office of Personnel Management, to pay or reimburse an employee for all or a part of the necessary expenses of training, including the costs of travel and per diem.

Regulations issued by the Office of Personnel Management direct that for training assignments of 30 days or less an agency has the authority "to pay all or--if agreed to by the employee--a part" of the subsistence expenses of an employee assigned to training at a temporary duty station.<sup>2/</sup> Subsistence expenses may be reimbursed through payment of per diem in accordance with 5 U.S.C. §§ 5701-5709.<sup>3/</sup> "Agencies are governed by the Federal Travel Regulations issued by the General Services Administration in paying these costs."<sup>4/</sup>

Thus, the Government Employees Training Act and the implementing regulations of the Office of Personnel Management require an agency to reimburse employees undergoing training in the manner generally prescribed for employees on official travel assignments under 5 U.S.C. §§ 5701-5709 and the Federal Travel Regulations, except in situations involving employees who voluntarily agree to accept reimbursement in a lesser amount. Hence, since Mr. Meade did not volunteer to attend the training course at issue here, and since he did not agree to accept only partial reimbursement of the amount otherwise allowable by law and regulation, it is our view that his entitlements are for determination under the provisions of 5 U.S.C. §§ 5701-5709 and the Federal Travel Regulations.

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<sup>2/</sup> See 5 C.F.R. § 410.603(a); and Federal Personnel Manual (FPM), ch. 410, subch. 6.

<sup>3/</sup> FPM, ch. 410, § 6-3.

<sup>4/</sup> FPM, ch. 410, § 6-3; see also also 5 U.S.C. § 5707(a). Prior to 1981 regulations of the Office of Personnel Management gave agencies the authority to pay all, part, or none of the subsistence expenses of employees during their performance of training assignments, regardless of the employees' agreement in the matter, so that the employees' maximum daily rate of reimbursement, if any, was primarily within the employing agency's discretion. See 5 C.F.R. §§ 410.601-604 (1980 ed., superseded); and Dr. Elynore Cucinell, B-187453, Sept. 30, 1977.

Under 5 U.S.C. § 5702 and the implementing provisions of the Federal Travel Regulations<sup>5/</sup> reimbursement of an employee's subsistence expenses on a per diem allowance basis is authorized, and maximum locality rates are established for per diem allowances. The regulations provide that each agency may authorize only those allowances that are justified by the circumstances affecting the travel, however, and make each agency responsible for reducing the per diem allowance to rates lower than the maximum authorized when warranted by the particular circumstances affecting the travel.<sup>6/</sup> Among the circumstances cited as a proper basis for reducing the rate are situations in which lodgings can be obtained at reduced cost.<sup>7/</sup> The statutes and the implementing regulations do not prohibit shared or double accommodations available at a reduced cost for a group of employees on the same travel assignment to be used as a basis for reducing the maximum allowable per diem rate.<sup>8/</sup>

We have recognized that under 5 U.S.C. § 5702 and the implementing provisions of the Federal Travel Regulations, agencies have the responsibility and the discretionary authority to reduce a per diem allowance rate to an amount less than the maximum authorized when warranted by the circumstances affecting the travel, and we have consistently disallowed employees' claims for reimbursement at a rate in excess of that authorized by their employing agency, notwithstanding the employees' personal belief that the amounts authorized may have been inadequate to cover all of their necessary and reasonable subsistence expenses.<sup>9/</sup> In

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<sup>5/</sup> FTR, incorp. by ref., 41 C.F.R. § 101-7.003.

<sup>6/</sup> See FTR, para. 1-7.1e (Supp. 20, May 9, 1986) (current); and para. 1-7.3 (Supp. 1, Sept. 28, 1981) (superseded).

<sup>7/</sup> FTR, para. 1-7.1e (Supp. 20, May 9, 1986) (current); and para. 1-7.3 (Supp. 1, Sept. 28, 1981) (superseded).

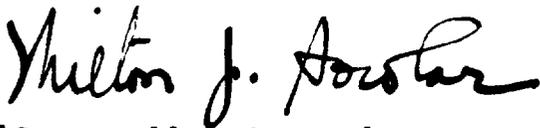
<sup>8/</sup> See, generally, 5 U.S.C. §§ 5701-5709; and FTR Part 1-7.

<sup>9/</sup> See, generally, Gilbert C. Morgan, 55 Comp. Gen. 1323, 1326-1327 (1976); Johnny S. Taylor, Jr., B-200794, July 23, 1981; Rodney D. Johnson, B-201508, July 15, 1981; Barbara J. Prottts, B-195658, Mar. 19, 1980.

addition, we have expressed the view that while agencies should limit per diem under uniform policies applicable to all employees, the statutes and regulations do not require agencies to establish the same rates for different employees performing the same or similar travel assignments.10/

In this case, therefore, we recognize that FDA has the authority under 5 U.S.C. §§ 5701-5709 and the Federal Travel Regulations to reduce the per diem rate for groups of employees attending training courses based on the availability of lodgings at a reduced cost. Moreover, we have no basis for taking exception to the agency's use of the reduced cost of available shared accommodations in establishing the reduced reimbursement rates, since this is not currently prohibited by statute or regulation and does not otherwise appear inherently unreasonable in the reported circumstances. Further, we do not find that the agency's policy of exempting some employees for reasonable cause, and of authorizing them per diem at a higher rate, contravenes 5 U.S.C. § 5702 and the Federal Travel Regulations because, as noted, the statutes and regulations do not require the identical maximum reimbursement rate for all employees performing the same travel assignment.

Hence, we have no basis to conclude that the policy adopted by FDA is invalid. We accordingly deny Mr. Meade's claim.



Acting Comptroller General  
of the United States

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10/ Savings and Loan Examiners, B-198008, Sept. 17, 1980.