



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Nancy Blustein - Lodging Expenses at Headquarters

File: B-231149

Date: November 7, 1988

DIGEST

An employee attending an advisory council meeting in the vicinity of her official duty station rented a hotel room rather than return to her residence, due to heavy snow and blizzard conditions, in order to ensure her presence at the meeting the next day. Her claim for lodging expenses must be denied since employees may not be reimbursed for per diem or subsistence at their headquarters regardless of unusual conditions.

DECISION

This is in response to a request from the Director, Division of Fiscal Services, Department of Health and Human Services for our decision concerning the entitlement of Ms. Nancy Blustein to reimbursement for the cost of lodging obtained in the vicinity of her official duty station. For the reasons stated below, Ms. Blustein is not entitled to reimbursement for that expense.

BACKGROUND

On January 7 and 8, 1988, the National Council for Health Services Care Technology Assessment held a meeting of its National Advisory Council in a hotel in Washington, D.C. Ms. Blustein, the Executive Secretary of the Council, attended the meeting on January 7. Weather forecasts for the remainder of the day predicted a winter storm which would drop 6 to 12 inches of snow in downtown Washington, and it began to snow heavily around 5 p.m. In light of the blizzard situation that was developing, Ms. Blustein determined that it would be necessary for her to remain at the meeting site overnight in order to ensure her presence at the remainder of the meeting on January 8.

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In fact, had Ms. Blustein not remained at the hotel that evening, it appears that weather conditions might have prevented her from traveling to the hotel from her residence in Rockville, Maryland. This is based on the fact that the federal government was closed on January 8 due to the traveling conditions.

The agency recommends payment of Ms. Blustein's claim for lodging expenses based upon the unusual circumstances of her case. The agency notes that the National Advisory Council, which is required by law to meet at least three times a year, entails the travel at government expense of non-federal members from various locations around the country. Further, attendance by the Director of the Office of Health Technology, the Executive Secretary (Ms. Blustein), or an appropriate designee is required in order for the Council to meet. The agency states that had Ms. Blustein not been present on January 8, the Council Chairman would have cancelled the remainder of the meeting without completing the Council's business, which would have required that the Council reconvene at a later time at greater expense to the government.

OPINION

It is a well-established rule that the government may not pay, in addition to an employee's regular compensation, per diem or subsistence expenses to civilian employees at the employee's official duty station, even though they may be working under unusual conditions. 42 Comp. Gen. 149 (1962). We have based this prohibition on paragraph 1-7.6a of the Federal Travel Regulations (FTR) (Supp. 1, Sept. 28, 1981), which has been revised and is now found at FTR, para. 1-7.4a (Supp. 20, May 30, 1986), incorp. by ref., 41 C.F.R. § 101-7.003 (1987). It provides as follows:

"a. No allowance at official station. A per diem allowance shall not be allowed within the limits of the official station (see definition in 1-1.3c(1)) at, or within the vicinity of, the place of abode (home) from which the employee commutes daily to the official station except as provided in Part 1-14. Agencies may define a radius or commuting area that is broader than the limits of the official station within which per diem will not be allowed for travel within one calendar day."

Reimbursement of actual and necessary subsistence expenses follows the same rules as entitlement to per diem. See FTR, para. 1-8.1d (Supp. 20, May 30, 1986).

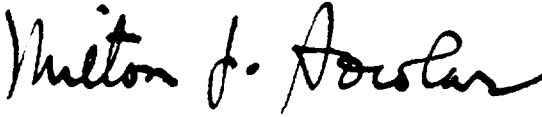
This prohibition is also based upon the provision found in 5 U.S.C. § 5536 (1982) that no employee of the government "unless specifically authorized by law," shall receive any pay or allowance in addition to that provided by statute. See B-202104, July 2, 1981.

Consistent with this general rule, we have disallowed claims for lodging expenses under circumstances similar to Ms. Blustein's. For example, in Joslin McIntosh, B-200779, Aug. 21, 1981, we denied the claim of an employee who, knowing that she was required to report to work the next day regardless of weather conditions, rented a hotel room rather than return in heavy snow and on icy roads to her residence 20 miles away. Similarly, in Sandra Bradshaw, B-226403, May 19, 1987, we denied the claim of an employee whose supervisor directed her to rent a room in the vicinity of her headquarters because she was needed the next day on a time critical project and a bad weather forecast threatened to worsen an already difficult transportation situation. See also Philip Rabin, 64 Comp. Gen. 70 (1984).

We have also denied claims for lodging expenses by employees who had duties to perform in connection with certain government-sponsored conferences. Karen A. Killian, B-223500, Mar. 16, 1987; Richard Washington, B-185885, Nov. 8, 1976.

We have created an exception to the general rule by authorizing government purchase of meals for employees at headquarters based upon findings that furnishing these meals was necessary in an extreme emergency involving danger to human life or destruction of federal property. See 53 Comp. Gen. 71 (1973); Richard D. Rogge, B-189003, July 5, 1977. Further, 5 U.S.C. § 5706a (Supp. IV 1986) provides authority for the payment of subsistence expenses at headquarters when the life of an employee who serves in a law enforcement, investigative, or similar position is threatened. See also FTR, Chapter 1, Part 14 (Supp. 20, May 30, 1986).

Ms. Blustein's case does not fall within either of the two exceptions mentioned above. As a result, we must deny her claim in accordance with the rule that an employee may not be reimbursed for per diem or subsistence at the official duty station regardless of unusual circumstances.


for Comptroller General
of the United States