



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 29, 2007

CBCA 603-TRAV

In the Matter of ANDREW R. GONZALES

Andrew R. Gonzales, Albuquerque, NM, Claimant.

Patricia J. Hodson, Director, Office of Financial Policy, Department of Energy, Washington, DC, appearing for Department of Energy.

POLLACK, Board Judge.

Claimant, Andrew R. Gonzales, seeks reimbursement for travel expenses for his wife, children, and extended family, incurred as the result of a medical emergency he suffered while on travel. Claimant was reimbursed for travel for his wife but not for the others.

Background

Claimant lived and worked in New Mexico. He became seriously ill while on temporary duty (TDY) in Nevada and was hospitalized. When notified of the seriousness of his condition, his wife, son, and two daughters made immediate arrangements to fly to Las Vegas to be with him. In addition, three sisters-in-law also made similar flight arrangements. His wife and apparently his children arrived on July 28, 2006. His sisters-in-law also arrived on that same date, one coming from Colorado Springs and another from Boston. The claimant was eventually discharged on July 30, 2006. Prior to the discharge and during his hospitalization, his family had to take a number of actions regarding his condition, including considering possible changes in hospital and treatment.

The Department of Energy (DOE) reimbursed the claimant for his wife's airfare and some additional costs. DOE did not allow reimbursement for any other family members.

The claimant filed a claim dated September 11, 2006, for the amount of \$4171. It included flights, hotel, and other costs. The claim was denied through an e-mail message from DOE, although DOE, as noted above, allowed some costs incurred by claimant's wife. Claimant appealed to the Board. On February 21, 2007, the Board received responses from both claimant and from DOE. The record was then closed.

Discussion

The Federal Travel Regulation (FTR) at 41 CFR 301-30.1(2005) (FTR 301-30.1) deals with reimbursement due to a medical emergency. The regulation provides:

301-30.1 What is emergency travel?

Travel which results from:

- (a) Your becoming incapacitated by illness or injury not due to your own misconduct; or
- (b) The death or serious illness of a member of your family; or
- (c) A catastrophic occurrence or impending disaster, such as fire, flood or act of God, which directly affects your home.

FTR 301-30.2 defines family as follows:

What is considered to be "family" with respect to emergency travel?

"Family" includes any member of your immediate family, as defined in 300-3.1. However, your agency may, on a case-by-case basis, expand this definition to include other members of your and/or your spouse's extended family.

The claimant asserts that reimbursement for his family members is permitted under the above. He particularly focuses on FTR 301-30.2, which defines family members as immediate family, but also allows for an expansion of that class. FTR 301-30.1, on its face, deals with reimbursement to employees, not reimbursement to family members. There is nothing in the regulation which specifically provides for reimbursement for a spouse or for other family members. Accordingly, the definition of family in FTR 301-30.2 does not provide a basis for reimbursement. In fact, that definition logically addresses 301-30.1(b), which is the provision which allows an employee to be reimbursed for travel involving the death or serious illness of someone in that employee's family.

As pointed out by DOE in its response to the Board, to the extent reimbursement is allowed, it would be under FTR 301-30.4. That provision allows for transportation costs of a medically necessary attendant in circumstances where an illness or injury occurs on TDY. Nothing in that regulation allows for payment for multiple family members, and the use of the singular wording, “a medically necessary attendant,” further confirms that reimbursement is to be limited to one individual.

There is no legal basis to provide the reimbursement claimed by the claimant. Accordingly, the claim is denied.

HOWARD A. POLLACK
Board Judge