

DECISION



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

FILE: B-215683

DATE: December 27, 1984

MATTER OF: Sergeant Joseph B. Antanavage, USAR

DIGEST:

1. Army reservist performed travel for period of active duty training and received travel allowance based on timely written orders determined later by the Inspector General to be invalid. However, the Inspector General also determined that the member performed the duties in good faith and should be paid. Corrected written orders, later published by direction of the Inspector General, to reflect the true intention to authorize travel, retroactively, are proper basis for payment.

2. Verbal travel orders were issued to an Army reservist for active duty training in a marksmanship program. Written orders, published 1 year after performance of travel, purporting to confirm verbal orders, cannot support claims for reimbursement of travel expenses, in the absence of an adequate explanation for the 1-year delay in publication. A mere statement provided 3 years later that the delay was the result of intercommand technical difficulties does not satisfy the explanation requirement.

Background

This is a review of action taken by our Claims Group denying claims presented by Sergeant Joseph B. Antanavage, United States Army Reserve, for travel expenses incurred during three periods of active duty training in 1981. These periods were February 27 through March 1, 1981; March 13 through 15, 1981; and an

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8-day period beginning March 28, 1981. For the following reasons the claim for the duty commencing March 28, 1981, may be allowed, but the claims for the other periods must be disallowed.

While actually assigned to the Department of the Army, 98th Division (Training), Sergeant Antanavage attended several Reserve marksmanship competitive events, without valid orders. He submitted requests for active duty training through that unit's headquarters to another command, in the belief that he was about to be transferred. The transfer never occurred and valid written orders were not issued in a timely manner.

Training Beginning on March 28, 1981

A letter from the member's commander of February 2, 1982, to the Commander, Fort Indiantown Gap, explains that his unit first learned of his active duty training in May 1981, when a certifying officer examined a voucher on which the member had been paid travel expenses for the 8-day period beginning March 28, 1981. The certifying officer observed numerous irregularities on the order supporting the claim, Order No. 21-99, dated March 17, 1981. His report resulted in an Inspector General investigation into the possibility of fraud.

By letter of December 17, 1981, the Inspector General reported that written orders (Order No. 21-99) had been issued, although they were invalid, and that Sergeant Antanavage acted in good faith in performing the travel and duties directed by the orders. As corrective action, he directed that the monies paid to Sergeant Antanavage, on the basis of the invalid orders, be collected from him, but that new orders be published to support payment for the duties actually performed.

Order No. 27-48 was published on March 9, 1982, authorizing, retroactively, the travel performed during the 8-day period of training. Since written orders, although invalid, were issued in advance of performance, we view Order No. 27-48 merely as a correction of administrative error to reflect the original intent of

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the issuing authority. We have generally approved such retroactive correction under these circumstances. See 50 Comp. Gen. 718 (1971), and cases cited therein.

Accordingly, if otherwise correct, Sergeant Antanavage's claim for the 8-day period beginning March 28, 1981, may be paid. As discussed below, we reach a different result on the other claims because no written orders were issued in advance of performance.

Training for February 27-March 1 and March 13-15, 1981

Written orders covering the other two travel periods likewise were not published until March 9, 1982, or approximately 1 year after travel occurred. Each order contained a notation that we understand to mean that it was issued to confirm verbal orders of the commander on a date preceding the actual travel. For example, Order No. 27-50, covering the 3-day period beginning March 13, 1981, contained the notation "VOCDR 13 Mar Conf."

Joint Travel Regulations, vol. 1, para. M3000 (change no. 265, March 1, 1975), promulgated under the authority of 37 U.S.C. § 404(a) provides that no reimbursement for travel is authorized unless orders by competent authority have been issued therefor. Another provision, 1 JTR, para. M3002-1, provides that written orders issued by competent authority are required for official travel or for reimbursement of expenses incident thereto. Paragraph 1-9, Army Regulation 310-10, change 4, of June 15, 1978, is authority to issue verbal orders; it provides that when a verbal order involves expenditures of public funds, written orders will be issued within 30 calendar days. If the written order is issued more than 30 calendar days after the effective date of the verbal order, the servicing finance officer and the next higher command will be provided written justification for the delay and the action to prevent reoccurrence.

We have held that if the employee or member has received verbal orders to perform official travel and does in fact perform official travel, confirmatory written orders approving the verbal orders may be subsequently issued by competent authority; the employee or member may then be reimbursed for the travel expenses

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incurred. See Colonel Bernard E. Clark, USMC, 59 Comp. Gen. 397, 401-402 (1980). The situation that precluded the issuance of advance written orders, however, must be readily apparent or satisfactorily explained, and the confirmatory orders must be issued within a reasonable time. 50 Comp. Gen. 803 (1971).

The written orders purporting to confirm advance verbal orders do not meet the above criteria because they were not published within a reasonable time and there is no adequate explanation for the 1-year delay. Under these circumstances there is no authority to pay the two claims based on the verbal orders.

The only explanation offered in this case is a letter dated April 21, 1984, from the Deputy Commander of Sergeant Antanavage's Reserve organization, which states in relevant part:

"2. Travel was performed upon VOCO, Marksmanship Director, 98th Div (Trng) USAR, LTC Kubitsy. 1058's were submitted in a timely manner in accordance with SOP and orders are normally issued as soon as possible. However this was not accomplished in this case due to technical difficulties between RCPAC and Hq 98th Div.

"3. The members of the Marksmanship Program frequently traveled upon telephonic VOCO due to the time element involved and quite often are not in receipt of orders prior to the travel dates. In my opinion, Sergeant Antanavage performed this duty as ordered and is entitled to reimbursement of expenses incurred during the periods covered so he also may be credited with active duty retirement points."

This letter, which is dated 3 years after travel occurred, at best describes a general practice of providing telephonic orders to members of the marksmanship program. Apart from one vague reference to "technical difficulties" between two organizations, it offers no specifics as to why written orders were not issued.

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Accordingly, we sustain our Claims Group's disallowance of these two claims.

Milton J. Aozar
for Comptroller General
of the United States