

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**U
120-4

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FILE: B-216162**DATE:** February 4, 1985**MATTER OF:** Gunnery Sergeant Michael M. McClure**DIGEST:**

When use of a privately owned vehicle for the performance of official duties is determined to be advantageous to the government, a breakdown and resultant delay may be viewed as being incident to the official travel. Travel or transportation expenses caused by the delay may be reimbursed if the period of delay is reasonable and the traveler is acting under administrative approval or the actions of the traveler are subsequently approved.

The issue presented in this case is whether a member of the Marine Corps who is ordered to Temporary Additional Duty and is authorized travel by commercial air, using a government transportation request, may be reimbursed for excess transportation charges when, for reasons beyond his control, he is unable to travel on the scheduled flight for which he had obtained a ticket using a government transportation request and was required to pay excess charges in order to perform his travel in a timely manner.^{1/} In these circumstances reimbursement is authorized.

Background facts

Gunnery Sergeant Michael M. McClure, USMC, who was stationed at Camp Pendleton, California, was ordered to perform temporary additional duty at Nellis Air Force Base, Nevada, from May 12, 1983, through May 15, 1983. Travel from San Diego, California, to Las Vegas, Nevada, via commercial air using a government transportation request was directed. Use of his privately owned vehicle from Camp Pendleton to San Diego was also authorized.

^{1/} This question was submitted by Lieutenant Colonel M.K. Chetkovich, Disbursing Officer, Marine Corps Base, Camp Pendleton, California. The request was approved by the Department of Defense Per Diem, Travel and Transportation Committee and has been assigned Control Number PDTATAC 84-15.

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Sergeant McClure encountered mechanical difficulties with his vehicle en route to the San Diego Airport and arrived too late to board his scheduled flight. Due to the time constraints involved in his assignment, he purchased a ticket to Las Vegas via Los Angeles. Apparently, since he did not have a government transportation request available there was an excess charge of \$45 over the cost of his original flight.

The order issuing authority has issued an amendment to the original orders, authorizing the additional cost of the flight citing Volume 1 Joint Travel Regulations (1 JTR) para. M4416 as authority for the added cost. The Marine Corps asks whether the retroactive amendment to the order was authorized so as to permit payment of the added cost.

It is the general rule that travel orders may not be revoked or modified retroactively so as to increase or decrease the rights which have accrued or become fixed under the law and regulations when the ordered travel has already been performed. Dr. Sigmund Fritz, 55 Comp. Gen. 1241 (1976). It also has been consistently held that the travel allowances authorized for members of the uniformed services are for the purpose of reimbursing them for the expense incurred in complying with the travel requirements imposed upon them by the needs of the service over which they have no control. See 51 Comp. Gen. 548 (1972).

In the present case, modification of the travel orders was to permit payment of the excess cost of transportation which occurred because government transportation request was not used. The regulation cited as authority, 1 JTR para. M4416, provides for reimbursement of "other necessary incidental expenses related to travel not specifically enumerated in this Part." Such expenses may be reimbursed if authorized in the travel order or approved after travel has been performed. However, 1 JTR para. M4416 is in Part I of 1 JTR which enumerates miscellaneous reimbursable expenses in connection with travel and temporary duty.

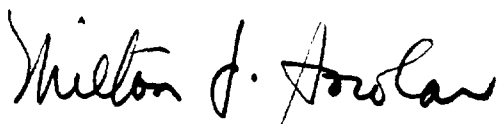
Under 1 JTR para. M4202 the reimbursable expenses covered by Part I do not include transportation expenses but are expenses in addition to per diem allowances and transportation expenses. Thus, the regulation cited in the amending travel order is not an appropriate justification for payment of the cost incurred by Sergeant McClure.

However, the excess charge appears to be reimbursable under the provisions of 1 JTR para. M4203 pursuant to Sergeant McClure's original order. Those orders do require transportation to be procured using government transportation requests, but 1 JTR para. M4203-3e provides that when orders direct the use of transportation requests but transportation requests are not available for the member's travel by common carrier, the provisions of M4203-3b are applicable. Under that provision the full cost of commercial air travel may be reimbursed to the member.

Thus, if it is held that a transportation request was not available for procurement of necessary transportation in the circumstances of this case, that full cost of commercial travel may be paid. The need to purchase another ticket resulted from the delay caused by the breakdown of the traveler's privately owned vehicle. We have held that when use of a privately owned vehicle for the performance of official duties is determined to be advantageous to the government, the delay caused by a breakdown of the vehicle may be viewed as being incident to the official travel. See 42 Comp. Gen. 436.

Since use of a privately owned vehicle to and from San Diego Airport was specifically authorized in Sergeant McClure's orders, the added cost resulting from the breakdown may be borne by the government.

In the present case, the delay in arriving at the airport in San Diego required an immediate change in Sergeant McClure's travel arrangement. Since it is clear that he could not obtain a government transportation request in time to use it to procure transportation aboard the only alternate flight that would permit him to comply with his orders, the full cost of transportation may be born by the government. Accordingly, the claim may be allowed.

for 
Comptroller General
of the United States