

**DECISION**



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

*pmd*

*[Request for Reimbursement of Transportation Expenses #5211]*

FILE: B-197475

DATE: October 17, 1980

MATTER OF: Technical Sergeant Jorge I. Gomez, USAF

- DIGEST:
1. Air Force member unable to accompany his dependent mother on an air flight on a return trip to his permanent duty station in Panama after she had received medical treatment in the United States hired an attendant to accompany her. Since no invitational travel orders were issued to the attendant as required by paragraph M6403, Volume 1, Joint Travel Regulations, member may not be reimbursed for attendant's air fare.
  2. Where travel orders authorized return transportation of dependent mother to Canal Zone after medical treatment in the United States by military air or commercial air, variations of itinerary authorized as determined by competent DOD medical authorities, member may be reimbursed cost of commercial air travel for return, rather than being limited to equivalent military air cost, in view of mother's condition. even though she traveled to an alternate destination, Medellin, Colombia,

The issues presented in this case arising as the result of an appeal from a settlement of our Claims Division are whether a member may be reimbursed for transportation expenses for an attendant who accompanied his dependent mother where no travel orders were issued for the attendant and whether reimbursement for the dependent mother's transportation is limited to what it would have cost the Government to transport the dependent by military air in the absence of a showing that Government transportation was not available or its use was not practicable. The answer to both questions is no.

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( Staff Sergeant Jorge I. Gomez, USAF, while assigned at Howard Air Force Base (AFB), Canal Zone, performed temporary duty in February 1974 to accompany his dependent mother, Carlina Lemos, from the Canal Zone to Malcolm Grow, USAF Medical Center, Andrews AFB, Maryland. Mrs. Lemos was authorized travel from the Canal Zone to Andrews AFB for the purpose of medical consultation and treatment and upon completion of treatment she was authorized to return to the Canal Zone.) Mrs. Lemos' travel orders specifically provided:

"Variations of itinerary are authorized as determined by competent DOD medical authorities. Travel by military air or commercial air, rail or bus \* \* \* is authorized."

Upon completion of tests and an operation at Malcolm Grow Hospital, the attending doctor recommended Sergeant Gomez escort his mother to New York for post-operative convalescence until she was ready to return to the Canal Zone by air transport. USAF Clinic at Howard Air Force Base refused to issue Sergeant Gomez new orders to accompany his mother back to the Canal Zone. Sergeant Gomez says that based on his mother's deteriorating health he purchased air fare for her and an attendant to travel from New York City to Medellin, Colombia, where appropriate civilian care could be obtained. Mrs. Lemos died some months later. (Sergeant Gomez is claiming transportation expenses of \$540 for his mother and an attendant.)

( Under 10 U.S.C. 1040(a) transportation at the expense of the United States is authorized to the nearest appropriate medical facility in which adequate medical care is available for a dependent who is with a member of the uniformed services stationed outside of the United States on active duty for more than 30 days, and who requires medical attention which is not available in the locality. The dependent may also be transported at the expense of the United States from such medical facility back to the member's duty station or such other place as may be determined to be appropriate

under the circumstances. The law provides further that if a dependent is unable to travel unattended, round-trip transportation and travel expenses may be furnished necessary attendants.)

Section 1040(d) provides that the transportation and travel expenses authorized by that section shall be furnished in accordance with joint regulations to be prescribed by the Secretaries named therein. (It provides further that such regulations shall require the use of transportation facilities of the United States insofar as practical.)

Paragraph M7107, 1 Joint Travel Regulations (JTR) (Change 250, December 1, 1973), promulgated pursuant to authority contained in 10 U.S.C. 1040, provides that the member's commanding officer or other officer designated by the service concerned may authorize or approve transportation of dependents under conditions prescribed in the statute.

Upon termination of hospitalization or medical care, transportation of the dependent is authorized either to the member's duty station or to such other place determined appropriate under the circumstances by the order-issuing authority. Paragraph M7107-4 provides that travel and transportation allowances are authorized for the travel of necessary attendants when performed under competent orders as provided in chapter 6, Part I.

Paragraph M6400, chapter 6, Part I, 1 JTR, in effect at the time provides, in pertinent part, that travel of attendants with dependents under authority of paragraph M7107 of the regulations will be authorized only when the order-issuing authority has determined that travel by the dependents is necessary and the dependents are incapable of traveling alone.

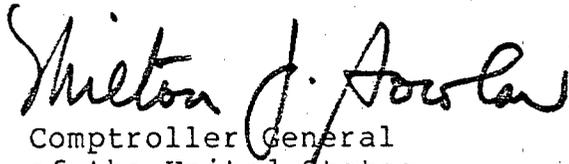
Paragraph 6403, 1 JTR, in effect at the time, authorizes the payment of transportation expenses of attendants for dependents, other than military or civilian employees of the United States, when invitational travel orders for the attendant are issued.)

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In the present case since no invitational travel orders were issued to the attendant who accompanied the member's mother on her return flight after the medical treatment as required by the regulation no authority exists to reimburse the member for the attendant's air fare. Accordingly, the settlement of our Claims Division denying reimbursement for the attendant's fare is sustained.)

With regard to the allowance for the return air fare of the dependent mother by commercial air carrier, it is our view that there is sufficient evidence in the file concerning Mrs. Lemos' condition to sustain a determination that commercial air rather than military air transportation was required for her return trip after receiving medical treatment in the United States. There is also sufficient authority in the original travel orders issued to authorize reimbursement to the member for the dependent mother's commercial air fare to the Canal Zone, and as a result settlement will be based on this cost rather than the cost to Medellin, Colombia.

Accordingly, a settlement will be issued to Technical Sergeant Jorge I. Gomez, for the equivalent commercial air fare from New York City to the Canal Zone for his mother, if otherwise correct, less any amount previously paid for the equivalent military air transportation.

  
For the Comptroller General  
of the United States