

DECISION



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

FILE: B-201716

DATE: August 12, 1981

MATTER OF: Travel Allowances Upon
Recall from Extended Leave

DIGEST: Current regulations which limit a service member's entitlement to return travel and transportation expenses upon recall from authorized leave of 5 days or more due to urgent unforeseen circumstances only if recall is within 24 hours of departure from the duty station, may be amended to authorize entitlement for recalls after 24 hours. Such amendment should set forth definite criteria to be followed if authorization of expenses is to be allowed after 24 hours.

This case concerns whether a military member on an authorized leave of absence for over 5 days who is recalled to duty due to urgent unforeseen circumstances may receive return travel and transportation expenses if the recall is more than 24 hours after his departure. As will be explained, the Joint Travel Regulations, which presently preclude reimbursement for recalls more than 24 hours after the member's departure, may be amended to allow return travel and transportation expenses for recalls after 24 hours, under certain circumstances.

The case was submitted for an advance decision by the Assistant Secretary of the Navy (Manpower, Reserve Affairs & Logistics), and was assigned Control No. 80-34 by the Per Diem, Travel and Transportation Allowance Committee.

Volume 1 of the Joint Travel Regulations (1 JTR) paragraph M6601-1 states in pertinent part:

"* * * when a member departs from a permanent station for the purpose of taking an authorized leave of absence of 5 days or more and, because of an urgent unforeseen circumstance, it is necessary to cancel the member's authorized leave status and recall the member to duty at the permanent station within 24 hours after departure therefrom, travel and transportation allowances will be authorized as provided in subpar. 2. * * *"

Paragraph M6602-1 is essentially identical to the above except that it applies to recall from leave to duty at a temporary duty station rather than permanent station. Neither paragraph M6601-1 nor paragraph

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M6602-1 make provision for a member to be authorized return travel and transportation expenses for recall to the duty station after 24 hours due to urgent unforeseen circumstances. Additionally, 1 JTR, paragraph M6600 states the general rule that a member on leave who departs from a duty station does so at his own risk, and that if a member, while at or en route to a leave point, is directed to return to the duty station after having been on leave in excess of 24 hours, the member will bear the cost in returning.

We are specifically asked if the words "within 24 hours after departure therefrom" may be deleted from paragraphs M6601-1 and M6602-2 as well as whether the language in paragraph M6600 regarding the 24-hour rule may be deleted. These deletions would enable a member on an authorized leave of absence of 5 days or more to be authorized travel and transportation expenses upon recall to duty whenever he was recalled.

In 46 Comp. Gen. 210 (1966), we approved an amendment to Volume 1 of the Joint Travel Regulations to include the portion of paragraph M6601-1 now under discussion. As noted in the decision, the proposed regulation was submitted so as to afford military members a benefit already afforded to civilian employees of the military services under a provision in the regulations applicable to them, Volume 2 of the Joint Travel Regulations. Indeed, the proposed regulation was essentially the same as the one in effect for civilian employees. See 46 Comp. Gen. at 211. Thus, our approval of the regulation recognized that similar benefits for military members and civilian employees of the military could be afforded in this type of situation.

With this recognition that there is no factual or legal impediment to affording military members and civilian employees equality of treatment in entitlement to return travel expenses upon recall to duty after going on extended leave, the problem may be resolved by using cases involving civilian employees as precedent.

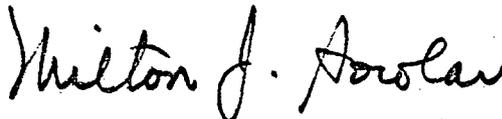
In 39 Comp. Gen. 611 (1960) the reason for the 24-hour recall limitation is explained. In that case, we were presented with a proposed regulation which the Department of the Air Force wished to apply to its civilian employees. The proposed regulation set forth the requirement that the civilian employee of the Air Force on an authorized leave of 5 days or more would receive return travel and transportation expenses if recalled "very shortly after arrival at the place of beginning leave." Because of the possibility of various interpretations of the quoted portion, we suggested language which limited the entitlement to employees recalled within 24 hours after

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departure from the duty station. See 39 Comp. Gen. at 612-613. Thus, the 24-hour requirement was a suggestion to avoid interpretive difficulties.

In more recent decisions, we have had occasion to discuss specifically the matter of recalls from intended leave. We indicated that where an agency has no specific regulation covering the situation of recall, the criteria suggested in 39 Comp. Gen. 611 (1960) (i.e., reimbursement of travel expenses if recalled within 24 hours) should be followed. B-190755, June 15, 1978. We have indicated, however, that an agency may adopt a regulation which is not so restrictive, B-190646, January 25, 1978, discussing B-186129, November 17, 1976 (56 Comp. Gen. 96 (1976)). As indicated in 56 Comp. Gen. 96 (1976), such factors as how much leave was remaining and if the purpose of the trip had been accomplished are factors which could be considered by an agency in promulgating an appropriate regulation.

Accordingly, we do not object to expanding the authority to reimburse members recalled to duty from extended leave. We would suggest, however, that the 24-hour provision not be eliminated, but rather that an alternate provision be added to take into account situations where the recall is after 24 hours but the purpose of the member's trip on leave has been defeated or a substantial portion of the scheduled leave period has been eliminated by the recall.



Acting Comptroller General
of the United States