

DECISION

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

*J. B. [unclear]
R.M.-II*

29159

FILE: B-215000

DATE: August 27, 1984

MATTER OF: Technical Sergeant Stephen M. Wright,
USAF

DIGEST: In a family emergency, a military member relied on a transportation agent's approval to arrange for transportation of household goods and travel of dependents to his home of record about 1 month before he applied for retirement and 6 weeks before retirement orders were issued providing for his retirement a year later. In the absence of military emergency or a written statement from the member's commander advising him that orders would be issued, the transportation officer has no authority to approve personal arrangements for transportation and travel prior to issuance of orders, and regulations dealing with claims procedure provide no authority for payment. The claim for reimbursement of personally arranged, advance transportation and dependent travel costs cannot be paid.

An Accounting and Finance Officer of the Department of the Air Force^{1/} requests an advance decision concerning the propriety of paying a claim presented by Technical Sergeant Stephen M. Wright for reimbursement of expenses incurred in the transportation of household goods and travel of dependents prior to issuance of retirement orders. We conclude that Sergeant Wright is not entitled to reimbursement.

Facts and Issue

In mid-May 1983, while serving on active duty, and in anticipation of retirement, Sergeant Wright, apparently, obtained verbal approval from the Traffic Management Office at his official duty station to arrange for

^{1/} The request was made by Major K. L. Knauf, USAF, Headquarters 375th Aeromedical Airlift Wing (MAC), Scott Air Force Base, Illinois. It was approved by the Per Diem, Travel and Transportation Allowance Committee, and assigned PDTATAC Control No. 84-7.

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the transportation of his household goods and travel of dependents to his home of selection incident to his future retirement. The move was made to permit his wife to be near her mother who, at the time, was in poor health. The transportation and travel were performed in early July. On August 1, Sergeant Wright applied for retirement, and the retirement orders, Special Orders AC-010707, were issued on August 15, to be effective 1 year later, August 1, 1984. Under Air Force regulations this was the earliest his retirement orders could be published in advance of the retirement date. Air Force Regulation 35-7 (ch. 1), para. 2-8a (July 30, 1982). It appears that August 1, 1984, was the earliest date he was eligible to retire.

Sergeant Wright filed a claim for reimbursement of the transportation and travel costs in the amount of \$1,852.56 and \$89.60, respectively. The Accounting and Finance Officer disallowed the claim on the basis of the Joint Travel Regulations, Volume 1 (1 JTR), para. M7003(4) (change 336, February 1, 1981), which provides that in order to be reimbursed for the transportation or travel of dependents performed prior to issuance of change-of-station orders, a statement from the order-issuing authority that the orders will be issued is necessary. A similar provision, 1 JTR, para. 8017, deals with transportation of household goods.

In support of his claim Sergeant Wright points out that he had an emergency situation and that he received verbal authorization from the Transportation Management Office and retirement office at his post, which led him to believe that the transportation of his household goods and the travel of his dependents would be paid for by the Government. He has submitted a letter from the transportation officer. He has also submitted a letter from his commanding officer recommending payment.

Discussion

1) Written Statement

Members are entitled to the transportation of dependents and household effects at Government expense

incident to a permanent change of duty station, including from their last duty station to home of selection, under regulations prescribed by the Secretaries concerned. 37 U.S.C. § 406(a) and (b). Generally, transportation of dependents and household goods is not authorized prior to issuance of orders. However, paragraphs M7003-4 and M8017 of Volume 1 of the Joint Travel Regulations (1 JTR) provide exceptions to this rule. These provisions provide that requests for the transportation of dependents and household goods prior to the issuance of orders must be supported by a statement from authority issuing the permanent change-of-station orders that the member has been advised prior to issuance that the orders would be issued. 1 JTR para. M8017.

These provisions also state that the length of time in which a member may be advised that orders will be issued is the relatively short time between when a determination is made to issue the orders and when the orders are actually issued. General information that is furnished a member such as date of eligibility for retirement or the date of release from active duty may not be considered advice that orders will be issued. See 52 Comp. Gen. 769 (1973).

On the basis of the facts before us, it is clear that Sergeant Wright was not advised by the proper authority that retirement orders would be issued. Furthermore, we have specifically held that the date of eligibility for retirement may not be considered as advice that the orders are to be issued. Lieutenant Colonel William C. Wallace, USA, Retired, B-193521, January 26, 1979.

The regulations specify that a statement from the order-issuing authority that he was advised in advance that the orders would be issued is necessary. The letter from his commanding officer, who is not the order-issuing authority, merely states that the retirement and transportation sections were aware that he planned to retire. This does not meet the requirement of the regulations.

2) Emergency

While Sergeant Wright and his commanding officer explain that household goods shipment and dependent

travel prior to the issuance of the orders were necessary because of an emergency situation affecting his family, a personal emergency does not afford a basis for the transportation and travel prior to the issuance of orders. Dependent travel and transportation of household goods is authorized when orders directing a change of station have not been issued in unusual or emergency situations. See 37 U.S.C. § 406(e). However, the emergency contemplated by 37 U.S.C. § 406(e) is an unusual or emergency situation of a military nature rather than a personal emergency. 59 Comp. Gen. 626 (1980); Major Charles E. Smith, USAF, B-208815, January 10, 1983. Thus, this situation has no bearing on his entitlements.

The transportation officer's statement in the file explains that Sergeant Wright did not have orders at the time he arranged shipment of his household goods. However, he states that the retirement orders of August 15, 1983, constitute authority for the shipment in July 1983. He also notes that 1 JTR, para. M8500, provides authority to reimburse a member in certain circumstances when he personally arranges the shipment of his household goods rather than having the Government transport them.

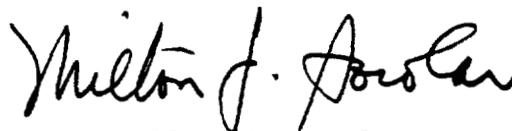
Paragraph M8500 of 1 JTR merely is authority to reimburse to a member who is permitted to personally arrange for the transportation of his household goods, rather than having the Government make the arrangements. It does not provide authority for the shipment of household goods in advance of orders. In the absence of orders directing a permanent change of station or a statement from the order-issuing authority that orders would be issued, the transportation officer should not have told Sergeant Wright to arrange the transportation and ship his household goods.

While it is unfortunate that Sergeant Wright may have been misled by various offices within the Air Force, the fact remains that no authority existed for the transportation of his dependents and household goods prior to the issuance of orders or a statement that they would be issued. The Government is not liable for the

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erroneous acts of its agents even when the errors arise in the course of their duties. See B-182643, February 19, 1975.

Accordingly, we may not authorize Sergeant Wright reimbursement for the transportation of his dependents and household goods. The voucher accompanying the submission will be retained here.

A handwritten signature in black ink, reading "Milton J. Fowler". The signature is written in a cursive style with a large, prominent initial "M".

Acting Comptroller General
of the United States