

Kaufman/Jordan

DECISION



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

FILE: B-200650

DATE: April 23, 1986

MATTER OF: J. D. MacWilliams

DIGEST:

1. An employee of the Forest Service who conducted at his duty station a General Management Review meeting with timber associations and other private users of the Mt. Baker-Snoqualmie National Forest may not be reimbursed for the cost of a meal served at the meeting. The general rule is that in the absence of specific statutory authority the Government may not pay for meals of civilian employees at their headquarters. Reimbursement has been allowed where the meal was incident to a formal meeting or conference that included substantial functions separate from the meal. This case did not meet this threshold requirement.

2. An employee may not be reimbursed for a meal at his headquarters solely by virtue of having met the three-part test established in Gerald Goldberg, et al., B-198471, May 1, 1980. Rather, the employee must first show that the meal was part of a formal meeting or conference that included not only functions such as speeches or business carried out during a seating at the meal, but also included substantial functions that took place separate from the meal. See Randall R. Pope and James L. Ryan, 64 Comp. Gen. 406 (1985).

This decision is in response to a request from C. E. Tipton, an authorized certifying officer of the Forest Service, U.S. Department of Agriculture. The issue presented is whether payment of the cost of expenses incurred for a dinner meal by an employee while attending a meeting held at the employee's official duty station may be allowed. Because the meal involved here was not part of a formal meeting or conference involving substantial functions outside of the meal, we conclude that payment may not be allowed.

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In August 1983, Mr. J. D. MacWilliams, Forest Supervisor, Mt. Baker-Snoqualmie National Forest, Washington, participated in a General Management Review (GMR) involving the Mt. Baker-Snoqualmie National Forest. During the GMR, a Forest Service team meets with representatives from various timber associations and firms to provide an update of Forest Service activities in the National Forest. Likewise, the meeting enables the GMR team to hear presentations from the industry about their concerns and their relationship with the Mt. Baker-Snoqualmie National Forest. Mr. MacWilliams attended this meeting and submitted a travel voucher claiming \$14 for the cost of a meal served at the meeting.

As a general rule, an employee may not be paid a per diem allowance or actual subsistence expenses at his permanent duty station as such expenses are considered personal to the employee. Paragraph 1-7.6a, Federal Travel Regulations, FPMR 101-7 Supp. 1, Sept. 28, 1981, incorp. by ref., 41 C.F.R. § 101-7.003 (1983). We have repeatedly held that in the absence of specific statutory authority, the Government may not pay subsistence expenses or furnish free meals to employees at their official duty stations even where unusual working conditions are involved. 53 Comp. Gen. 457 (1974); Sandra L. Ferguson, et al., B-210479, December 30, 1983; and J. D. MacWilliams, B-200650, August 12, 1981. Compare 53 Comp. Gen. 71 (1973).

There are, however, several exceptions. One permits reimbursement of registration fees that include costs of a meal. Thus, we have held that 5 U.S.C. § 4110 (1982) permits the reimbursement of registration fees for attendance by employees at meetings held at their official duty station where meals are provided at no additional charge and represent an incidental part of the meeting. 38 Comp. Gen. 134 (1958).

Another exception permits reimbursement under 5 U.S.C. § 4110 where meals are not included in a registration fee for attendance, but a separate charge for the meal is made. However, in order for reimbursement to be made under this exception the agency must find that: (1) the meals are incidental to the meeting; (2) attendance of the employee at the meals is necessary for full participation in the business of the meeting; and (3) the employee was not free to

partake of his meals elsewhere without being absent from essential formal discussions, lectures or speeches concerning the purpose of the meeting. Gerald Goldberg, et al., B-198471, May 1, 1980.

Goldberg involved employees who participated in an annual meeting of the President's Committee on Employment of the Handicapped conducted over a 3-day period at their headquarters. There was no charge or registration fee to attend the meeting but there was a charge for three meals served at the event. The question raised in that case was whether the agency could legally pay for the meals which were determined to have been an integral part of the overall conference.

After citing the general rule that an employee may not be paid a per diem allowance in lieu of subsistence at his permanent duty station, we noted that in exceptional circumstances, payment for meals that are incidental to meetings and conferences has been permitted. We found that the 3-day conference in Goldberg met this test.

Recently, employees have claimed reimbursement relying on Goldberg's three-part test for meals taken during the course of routine meetings held at headquarters. Randall R. Pope and James L. Ryan, 64 Comp. Gen. 406 (1985), involved attendance by representatives of the Midwest Region of the National Park Service at monthly meetings of the Omaha-Lincoln Federal Executive Association. These luncheon meetings were organized to permit representatives of various Government agencies to discuss issues of common concern. In denying reimbursement for the meal, we held that in order to meet the three-part Goldberg test, "a meal must be part of a formal meeting or conference that includes not only functions such as speeches or business carried out during a seating at a meal but also includes substantial functions that take place separate from the meal." 64 Comp. Gen. at 408. We noted the difficulty in determining whether the meetings were incidental to the luncheon or whether the luncheon was incidental to the meeting. We concluded that a meeting that lasts no longer than the meal certainly does not qualify for reimbursement.

Thus, the test of Pope and Ryan must precede the application of the Goldberg three-part test. While the record of this case indicates that the participants conducted business during a seating at a meal and for a brief

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B-200650

time thereafter, there is no evidence that any substantial functions occurred separate from the meal. Thus, the meeting in this case does not compare with the elaborate 3-day conference presented in Goldberg, where the meals clearly were incidental to the conference, nor does it meet the standard set forth in Pope and Ryan. We therefore conclude that Mr. MacWilliams may not be reimbursed for meal expenses.

Victor J. Jordan
for Comptroller General
of the United States