



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Staff Sergeant I. V. Ball, USAF - Emergency Leave Travel

File: B-226402

Date: December 5, 1988

DIGEST

In 1981 legislation was enacted authorizing service members to be reimbursed for transportation expenses incurred for commercial air travel between international airports while on emergency leave. This does not provide additional authority either expressly or by implication to reimburse service members for the expenses of travel by private automobile across an international border to an emergency leave site. Hence, the implementing joint-service travel regulations may not properly be amended to authorize such additional reimbursement, nor may an Air Force sergeant be allowed payment on his claim for reimbursement of expenses incurred in performing emergency leave travel by private automobile between Canada and the United States.

DECISION

The issue presented in this case is whether an Air Force sergeant may be allowed payment on his claim for reimbursement of the expenses he incurred in traveling by private automobile between Canada and the United States while on emergency leave, under a statute authorizing payment for service members' emergency leave transportation between international airports.^{1/} We conclude that his claim may not be allowed.

^{1/} This action is in response to a request for an advance decision received from the Accounting and Finance Officer, 416th Bombardment Wing, Griffiss Air Force Base, New York, concerning the propriety of approving payment on a travel voucher submitted by Staff Sergeant I. V. Ball, USAF, 425-02-0328. The request was forwarded here by the Per Diem, Travel and Transportation Allowance Committee after it was approved and assigned PDTATAC Control No. 87-2.

094061/137480

BACKGROUND

On September 29, 1986, Staff Sergeant I. V. Ball, USAF, departed his permanent duty station at North Bay, Ontario, Canada, under a grant of emergency leave. He traveled by private automobile and arrived at his emergency leave destination in Prentiss, Mississippi, the following day. He returned to North Bay on October 9, 1986, again traveling by private automobile.

Following his return to North Bay, service officials advised Sergeant Ball upon his inquiry to submit a voucher claiming reimbursement of his traveling expenses. They advised him that although the applicable joint-service travel regulations limited reimbursement of the cost of international emergency leave travel to situations involving the use of commercial carriers, a decision from our Office would be solicited to determine whether the expenses of his travel by private automobile might also be lawfully reimbursed. Sergeant Ball submitted a claim voucher in compliance with this advice.

In forwarding Sergeant Ball's claim for our decision, the concerned service officials also question whether it would be permissible, under the governing provisions of statute contained in 37 U.S.C. § 411d, to amend the joint-service regulations to authorize the reimbursement of the costs of international emergency leave travel by automobile either on a mileage allowance or on an actual expense basis.

ANALYSIS AND CONCLUSION

Section 411d(b)(1) of title 37, United States Code, provides that under uniform regulations prescribed by the Secretaries concerned, members of the uniformed services stationed outside the continental United States and their authorized dependents who are granted emergency leave may be provided "transportation from the international airport" nearest to their duty station or nearest their location when notification of an emergency is received "to the international airport in the continental United States closest to the international airport from which the member and his dependents departed . . ." when government transportation is not reasonably available. Under section 411d(c) the cost of such transportation may not exceed the cost of government-procured commercial air travel. Section 411d(b)(4) provides for return transportation to the international airport from which the member or dependent departed or to the international airport nearest the member's duty station.

The statutory authority to reimburse service members on emergency leave for the costs of transportation between international airports was first enacted in the Uniformed Services Pay Act of 1981.^{2/} Previously, service members stationed outside of the continental United States on emergency leave were eligible for cost-free government air transportation, if available, but, like service members and civilian government employees generally, were personally responsible for all other travel expenses incurred.^{3/} The congressional reports relating to the 1981 legislation provide this explanation for its purpose:

"Under new section 411d of title 37 . . . members of the uniformed services on duty outside the 48 contiguous states would be entitled to round trip transportation between international airports incident to a personal or family related emergency, but only upon a determination that Government transportation is not reasonably available.

.

"Currently, service members are authorized round trip space-required emergency leave travel on Military Airlift Command (MAC) aircraft. Their dependents are authorized space-available transportation. No commercial air travel is authorized for members. However, many members are serving at locations without ready access to MAC transportation. Faced with an urgent situation requiring their immediate presence, service members are left no alternatives but to return home at personal expense to attend to the emergency, often imposing a tremendous financial burden on them."^{4/}

Thus, 37 U.S.C. § 411d was designed to relieve service members of extraordinary costs necessarily incurred for transportation between international airports while on

^{2/} Public Law 97-60, § 126(a), Oct. 14, 1981, 95 Stat. 989, 1003-1004.

^{3/} See, generally, Major Pablo Rodriguez, USA, B-224780, Feb. 24, 1987.

^{4/} S. Rep. No. 146, 97th Cong., 1st Sess. 15, reprinted in 1981 U.S. Code Cong. & Ad. News 1484, 1498.

emergency leave, but not to reimburse them for all of their travel and transportation expenses.

It is reported that under 37 U.S.C. § 411d and the implementing joint-service regulations, Sergeant Ball would have been eligible for round-trip commercial air transportation at government expense between Sudbury, Ontario, and Cleveland, Ohio. It is also reported that because of the additional travel time and personal expense which would have been involved in that arrangement, he instead decided to travel by private automobile from his duty station in Ontario to his emergency leave site in Mississippi.

The suggestion has been advanced that it might be permissible under 37 U.S.C. § 411d to reimburse Sergeant Ball for the costs he incurred either on an actual expense or on a mileage allowance basis, in an amount not to exceed the cost of round-trip commercial airline transportation between Sudbury, Ontario, and Cleveland, Ohio. We are unable to find any support for that suggestion, however, in either the above-described terms of 37 U.S.C. § 411d or in its legislative history. Rather, in our view, the statutory language, supported by the legislative history quoted above, allows for commercial air transportation to be provided to and from international airports when government air transportation is not available so long as the cost does not exceed the cost of government-procured air transportation between the applicable locations. Although the statute clearly allows members to arrange authorized air transportation themselves and to be reimbursed for its cost, air transportation is the only mode of transportation for which costs may be reimbursed. Had the Congress also intended to authorize reimbursement of emergency leave travel performed by private automobile between a duty station and an emergency leave site, either on an actual expense or on a mileage basis, it could easily have done so. It did not do so, and we are therefore unable to conclude that the implementing joint-service travel regulations may properly be amended to provide such authorization.

Accordingly, we deny Sergeant Ball's claim. The travel voucher, which may not be approved for payment, will be retained here.

for 
Comptroller General
of the United States