

00858

DECISION



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

*Howell
Civ. Pen.*

FILE: B-186310

DATE: February 16, 1977

**MATTER OF: Alan B. Carlson - Home leave travel and
temporary duty travel**

- DIGEST:**
1. There is no requirement that an eligible employee take home leave at the same time as his dependents. Neither is there a requirement that the home leave be taken at the place of actual residence in the United States. However, where dependents of employee take home leave at location in the United States other than employee's place of residence, employee is entitled to reimbursement of travel expenses not to exceed the constructive cost of travel to the employee's place of actual residence.
 2. An employee is permitted to combine annual leave and a temporary duty assignment at the same time his immediate family is performing home leave travel and thus, travel together.

This decision is in response to a request dated April 6, 1976, from Mr. Ernest G. Cummins, an authorized certifying officer for the United States Department of the Interior, Bureau of Land Management as to the propriety of paying the claim of Mr. Alan B. Carlson, an employee of the Bureau of Land Management, for temporary duty travel and home leave travel.

The record shows that travel authorization dated July 1, 1975, was issued to cover the home leave travel of Mr. Carlson, his wife and four children. The travel authorization stated that the family would travel on or about July 25, 1975, but the employee would travel alone at a later date. Employee wanted this delay, up to 12 months, because of a terminal illness of a close relative. Mr. Carlson's place of actual residence was determined to be Billings, Montana, and his duty station was Anchorage, Alaska. On July 25, 1975, the employee's wife and

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children traveled, on home leave, to St. Helena, California, although the listed alternative destination was Ontario, California. The modes of transportation used to travel were commercial airline and privately-owned automobile, while the return trip included a ferry ride. Mr. Carlson was assigned to temporary duty at several points in Oregon beginning at Portland during the period August 11 through August 27, 1975. A portion of this transportation was purchased from personal funds. Preceding his temporary duty Mr. Carlson was granted annual leave from July 25 through August 8, 1975. During this period Mr. Carlson was able to travel with his family on their home leave itinerary. The Carlson family traveled separate and indirect routes, not utilizing the most economical means of transportation. However, in the aggregate, the means used were less costly than a direct route from Anchorage, Alaska, to St. Helena by commercial airline. Mr. and Mrs. Carlson returned to Anchorage on August 31, 1975, while their children returned on September 1, 1975.

In November 1975 Mr. Carlson, again, was assigned temporary duty in Portland, Oregon. The voucher covering the trip indicates that the "travel was conducted in connection with Personnel Management Conference and Home Leave." The voucher further indicates that the travel to Billings, Montana, was for personal business, apparently a continuation or extension of the previously approved home leave travel.

The certifying officer submits the following questions which will be answered in the order presented:

"1. Mr. Carlson selected Ontario, California, as an alternate destination for home leave. His wife and family traveled to St. Helena, California, a point less distant but in the general direction of Ontario. Carlson also traveled to St. Helena with his family but he was on 'annual' leave in connection with temporary duty travel, as opposed to 'home' leave travel. Is Mr. Carlson allowed to later travel to his place of actual residence, Billings, Montana, on 'home' leave?

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"2. If the answer to question 1 is negative, are Carlson's reimbursable home leave travel expenses further limited by his choice to terminate the outgoing portion of the trip to a point (St. Helena, California) less distant from Anchorage than either Ontario, California or Billings, Montana?

"3. Mrs. Carlson chose to return to Oregon from St. Helena by commercial airline departing from Oakland, California instead of by private auto, the mode of travel used to get to St. Helena from Oregon. May Carlson use the reconstructed savings from: (a) not traveling to the selected alternate destination (Ontario, California), or (b) selecting a mode of travel (private rental auto) more economical than commercial airline to offset the greater cost of traveling an indirect route through Oakland?

"4. We recognize that various decisions from your office have established that employees on home leave and their families may travel to different home leave points and at different times. In view of the fact that Carlson actually took annual leave and traveled with his family on their home leave, should the expenses of the later 'home leave' travel be reimbursed?"

Title 5, Section 5728, of the United States Code, provides, in pertinent part, that:

"(a) Under such regulations as the President may prescribe, an agency shall pay from its appropriations the expenses

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of round-trip travel of an employee, and the transportation of his immediate family, but not household goods, from his post of duty outside the continental United States to the place of his actual residence at the time of appointment or transfer to the post of duty, after he has satisfactorily completed an agreed period of service outside the continental United States and is returning to his actual place of residence to take leave before serving another tour of duty at the same or another post of duty outside the continental United States under a new written agreement made before departing from the post of duty."

Under said section the Government's obligation to pay round-trip transportation of an employee's immediate family is contingent upon its obligation to pay the home leave travel expenses of the employee himself. In addition the round-trip transportation expenses of members of his immediate family must be incurred incident to home leave travel actually performed by the employee himself to be reimbursable. B-138436, February 16, 1959.

In the instant case the employee was entitled to home leave travel but desired, due to personal reasons, a delay in utilizing it. At the same time he was entitled to home leave travel for the members of his immediate family. There is no requirement in the pertinent statutory authority or in the Federal Travel Regulations (FPMR 101-7) (May 1973) that the employee and his family must travel together and to the same destination. As long as the employee performs, either before or after his immediate family, home leave travel, his immediate family is entitled to their home leave travel provided that both of their travel are within a reasonable time of each other. B-138436, February 16, 1959.

Therefore, the first question is answered in the affirmative which renders the second question moot.

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Section 5728(a) of title 5, United States Code, is the authority for payment of travel and transportation expenses with reference to an employee's home leave to his place of actual residence. Chapter 2 of the Federal Travel Regulations (FPMR 101-7), in part, implements this authority. Paragraph 2-1.5h(2)(a) provides:

"An eligible employee and his immediate family shall be allowed expenses for travel from his post of duty outside the conterminous United States to his place of actual residence at the time of assignment to a post of duty outside the conterminous United States (referred to as 'actual residence' in 2-1.5h). Those expenses shall also be allowed from the place of actual residence upon return to the same or another post of duty outside the conterminous United States."

Paragraph 2-1.5h(2)(c) permits a modification of the above-cited regulation to include an alternative destination, i.e., "An employee and his family may travel to a location * * * other than the location of the place of actual residence." Additionally, it limits the amount of travel and transportation expenses that can be incurred by the employee. The pertinent portion states:

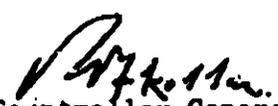
" * * * The amount allowed for travel and transportation expenses when travel is to an alternate location shall not exceed the amount which would have been allowed for travel over a usually traveled route from the post of duty to the place of actual residence and for return to the same or a different post of duty outside the conterminous United States as the case may be."

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It is noted that the record shows that the dependents of the employee used St. Helena as their home leave point, and therefore they would be entitled to round-trip travel from Anchorage to St. Helena and return, not to exceed the cost of travel over a usually traveled route to Billings. Any side trips would be at the expense of the employee.

Accordingly, question number three is answered in the negative.

As far as question number four is concerned, it is related to question number one, supra, and the accompanying reasoning. Without restating the rationale heretofore expressed, it will be sufficient to say that question number four is answered affirmatively.


Deputy Comptroller General
of the United States