

**DECISION**

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

Dunn  
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FILE: B-205638

DATE: July 30, 1982

MATTER OF: Dennis L. Kemp - Temporary Quarters  
Subsistence Expense**DIGEST:**

A transferred employee reclaims amount of subsistence expenses disallowed by his agency as unreasonable in accordance with the Federal Travel Regulations and Department of Agriculture statistics for grocery expenses for the size of the employee's family. However, the employee did not incur grocery expenses as his family's meals were purchased in restaurants. Therefore, the statistical basis for reduction relied upon by the agency does not appear to be germane. The employing agency has initial responsibility to determine reasonableness of expenditures for subsistence while occupying temporary quarters. The agency should make a new determination of reasonableness based upon valid statistical reference and the agency experience of other employees under similar circumstances that might be relevant.

This decision results from the submission by an authorized certifying officer of the Department of Health and Human Services (HHS) of the reclaim voucher of Dennis L. Kemp, an employee of the Office of Hearings and Appeals, for an additional amount of subsistence while occupying temporary quarters which was deducted from his original voucher on the basis that his meal expenses were unreasonably high. Under the analysis which follows we determine that the agency reduction was not based upon relevant statistical data, and the agency is instructed to review the reasonableness of the meal expense in accordance with this decision.

Mr. Kemp was transferred from Des Moines, Iowa to Wichita, Kansas. For a 30-day period during February and March 1981, the employee, his wife and three children (ages 11, 9, and 9-months) were authorized temporary lodging and subsistence because of his transfer. When Mr. Kemp sought reimbursement of his expenses for the 30-day period, the agency disallowed

\$1,751.08 of his claimed \$2,351.08 for meal expenses for the 30-day period as excessive. The agency made its determination to allow only \$600 of Mr. Kemp's meal expenses on the basis that the employee and his family had exceeded the Department of Agriculture statistics for grocery expenses for the size of Mr. Kemp's family. The figure derived from those statistics was \$504 and the agency made a determination to allow \$600 of the \$2,351.08 expense claimed for meals for the 30-day period. Mr. Kemp protested this reduction to the agency on the basis that he did not incur grocery expenses but rather found it necessary for him and his family to take their meals in restaurants.

In response to Mr. Kemp's protest, HHS reviewed comparable change-in-station vouchers and decided to allow an additional \$600 for meals for a total of \$1,200. The agency states that it believes this to be an equitable amount and cites the "prudent person" standard set forth in the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR), para. 1-1.3a as its basis. The administrative report does not furnish any explanation as to the profile of the employee vouchers it reviewed. No information was submitted as to the size of the other families, the locations of their new stations, the dates which these other vouchers covered, the inflation factors used for comparability purposes, or the number of vouchers from which it was drawing its conclusions. The agency reported no other basis as to why it increased its initial allowance from \$600 to \$1,200, or why it still considered \$2,351 to be excessive. Because Mr. Kemp and his family did not purchase groceries but secured their meals in restaurants, any reliance which HHS placed on the Department of Agriculture statistics for groceries would not have been relevant. We find nothing in the Federal Travel Regulations and we are not aware of any agency regulations that would preclude eating in restaurants during the occupancy of temporary quarters.

Under 5 U.S.C. § 5724(a)(3), and implementing regulations contained at chapter 2, part 5, of the FTR, a transferred employee may be reimbursed subsistence expenses for himself and his immediate family for a period

of up to 30 days while occupying temporary quarters. These regulations authorize reimbursement only for the actual subsistence expenses incurred provided they are incident to the occupancy of temporary quarters and are reasonable as to amount. FTR para. 2-5.4a. It is the responsibility of the employing agency, in the first instance, to determine that subsistence expenses are reasonable. Where the agency has exercised that responsibility, this Office will generally not substitute its judgment for that of the agency, in the absence of evidence that the agency's determination was clearly erroneous, arbitrary, or capricious. Jesse A. Burks, 55 Comp. Gen. 1107 (1976); reconsideration and amplified, 56 Comp. Gen. 604 (1977).

The evaluation of the reasonableness of amounts claimed must be made on the basis of the facts in each case. 52 Comp. Gen. 78 (1972). Further, we have specifically noted that a determination of the reasonableness of the sum claimed for subsistence expenses may be made on the basis of statistics and other information gathered by Government agencies regarding living costs in the relevant location. See Jack S. Sanders, B-188289, November 14, 1977. To assist agencies in making an independent determination as to the reasonableness of claimed subsistence expenses in a given case, we have stated that the information published by the Bureau of Labor Statistics provides an objective and readily available indication of reasonable expenditures for subsistence by families in certain geographical locations. We have also recognized that Department of Labor statistics are based on the "average" family, and thus the actual expenses of a particular family will vary depending upon the family's composition and actual income. Such variances can be accounted for through the use of the Bureau of Labor Statistics equivalence scale. Jesse A. Burks, as amplified. 56 Comp. Gen. 604 (1977). When the expenses incurred by an employee appear unreasonable, an adjustment for reimbursement purposes may be made by reference to such information. Jesse A. Burks, 56 Comp. Gen. 604 previously cited.

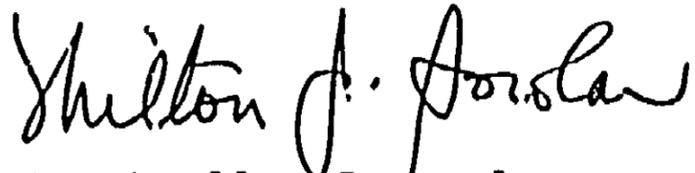
We have also found the "Runzheimer Meal-Lodging Cost Index (Runzheimer Index)" for meal expenses at restaurants to be a valid statistical reference and an appropriate

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method for an agency to measure the level of reimbursement for meals eaten at restaurants. Thomas D. Voglesonger, B-196030, December 11, 1979.

Although it may be that Mr. Kemp's claim of \$2,351.08 for restaurant meals for a family of 5 for 30 days is unreasonable, we find the agency's reduction of this amount to \$1,200 to be without adequate explanation. From the information furnished we are unable to determine how the subsistence expense allowance was computed. We find that the agency's use of Department of Agriculture statistics for grocery expense was not an appropriate statistical reference under the facts of this case. Since the Kemp family ate meals in restaurants, the agency should make a determination of the reasonable cost of restaurant meals in the Wichita area. The determination should be based on a valid statistical reference and the experience of other employees under similar circumstances and any unusual circumstances that might be relevant.

Therefore, HHS should reevaluate its determination of reasonableness for the amount claimed for subsistence expense and make any appropriate adjustment in accordance with the guidance set forth above.

for   
Comptroller General  
of the United States