

DECISION



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

FILE: B-185733

DATE: SEP 1 1976

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MATTER OF:

Actual expense reimbursement for operating
a privately owned conveyance

98097

DIGEST:

No legal objection exists to authorizing the amendment to the Joint Travel Regulations to provide for reimbursement to members of the uniformed services on temporary duty for the actual expenses incurred for operating privately owned conveyances when it is determined that the use of such conveyances is advantageous to the Government and reimbursement is limited to the cost of gasoline, oil, parking fees, tolls, and similar costs.

This action is in response to a letter dated December 10, 1975, from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs), requesting our view as to the validity of a proposed amendment to the Joint Travel Regulations (JTR). The amendment would authorize reimbursement for the actual expenses incurred for operating privately owned conveyances on temporary duty travel when it is determined that the use of such conveyance is advantageous to the Government. The request was forwarded to this Office by letter dated December 15, 1975, from the Per Diem, Travel and Transportation Allowance Committee (Control Number 75-37).

It is asserted in the submission that there are certain cases where it is to the advantage of the United States Government for military members to use their privately owned vehicles for temporary duty travel and that the use of privately owned vehicles under these circumstances results in a financial hardship to the member concerned.

In order to alleviate this situation, it is proposed to amend the JTR to authorize reimbursement for the actual expenses incurred for operating a privately owned conveyance when it is determined that the use of such vehicle is advantageous to the Government. Under the proposed regulation, the authority directing the travel would authorize reimbursement of all costs of using such transportation on an actual expense basis only when the circumstances surrounding a particular travel assignment

were such that the use of a means of transportation other than privately owned conveyance would not be practicable for any reason or when it was determined that the mission could be more efficiently or expeditiously accomplished by the use of such transportation. In such cases, the travel orders would specifically state that travel by privately owned conveyance is more advantageous to the Government and that reimbursement according to the proposed JTR paragraph was authorized. The reimbursement authorized would include reasonable expenses for gasoline or other fuel; oil; parking fees; ferry fares; road, bridge and tunnel tolls; landing fees; tie-down fees; docking fees; and other expenses related to the travel performed. The proposed regulation would prohibit reimbursement for mechanical repairs, periodic maintenance, or emergency road service, regardless of cause. Since the use of a privately owned conveyance under the circumstances just described would be required because the use of other modes of transportation was not practicable, our opinion has been requested on whether the proposed revision may be made under 37 U.S.C. 404(d)(1) and (2) by a change in the JTR.

The basic authority for reimbursement of military members for the costs of travel is provided by 37 U.S.C. 404(d), which provides:

"(d) The travel and transportation allowances authorized for each kind of travel may not be more than one of the following—

"(1) transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation at a rate that is not more than 7 cents a mile based on distances established, over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of the Army;

"(2) transportation in kind, reimbursement therefor, or a monetary allowance as provided by clause (1) of this subsection plus a per diem in place of subsistence of not more than \$35 a day; or

"(3) a mileage allowance of not more than 10 cents a mile based on distances established under clause (1) of this subsection.

Where due to unusual circumstances of a travel assignment the maximum per diem allowance would be less than the amount required to meet the actual and necessary expenses of the trip, reimbursement for such expenses may be authorized, under regulations prescribed by the Secretaries concerned, on an actual expense basis, but not more than the amount specified in the travel authorization, and in any event not more than \$50 for each day in a travel status."

That provision includes authority for payment of a monetary allowance in place of the cost of transportation in clauses (1) and (2) and a mileage allowance in clause (3). When monetary allowance in place of the cost of transportation is paid, the member is responsible for procuring his own transportation, which may be common carrier transportation or transportation by privately owned conveyance. The mileage allowance provided in clause (3) is a similar commuted allowance; however, a higher rate allowance is authorized because payment of mileage under clause (3) is intended to cover subsistence costs while traveling as well as the costs of transportation. Although the monetary allowance in place of the cost of transportation and the mileage allowance are not limited to cases involving travel by privately owned conveyance, it appears that payment of these allowances has been the only way in which members have been reimbursed for use of their privately owned conveyances for travel outside their permanent duty stations. A mileage allowance for use of privately owned vehicles as prescribed by the services is authorized in 37 U.S.C. 408; however, this allowance may be paid only for travel within the limits of the member's duty station.

Under the statute and implementing regulations, in temporary duty travel cases, the member may be given common carrier transportation fully paid for by the Government, he may be reimbursed the cost to him of common carrier transportation, or he may be paid a monetary allowance in place of the cost of transportation.

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Under those provisions, if he travels by privately owned vehicle, he may be paid only the monetary allowance in place of the cost of transportation. The question raised is whether there is any legal reason why reimbursement to members for use of privately owned conveyances may not be authorized on an actual expense basis; thus, allowing reimbursement for the member's cost of providing transportation instead of limiting reimbursement to the monetary allowance.

We have thoroughly reviewed the current law and our decisions with respect thereto as well as the history of the applicable law and find nothing which must be viewed as precluding reimbursement on an actual expense basis as proposed for use of privately owned conveyances. Accordingly, we do not object to a change in the applicable regulations which would permit reimbursement to members on an actual expense basis for use of privately owned automobiles under the conditions and subject to the restrictions discussed.

In that connection we note that the wording of the proposed regulation is broad enough to cover travel by airplane and boat as well as travel by automobile. Although we do not object to payment of actual expenses to members when their use of privately owned airplanes or boats is determined to be advantageous to the Government, the justification for the change in the regulation is related only to the cost of operating privately owned automobiles. We feel that full consideration should be given to that aspect of the proposed regulation before it is implemented in its present form. We note further that the limitations on reimbursable costs as discussed above are not included in the amendatory language which was attached to the submission. We believe those limitations should be included in Volume 1 of the JTR so that the restrictions on reimbursement of expenses for use of privately owned conveyances are clearly recognized.

~~Acting~~ ^{R. F. KELLEY}
Comptroller General
of the United States