

DOCUMENT RESUME

08042 - [C3528629]

[Claim for Retroactive Reimbursement of Travel Expenses].
B-192636. December 15, 1978. 3 pp.

Decision re: Donald P. X. McIntyre; by Robert F. Keller, Deputy
Comptroller General.

Contact: Office of the General Counsel; Personnel Law Matters
II.

Organization Concerned: General Services Administration.
Authority: 5 U.S.C. 5707. F.T.R. (FPMR 101-7). 23 Comp. Gen.
713. 24 Comp. Gen. 439. 47 Comp. Gen. 127. B-175433 (1972).
B-186684 (1977). B-170060 (1970).

An employee appealed a settlement disallowing his claim
for travel expenses and per diem incurred while attending a
training course. The employee voluntarily incurred travel
expenses to attend a training course at a time when travel funds
were frozen and was not entitled to reimbursement after the
freeze was lifted. (RIS)

DECISION



J. D. Mosher 1-10-78
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20040

8629

FILE: B-192636

DATE: December 15, 1978

MATTER OF: Donald F. X. McIntyre - Retroactive travel
authorization

DIGEST: An employee who voluntarily incurred travel expenses to attend a training course at time travel funds were frozen may not have travel expenses reimbursed for return travel performed after freeze lifted. Previous travel authorization having been cancelled and an authorization for travel at no expense to the Government having been issued no authority exists to authorize reimbursement for travel retroactively in the absence of error apparent on the face of the orders and all facts and circumstances clearly demonstrate that some provision previously determined and definitely intended has not been omitted through error or inadvertence.

This decision concerns letters dated December 21, 1977, and January 9, 1978, from Mr. Donald F. X. McIntyre appealing a settlement by the Claims Division of this Office dated December 1, 1977. The settlement disallowed his claim for travel expenses and per diem incurred incident to a training course attended as an employee of the General Services Administration (GSA).

Mr. McIntyre states that he was scheduled to attend the Central Heating Plant Specialist Course at Sheppard Air Force Base in Wichita Falls, Texas, beginning August 21, 1974. He asserts that on June 26, 1974, the Regional Administrator authorized travel, including transportation and per diem. Prior to his scheduled departure he was notified that due to budgetary restrictions a freeze had been imposed on GSA travel and his scheduled trip was cancelled. However, in anticipation of a lifting of the freeze and the prospect of missing the training course, he elected to attend the course and assume all travel expenses. Sometime in September 1974 and before completion of the course and prior to Mr. McIntyre's return travel, the GSA travel freeze was lifted. After completion of the course he requested reimbursement of the expenses incurred after the freeze was lifted.

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The June 26, 1974 approval referred to by Mr. McIntyre as the authorization for travel was apparently an approval by the Region 3, Regional Administrator of GSA, for a training course for a number of employees one of whom was Mr. McIntyre. Actual travel authorization at Government expense for Mr. McIntyre by the Regional Administrator was never executed. However, on August 6, 1974, travel was recommended by the Program Coordinator, travel approved by the Administrative Officer and travel authorized by the Regional Administrator on a GSA Form 87 showing travel to be performed at "No cost to Government--Employee traveling at own expense."

The authority to pay travel, transportation and subsistence to Government employees while traveling on official business is provided by chapter 57 of title 5, United States Code (1976). The GSA has issued Federal Travel Regulations (FPMR 101-7) pursuant to 5 U.S.C. 5707 (1976) which governs the official travel of Government employees. Paragraph 1-1.4 (May 1973), provides as follows:

"1-1.4. Authority for travel. Except as otherwise provided by law, all travel shall be either authorized or approved by the head of the agency or by an official to whom such authority has been delegated. Ordinarily, an authorization shall be issued prior to the incurrence of the expenses. The authorization shall be as specific as possible in the circumstances as to the travel to be performed."

The record clearly shows that prior to the scheduled departure of Mr. McIntyre and the other students listed, the trip was cancelled because of budgetary considerations. Even though the freeze on travel funds may have been lifted, there is nothing in the record to show that there was any reapproval or reauthorization of the specific travel of Mr. McIntyre which had been previously cancelled.

While travel on Government business is to be performed at Government expense, there are situations in which an employee may be authorized to travel at his own expense when the travel involves work or training of mutual interest to the employee and the Government. Here the agency would have authorized and


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directed travel as in the Government's interest but for the lack of funds to pay for the travel involved. The training was therefore cancelled. However, the claimant decided that the training was in his interest as well as in the interest of the Government and performed travel incident to the training at his own expense. In the circumstances the Government is not obligated to pay for the travel involved.

It is well established that legal rights and liabilities in regard to travel allowances rest as and when the travel is performed under the orders and that such orders may not be revoked or modified retroactively so as to increase or decrease the rights which have become fixed under the applicable statutes or regulations. An exception may be made only when an error is apparent on the face of the orders and all facts and circumstances clearly demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertence in preparing the orders. 23 Comp. Gen. 713 (1944); 24 *id.* 439 (1944); 47 *id.* 127 (1947); B-175433, April 27, 1972; and B-186684, February 2, 1973.

In the decision B-170060 dated August 5, 1970, by Mr. McIntyre in his letter dated December 21, 1977, the record indicated that at the time the travel was performed it was understood that the transfer would be at Government expense. No such understanding existed in the present case. The travel was undertaken by Mr. McIntyre with the understanding that it would be at no cost to the Government.

Accordingly, since on the basis of the record before this Office there is no legal authority for the payment of this claim the action of our Claims Division disallowing the member's claim was correct and is sustained.


Deputy Comptroller General
of the United States