

DECISION



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

FILE: B-207002

DATE: July 13, 1982

MATTER OF: George W. Morrow, Jr.

DIGEST: An employee secured his agency's approval for use of first-class air accommodations for travel on official business because of medically confirmed claustrophobia. Since the approval was granted in accordance with applicable regulations, the employee is entitled to reimbursement for the additional cost of first-class. In such a case the Comptroller General will not substitute his judgment for the agency's absent clear and convincing evidence that the determination was arbitrary and capricious.

Mr. George W. Morrow, Jr., an Internal Revenue Service employee, believes he should be reimbursed for the additional cost of first-class accommodations he used while traveling on official business. The agency initially denied this part of Mr. Morrow's travel claim because first-class travel had not been approved and because, in the certifying officer's opinion, the reasons he offered did not qualify him for a first-class exception under applicable regulations. The claim now contains the required approval, and the Authorized Certifying Officer, Midwest Region, Internal Revenue Service, has requested an advance decision as to whether the claim should be paid.

We find, for the reasons discussed below, that Mr. Morrow's claim may be certified for payment.

In a December 22, 1981 memorandum to the Acting Regional Inspector, Frank V. Santella, Mr. Morrow requested authorization to use first-class air accommodations for his upcoming assignment. He stated that he becomes nervous, tense, and often nauseous in close environments--a condition diagnosed as claustrophobia by his physician--and offered to provide medical confirmation of his need to travel first-class. After completing travel in January 1982, Mr. Morrow submitted a travel voucher requesting reimbursement for first-class air fare on a round trip between his official duty station, St. Louis, Missouri, and Washington, D.C. The agency deducted \$303, the difference between first-class and contract carrier, from Mr. Morrow's claim. Mr. Morrow has submitted the Acting Regional Inspector's approval of his request for use of first-class accommodations during this travel, together with a

January 18, 1982 letter from the physician referred to in Mr. Morrow's request confirming Mr. Morrow's medical need to fly first-class. The certifying officer now wishes to know whether this approval, medically confirmed, is sufficient for her to certify for payment the claim for the additional amount of air fare.

Paragraph 1-3.3d of the Federal Travel Regulations (FPMR 101-7) (November 1, 1981) articulates the Government policy that its employees whose official business requires travel on commercial airlines use less-than-first-class accommodations. Use of first-class is justified only in limited circumstances, as set out by subpart (3) of this paragraph. Apparently the provision of the regulation under which the Acting Regional Inspector approved Mr. Morrow's use of first-class was the provision under which the head of an agency or his/her designee may authorize or approve an employee's use of first-class accommodations when:

"First-class accommodations are necessary because the employee is so handicapped or otherwise physically impaired that other accommodations cannot be used, and this condition is substantiated by competent medical authority. * * *"
FTR para. 1-3.3d(3)(b)(ii) (1981).

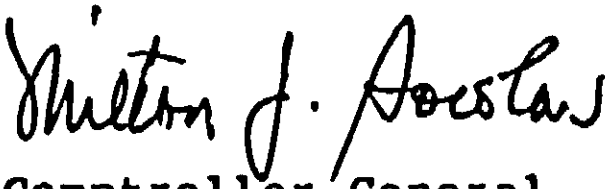
The Internal Revenue Service Manual is worded identically, although it adds an additional sentence: "Physical size is not by itself justification to travel first-class." IRM 1763, Travel Handbook, § 233.2(2)(b) (1982).

The regulations thus leave determination of "so handicapped or otherwise physically impaired" to the discretion of the agency head or his/her designee. To ensure adequate consideration and review of the reasons necessitating first-class accommodations, subpart (2)(a) of FTR paragraph 1-3.3d requires that the agency decision be made at the highest administrative level practical. The Internal Revenue Service has provided for decisionmaking at this level (Acting Regional Inspector) in its Delegation Order No. 95 (Rev. B) (1980). Paragraph 3 of this order names Regional Inspectors as appropriate officials to authorize or approve first-class air accommodations for their employees.

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In this case the decision to allow Mr. Morrow first-class air accommodations was made by an appropriate designee of the agency head based on Mr. Morrow's statement that his use of such accommodations was due to his claustrophobia substantiated by competent medical authority. Since the regulations leave the decision to that official's discretion, we will not substitute our judgment for the agency's absent clear and convincing evidence that the determination was arbitrary and capricious, nor should the authorized certifying officer. Compare Matter of Braitsch, B-202540, May 11, 1981. No such evidence has been offered here.

Accordingly, the voucher may be certified for payment if otherwise proper.

for 
Comptroller General
of the United States