

DECISION



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

FILE: B-215362

DATE: October 1, 1984

MATTER OF: William P. Hubbard - Home Service Transfer Allowance

DIGEST:

Employee of Department of Agriculture completed an overseas assignment in Saudi Arabia. He had been assigned there under the Foreign Assistance Act of 1961, as amended, 22 U.S.C. chapter 32 and was thus eligible under 22 U.S.C. § 2385(d) (1982) to receive the home service transfer allowance given to Foreign Service Officers. He performed permanent change of station travel from Riyadh, Saudi Arabia, to Winchester, Virginia. Due to a delay in receiving his household goods shipment which was not his fault, he seeks extension of the home service transfer allowance beyond the maximum 30 days allowed by regulation. We hold that such a regulation has the force and effect of law, and is not subject to waiver or exception by the agency on a case-by-case basis.

This is in response to a request for a decision from Mr. W. D. Moorman, authorized certifying officer, National Finance Center, Department of Agriculture, New Orleans, Louisiana. The issue is whether due to extenuating circumstances an employee's entitlement to a home service transfer allowance under section 250 of the Standardized Regulations (Government Civilians, Foreign Areas) may be extended beyond 30 days. For the following reasons, we hold that it may not be so extended.

Mr. William F. Hubbard, an employee of the Office of International Cooperation and Development, Department of Agriculture, completed an overseas assignment in Saudi Arabia. His assignment was made under the authority of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. chapter 32. His travel incident to this assignment was thus governed by the Foreign Affairs Manual, pursuant to 22 U.S.C. § 2385(d) (1982), which provides that employees so assigned are to receive the allowances and benefits of the Foreign Service Act of 1980, 22 U.S.C. §§ 3901 et seq. (1982). Accordingly, his permanent change of station (PCS) allowances were

authorized under the Standardized Regulations (Government Civilians, Foreign Areas).

Mr. Hubbard traveled from Riyadh, Saudi Arabia, to Winchester, Virginia. He was authorized and has been paid subsistence expenses under section 252.22 of the Standardized Regulations for the first 30 days after his return to the United States commencing on October 15, 1983, and extending to November 13, 1983. He now claims an entitlement of \$1,785.06 in subsistence expenses for additional days from November 14, 1983, to January 26, 1984. The basis for this claim is that due to a delay in shipment of his household goods including cooking utensils and dishes from Saudi Arabia, which was not due to Mr. Hubbard's fault, the Hubbard family had to eat all their meals in commercial establishments during these additional days. Mr. Hubbard also points to paragraph C13004 of the Joint Travel Regulations (JTR), Vol. II, as authority for granting more than 30 days of subsistence expenses.

We have held that where an employee is entitled to a home service transfer allowance under section 250 of the Standardized Regulations he may not also be authorized reimbursement of temporary quarters expenses under the Federal Travel Regulations (FPMR 101-7 September 1981). William J. Shampine, 63 Comp. Gen. 195 (1984). Thus, it is clear that Mr. Hubbard cannot be reimbursed under the Federal Travel Regulations or the Joint Travel Regulations, as he apparently contends.

As to the length of time Mr. Hubbard is entitled to the subsistence expense portion of the home service transfer allowance, section 252.22 of the Standardized Regulations (Government Civilians, Foreign Areas) provides:

"252.22 Definite Periods Involved in Grant

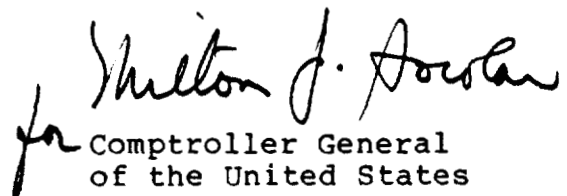
Within the time range outlined in Section 252.21, the grant, or grants, of the subsistence expense portion may authorize reimbursement for any periods for which meals, laundry/dry cleaning and temporary lodging expenses were incurred by the employee or family

member at his/her post up to a total of 30 calendar days; provided that (1) during periods for which reimbursement is authorized the employee was in pay status, and (2) he/she was not authorized travel per diem (Section 252.23). No reimbursement shall be authorized for any period on or after one of the following dates, whichever is earliest:

- a. the date the employee occupies residence quarters;
- b. the date the employee departs from the U.S. post on transfer, or the effective date of transfer when the employee is absent from the U.S. post at the time the transfer order is issued and does not return to the U.S. post before proceeding to his/her new foreign post;
- c. the date of the employee's separation (Sections 040r, 254.2)."

On the basis of the wording of the regulation, it is clear that the subsistence portion of the home service transfer allowance is limited to 30 days and may not be extended. Such a regulation has the force and effect of law and is not subject to waiver or exception by the agency on a case-by-case basis. Teresita G. Bowman, B-212278, September 2, 1983.

Accordingly, Mr. Hubbard's claim for a home service transfer allowance in excess of 30 days may not be certified for payment, and his voucher will be retained in this Office.

for 
Comptroller General
of the United States