



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

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B-178904

AUGUST 27, 1973

Mr. G. E. Tipton
Authorized Certifying Officer
Forest Service
United States Department of Agriculture
P. O. Box 230
Juneau, Alaska 99601

Dear Mr. Tipton:

We refer to your letter of June 12, 1973, reference 6540, requesting our decision as to whether the claim of Mrs. Dolores Peacock in the amount of \$223.58, for reimbursement of expenses incurred in transporting the remains of her deceased husband, Clyde E. Peacock, a former employee of the Forest Service, from Juneau, Alaska, to Missoula, Montana, may be certified for payment.

While recognizing that our decisions 39 Comp. Gen. 716 (1960) and 40 Comp. Gen. 196 (1960) indicate that the expense in question may not be reimbursed, you express the belief that since Office of Management and Budget Circular No. A-56, as amended August 17, 1971, was promulgated and became effective after those decisions were issued, section 1.11d thereof may presently be interpreted as authorizing the return of employees, both living and dead, from Alaska to the United States at Government expense, provided of course that the conditions contained therein have been satisfied.

Section 1.11d of the Circular provides in pertinent part:

"When an employee is eligible for return travel and transportation to his place of actual residence upon separation after completion of the period of service specified in an agreement executed under 1.5a(2) or separated for reasons beyond his control and acceptable to the agency concerned he may receive travel and transportation to an alternate location provided the cost to the Government will not exceed the cost of travel and transportation to his residence at the time he was assigned to an overseas station * * *"

You state in this regard that Mr. Peacock did complete the agreed upon period of service as required by section 1.5a(2) of that regulation.

In our decision 40 Comp. Gen. 196, we considered the question of whether it was permissible to pay the expenses of return transportation

PUBLISHED DECISION
53 Comp. Gen. 1111

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B-173904

of the remains of an employee who died while stationed in Alaska or Hawaii, under the authority of sections 1 and 7 of the Administrative Expenses Act of 1946, 5 U.S.C. 73b-1 and b-3. These sections provided for the reimbursement of travel and transportation expenses incurred by employees in connection with their transfers to duty stations outside the continental limits of the United States and return therefrom. In concluding that payment of expenses incurred for the transportation of an employee's remains could not be effected under the authority of section 1 and section 7 of the Administrative Expenses Act of 1946, we stated:

"There is no express language in either section 1 or section 7 of the act authorizing the transportation of the remains of an employee under any circumstance. We think it significant that at the time of enactment of the Administrative Expenses Act of 1946 permanent legislation was in existence—the act of July 8, 1940, 5 U.S.C. 102a—specifically dealing with the matter of transporting the remains of deceased employees and prescribing the conditions under which the Government would pay for such transportation. Thus, at the time of enactment of the 1946 statute, there was no necessity for including provisions in that act governing the transportation of the remains of deceased employees. Hence, in the absence of an express provision in that act to the contrary, we are of the view that the authority for the transportation of an employee and his immediate family granted by the 1946 act applies only to living individuals and that the 1940 statute constitutes the exclusive statutory authority for the transportation of remains. It follows, therefore, that the transportation at Government expense of the remains of a deceased employee who dies while stationed in Alaska or Hawaii may not be effected under the authority of either section 1 or section 7 of the Administrative Expenses Act of 1946."

We believe that the same reasoning should be applied to the question before us, especially in view of the fact that the currently applicable provisions of law, 5 U.S.C. 5722, 5724 and 5742(b)(1), are codifications without substantive change in the provisions of law which were cited in that decision. Thus, there existed permanent legislation--5 U.S.C. 5742(b)(1)--specifically dealing with the matter of transporting the remains of deceased employees at the time Circular No. A-56 was revised on August 17, 1971. Further, section 1.11d of the Circular contains no express language authorizing the transportation of the remains of an employee. In view of the provisions of section 5742(b)(1) of title 5, referred to above, we believe that section 1.11d must necessarily be

B-173204

considered as applying only to living individuals and that the provisions of section 5742(1)(1) govern entitlement for the return transportation of the remains of a deceased employee.

Section 5742(b)(1), title 5, United States Code, provides in the above connection:

"(b) When an employee dies, the head of the agency concerned, under regulations prescribed by the President and, except as otherwise provided by law, may pay from appropriations available for the activity in which the employee was engaged—

"(1) the expense of preparation and transporting the remains to the home or official station of the employee, or such other place appropriate for interment as is determined by the head of the agency concerned, if death occurred while the employee was in a travel status away from his official station in the United States or while performing official duties outside the United States or in transit thereon or therefrom."

Under the above provisions the remains of an employee who died while stationed in the United States, including Alaska, may not be prepared and transported at Government expense unless at the time of his death the employee was in a travel status. Since it appears that Mr. Penrod was not in a travel status at the time of his death in Alaska, we must conclude that reimbursement of the expenses incurred for preparation and transporting his remains to Maroula, Montana, is not authorized under the terms of section 5742(b)(1) above.

The voucher which is returned herewith may not be certified for payment.

Sincerely yours,

Paul G. Donohue

For the

Comptroller General
of the United States