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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20545

D-177659

December 18, 1973

402872

Staff Sergeant Joseph O. Inman, USA, Retired
545 Eisenhower Road, B-9
Leavenworth, Kansas 66046

Dear Sergeant Inman:

Reference is made to your letter of December 2, 1972, with enclosures, requesting reconsideration of the settlement by our Transportation and Claims Division, dated October 16, 1972, which disallowed your claim for personal and dependent travel allowance incident to your retirement from the United States Army.

The record shows that you were released from active duty in the Army and placed on the temporary disability retired list (TDRL) effective August 20, 1970. Thereafter, a physical evaluation board, on September 27, 1971, found you physically unfit and recommended that you be permanently retired from the service. The record further shows that your permanent retirement became effective on December 1, 1971. Your travel to your home of selection was reportedly completed on November 9, 1971.

Your claim for travel allowance for yourself and for your dependent was disallowed because travel incident to your retirement was not performed within one year after termination of active duty. With your letter you enclosed a copy of your clinical record dated July 28, 1971, which you indicate shows that you were hospitalized at Letterman General Hospital and received outpatient treatment at the U. S. Army Hospital, Fort Ord, California. On this basis apparently you believe that the one-year limitation should be extended and your claim allowed.

Paragraph M4158-1a1, Joint Travel Regulations, states that a service member is entitled to travel to his selected home when retired for physical disability or placed on the temporary disability retired list.

Paragraph M4158-3a of the regulations states that except as provided in subparagraph b (member undergoing hospitalization or medical treatment), and subparagraph c (member undergoing education

[Reconsideration of Personal and Dependent
Travel Allowance]

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B-177659

or training), travel to a selected home must be completed within one year after the termination of active duty.

Subparagraph b provides as follows:

"(1) On Date of Termination of Active Duty. A member who is confined in, or undergoing treatment at, a Government or civilian hospital on the date of termination of active service * * * will be entitled to travel and transportation allowances * * * provided that travel is performed to the selected home within 1 year after the date of discharge from the hospital or termination of medical treatment, except when a longer time limit is authorized or approved by the Secretary of the service concerned or his designated representative.

"(2) During 1-Year Period Subsequent to Date of Termination of Active Duty. A member who is confined in, or undergoing treatment at, a Government or civilian hospital for any period of time during the 1-year period subsequent to the date of termination of active service * * * will be entitled to travel and transportation allowances * * * provided that travel is performed to the selected home within 1 year after date of termination of active service, plus a period equal to the period of the member's hospitalization or treatment. A longer time limit may be authorized or approved by the Secretary of the service concerned or his designated representative. * * *"

The clinical record you sent to our Office indicates that you were hospitalized for 19 days, from June 14 to July 2, 1971, at Letterman General Hospital, Presidio of San Francisco, California. There is no reference to outpatient treatment there or elsewhere.

Accordingly, the one-year period may be extended by 19 days. However, on the record before us, since you were relieved from active service on August 20, 1970, but reportedly did not travel to your home of selection until November 9, 1971, more than one year and 19 days later, payment of your claim is not authorized.

B-177659

However, since you indicate that you also received treatment as an outpatient during the one-year period, further consideration will be given to further extending the one-year period provided you furnish us with a copy of your medical records establishing such treatment.

Sincerely yours,

Paul G. Dearbins

For the Comptroller General
of the United States

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