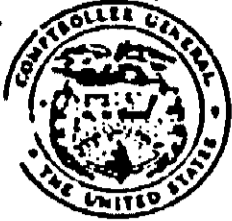


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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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MAY 14 1973

The Honorable John W. Warner
The Secretary of the Navy

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Dear Mr. Secretary:

This is in reference to what would appear to be certain improper procedures of administration in the area of travel of dependents of members of the Navy and the shipment of members' household effects at Government expense, it being doubtful that such movements may be regarded as incident to a change of permanent duty station.

Enclosed is a copy of our decision of today to Lieutenant (j.g.) C.W. Gebhardt, Disbursing Officer, concerning the legality of such payments for dependent travel and the transportation of household effects at Government expense, long in advance of orders releasing a member from active duty.

We have been informally advised that numerous cases involving the shipment of household goods prior to the issuance of orders are now pending at the Navy Regional Finance Center, Washington, D. C. Thus, it appears that the situation and practices considered in our decision of today may be extensive.

Under the provisions of 37 U.S.C. 406(a) a member of the uniformed services who is ordered to make a change of permanent station is entitled to transportation for his dependents. This entitlement is subject under the provisions of subsection 406(c) to regulations prescribed by the Secretaries concerned.

This entitlement is set forth in paragraph 17000 of the Joint Travel Regulations promulgated pursuant to 37 U.S.C. 406(c). However, certain limitations on this entitlement are set forth in the Joint Travel Regulations. One of the exceptions to such entitlement is that travel of dependents performed at personal expense prior to the issuance of orders directing a permanent change of station or prior to receipt of official notice that such orders would be issued, will not be reimbursed. Paragraph 17000-8, Joint Travel Regulations.

In regard to the phrase "or prior to the receipt of official notice that such orders would be issued," paragraph 17003-4 of the regulations provides that the entitlement to transportation of dependents prior to the receipt of such orders may be determined by a determination of the Comptroller General.

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officer, or his designated representative, of the headquarters issuing the change-of-station orders that the member was advised prior to the issuance of orders that such orders would be issued.

In this connection, as pointed out in the enclosed copy of decision of today, we have repeatedly and consistently held that this provision contemplates the relatively short period between the time when a determination is made to order a member to make a change of permanent station and the date on which the orders are actually issued. General information as to the time of eventual release from active duty has consistently been held to be insufficient to meet the requirements of the regulations. See 34 Comp. Gen. 241 (1954); B-160968, April 14, 1967; B-169612, June 29, 1970.

Paragraph 7151 of the Navy Travel Instructions provides that certificates for travel of dependents prior to the issuance of orders will not be issued for travel more than six months prior to the prospective date of the change involved.

In commenting on this provision in an endorsement dated March 28, 1972, accompanying the request for the decision, which was rendered today, the Chief of Naval Personnel noted that no time limitation is imposed by paragraph 17000-8 of the Joint Travel Regulations and that the limitation in the Navy Travel Instructions was imposed by the Navy to meet personnel assignment considerations.

Generally, it is our view that the issuance of certificates for dependents' travel as much as six months prior to the issuance of permanent change-of-station orders to the member exceeds the relatively short period between the time when a determination is made to order a member to make a change of permanent station and the time ordinarily required to issue such orders. We believe that such certificates generally are issued on the basis of a prospective change of station, indefinite as to date, or on the basis of the date of expiration of the term of service, date of eligibility for retirement, etc., rather than on a firm determination at the time to issue such orders.

Hence, it has been our opinion that travel of dependents performed as much as six months in advance of the issuance of permanent change-of-station orders, even though supported by the prescribed certificate, generally may not be regarded as having been performed incident to the member's ordered change of station as required by section 406(a) of the statute. Consequently, reimbursement for such travel is not authorized in the absence of a showing to support the certificate in such cases that a determination actually had been made to issue such orders to the member.

As was stated in the enclosed copy of our decision, under the provisions of subsection (b) of 37 U.S.C. 405, a member is entitled to the transportation of household effects at Government expense incident to a permanent change of duty station, within weight allowances proscribed by the Secretaries concerned. Paragraph 12015-1 of the Joint Travel Regulations provides that the shipment of household effects prior to the issuance of orders (except in the case of emergency, exigency of the service, or when required by service necessity, as determined by the appropriate authority of the service concerned) is not authorized.

As pointed out in our decision, NAVSUP Publication 490, implementing the above provision of the Joint Travel Regulations provides that only when a written statement is obtained from the order-writing activity certifying that the shipment is required due to emergency, exigency of the service, or service necessity, will the shipment of household goods prior to receipt of permanent change-of-station orders be approved by officers commanding personal property shipping activities.

As indicated above, we have been informally advised that numerous actions concerning the shipment of household effects in advance of orders apparently without the requisite certification, are pending in the Navy Regional Finance Center, Washington, D. C. Even if the certifications are attached, it seems highly unlikely that emergencies, etc., have actually occurred in all such cases pending in the Regional Finance Center, which would afford a proper basis for the movement.

Section 406(e) of title 37, U.S. Code, provides that when orders directing a permanent change of station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of dependents, baggage and household effects, the Secretaries may authorize the movement of dependents, baggage and household effects and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, in cases involving unusual or emergency circumstances including circumstances as there set forth.

This provision was considered in our decision of June 1, 1970, 49 Comp. Gen. 821, in which the question was presented whether it provides authority for the movement of dependents, baggage and household effects of members of the uniformed services in unusual or emergency circumstances arising at duty stations in the United States. The discussion of the problem indicated that the primary concern was the movement of dependents and household effects incident to natural disasters, such as that resulting in the Gulf Coast area from hurricane Camille in 1969.

As pointed out in that decision, we have recognized that while section 406(e) was mainly concerned in the return of dependents from

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overseas stations prior to orders, we have also recognized that it provides authority in unusual or emergency circumstances for the movement of dependents and household effects between points in the United States when the movements are incident to military operations or military need. 45 Comp. Gen. 159 (1965) and 45 Comp. Gen. 208 (1965). Also see decision of November 27, 1972, B-175567, 52 Comp. Gen. 293, copy enclosed.

We conclude, however, that section 406(e) affords no authority for such movements incident to natural disasters even though the movements may be in the best interest of the member or the dependents and the United States.

Apparently, section 406(e) and paragraph 18015-1 of the regulations are being viewed as providing authority for the transportation of dependents and household effects between places in the United States long prior to the issuance of permanent change-of-station orders and solely on the basis of the needs of the dependents, the movement not resulting from any military operation or military need as was the case in the two 1965 decisions cited above. We find no legal basis for that view and are of the opinion that such practice should be discontinued.

In view of the misunderstanding that apparently has existed in this area, we will not question payments, otherwise proper, for such movements that have been made. However, it is requested that appropriate action be taken promptly to correct the practice referred to above.

We would appreciate being advised of the action taken.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States

Enclosure

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