

GAO

United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply B-193865 (JAB)
Refer to:

MAR 25 1981

Virginia G. Okerman, President
American Federation of Government
Employees
Local No. 48
247 South Callow Avenue
Bremerton, Washington 98310

Dear Ms. Okerman:

This is in reference to your letter requesting our decision concerning Mr. Robert L. Everhart's [entitlement to certain travel expenses]. We regret that our consideration of this matter has been delayed.

The records you submitted reveal that Mr. Everhart was employed by the Naval Regional Medical Center at Bremerton, Washington. He was transferred to Fitzsimmons Army Medical Center at Denver, Colorado, in the face of a possible reduction in force due to the proposed contracting out of the laundry service at the Naval Regional Medical Center. Mr. Everhart later decided to return to Bremerton for personal reasons. Although he contacted the hospital in Bremerton concerning reemployment the Commanding Officer of the Medical Center reports that: "He was told there would possibly be a job opening for him at this command if he decided to apply but that his decision to return to Bremerton, Washington, would have to be made from a personal standpoint and not from an implied job offer." After Mr. Everhart returned to Bremerton he was appointed to a temporary position on July 10, 1977, which was later converted to a permanent position when the decision was made not to contract out for laundry service.



516117

174/84
Botsford
PLMF

on web page available
DLG06359 public reading

Mr. Everhart requested reimbursement for travel expenses in the amount of \$870.57 and payment was authorized by the Command at Bremerton on September 30, 1977. The matter was submitted to the Disbursing Division of the Puget Sound National Shipyard which in turn submitted it to the Navy Regional Finance Center in Washington, D.C., as a doubtful claim. The Finance Center denied the claim stating that:

"Your claim is not documented with orders that will authorize a shipment of household goods on 12 JUL. 77 from Denver, Colorado to Bremerton, Washington. Orders supporting your claim were not issued until 23 DEC. 77. Therefore, you were not under a permanent change of duty order at the time the move took place and orders are not confirmatory travel orders that would authorize such a shipment. Shipment appears to be for the personal convenience of the employee and not in the best interest of the Government. Payment for non-directed travel is not authorized."

You have requested that we review the decision of the Finance Center.

Your request was submitted under our Procedures for Decisions on Appropriated Fund Expenditures in Federal Labor Management Relations Program, 4 C.F.R. part 21, published on July 27, 1978. Those regulations provided that the GAO would render decisions concerning the legality of appropriated fund expenditures on labor-management relations issues. Labor-management relations issues were defined as "an issue or dispute involving the legality of an expenditure of appropriated funds arising from any of the following: (a) An arbitration award; (b) an actual or proposed collective-bargaining agreement provision; (c) a decision or order of the Federal Labor Relations Council; or (d) a decision or order of the Assistant Secretary of Labor for Labor-Management Relations."

The subject of your request does not fall within any of the above categories. Although it would fall within the purview of our new regulations published in August 21, 1980, which provide that GAO will issue decisions on appropriated fund expenditures which are of mutual concern to agencies and labor organizations, we feel it would be inappropriate to issue a formal decision at this juncture. However, we are providing the following information in the hope that it will be helpful.

It appears to us that the decision of the Finance Center may be correct. The expenses Mr. Everhart is claiming are authorized under 5 U.S.C. § 5724(a) which provides in part:

"Under such regulations as the President may prescribe and when the head of the agency concerned or his designee authorizes or approves, the agency shall pay from Government funds--

"(1) the travel expenses of an employee transferred in the interest of the Government from one official station or agency to another for permanent duty and the transportation expenses of his immediate family..."

Since the record shows that Mr. Everhart was not transferred from Denver to Bremerton for permanent duty, it appears that he has failed to satisfy one of the statutory criteria for reimbursement. The fact that Mr. Everhart's orders were issued after his travel on September 30, 1977, as amended by orders issued December 23, 1977, would not necessarily defeat his claim if there was other objective evidence that the agency in fact intended to transfer the employee. See Donald E. Cellemme, B-195382, June 23, 1980, and James H. Hogan, B-191912, April 3, 1979 (copies enclosed). That does not appear to be the case here, however, since the Commanding Officer at Bremerton specifically claims to have informed Mr. Everhart that his return to Bremerton would have to be for personal reasons and not on the basis of an implied job offer.

B-193865

We hope the above information is responsive to your inquiry.

Sincerely yours,

Robert L. Higgins
Assistant General Counsel

Enclosures

cc: Commanding Officer
Navy Regional Finance Center
Washington, D.C. 20371