



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

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E-178621

January 21, 1974

Major R. G. Shaffer, FC
Finance and Accounting Officer
Through Headquarters Department of the Army
(DACA-FIS-PT)
Forrestal Building
Washington, D.C. 20314

Dear Major Shaffer:

Reference is made to your letter dated April 6, 1973, file reference AJXCH-F-E, with enclosures, requesting an advance decision as to the propriety of payment of per diem to Major James Y. Busbin, USAR, and Major Robert D. Henry, USAR, for periods of temporary duty under the circumstances presented. The request has been assigned PDTATAC Control No. 73-25 by the Per Diem, Travel and Transportation Allowance Committee.

By orders dated August 8, 1972, Major Busbin was ordered to active duty for training for 110 days at Fort McPherson, Georgia. Major Busbin's home and the place from which he was ordered to active duty was Birmingham, Alabama. On October 6, 1972, he was placed on temporary duty at Birmingham for approximately 19 days.

Major Henry was ordered to active duty for training for 180 days at Fort McPherson, Georgia, by orders dated June 29, 1972. His home and the place from which he was ordered to active duty was Knoxville, Tennessee. On November 6, 1972, he was authorized to perform temporary duty at several places including Knoxville.

It appears that Major Busbin stayed at his home while performing temporary duty in Birmingham and that Major Henry obtained lodgings at a motel while performing temporary duty in Knoxville. Since the members performed temporary duty at locations which are their homes and places from which they were called to active duty, you question whether they are entitled to per diem for these periods of temporary duty.

The regulations pertaining to the travel expenses of members of the Reserve components who are ordered to active duty for any reason

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with pay under orders which provide for return to home or place from which ordered to active duty are set forth in Part A, Chapter 6, Volume I of the Joint Travel Regulations (JTR) (Change 234, August 1, 1972). In this regard subparagraph H6001-1d provides that the appropriate provisions of Chapter 4, Parts A, B, F, H and I are applicable for temporary duty travel and temporary duty when a member of the Reserve components is ordered to perform temporary duty away from his permanent duty station. Since Majors Busbin and Henry were ordered to perform temporary duty away from their permanent duty station, Fort McPherson, Georgia, they would be entitled to per diem under the applicable provisions of Part E, Chapter 4, JTR (Temporary Duty Allowances in the United States).

In this regard neither the provisions of Part A, Chapter 6 (Travel of Members of the Reserve Components and of Retired Members), nor of Part E, Chapter 4, preclude payment of per diem to a member of a Reserve component who is ordered to perform temporary duty at a location away from his permanent duty station when the location is the member's home or place from which he is ordered to active duty. Moreover, under these regulations, the fact that Major Busbin may not have incurred additional expenses at his temporary duty location, Birmingham, does not preclude payment of per diem to him as per diem is a commutation of expenses and is payable without regard to whether the expenses it is designed to reimburse are actually incurred. Cf. 50 Comp. Gen. 723 (1971).

In 48 Comp. Gen. 517 (1969), we held that the purpose of section 404(a)(4) of title 37, United States Code, is to permit the payment of per diem to reservists ordered from their homes for periods of less than 20 weeks of active duty training at training duty stations other than at military installations where Government quarters and mess are available even though such training duty stations are the members' permanent duty stations. Since the purpose of this provision was to provide a means of reimbursing such reservists for the cost of quarters and subsistence which they must procure for themselves when "away from home," we held in that decision that the per diem allowance under section 404(a)(4) may not be properly authorized for payment to a reservist who commutes daily from his home to his permanent duty station.

However, in this regard we do not believe that reservists ordered to permanent duty stations away from their homes for periods

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of less than 20 weeks and subsequently required to perform, during such periods, temporary duty assignments away from their permanent duty stations, in areas where their homes are located, may be denied payment of a per diem allowance on that basis as such members are in fact in a travel status, having departed from their permanent stations.

In regards to reservists on active duty for 20 weeks or more (such as Major Henry) who do not receive per diem allowances at their permanent stations, it appears clear that they are entitled to per diem allowances while on temporary duty away from their permanent stations even though such duty is at locations in which their homes were located at the time of entry on active duty for training.

Accordingly, we conclude that Majors Busbin and Henry are entitled to per diem for the periods they were performing temporary duty at locations away from their permanent duty station without regard to whether they stayed at their homes during such periods.

In view of the above, the vouchers are returned for payment of the amounts properly due, if otherwise correct.

Sincerely yours,

R.F.KELLER

Deputy

Comptroller General
of the United States