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DATE: June 19, 2000

In Re:

[Redacted]

Claimant

Claims Case No. 00022212

CLAIMS APPEALS BOARD DECISION

DIGEST

A member who purchased airline tickets for temporary duty official travel did not purchase the tickets from a travel agency under government contract or other approved facility. Reimbursement of the member is not proper because paragraph U3120 of volume 1 of the Joint Federal Travel Regulations (1 JFTR ¶ U3120) requires that the member purchase tickets from one of the facilities described in 1 JFTR ¶ U3120-A unless under 1 JFTR ¶ U3120-B the order-issuing official authorized or later approved purchase from a non-authorized facility due to unusual circumstances when there was no alternative.

DECISION

The member appeals a decision by the Defense Finance and Accounting Service (DFAS) to deny his claim for reimbursement for airline tickets he purchased for temporary duty travel (TDY). DFAS denied reimbursement because the member procured his transportation from a source other than those provided in paragraph U3120-A of volume 1 of the Joint Federal Travel Regulations (1 JFTR ¶ U3120-A) and no exception applied. [\(1\)](#) The Claims Appeal Board settles this matter for purposes of administrative convenience.

Background

The record indicates that the member was ordered to travel from Nellis Air Force Base, Nevada, to Langley Air Force Base, Virginia, to perform temporary duty (TDY) during the period September 10-26, 1999. Due to a hurricane on the East Coast, TDY training was moved to Grissom Air Reserve Base, Indiana, on September 20, 1999. The member requested leave after the training since this relocation put the service member close to his family, and leave in conjunction with TDY was subsequently approved and authorized by an amendment to his orders. After completion of his TDY, the member went on leave. The member's orders [\(2\)](#) stated that Item 3 from the *Reverse Statements for TDY*

Orders of December 9, 1998, applied. Among other things, Item 3 stated that for traveler's convenience, round trip travel by POC and/or personally procured commercial transportation is authorized. In bold type, Item 3 also stated that: "Personnel authorized to personally procure commercial transportation should report to N & N travel for reservations at 644-5400." Item 3 also specified a round-trip government transportation request cost of \$270. The order-issuing official has not authorized or approved procurement from a non-authorized source on the basis that unusual circumstances existed indicating that the member had no alternative. The member is claiming \$154.68 for the return travel to Nellis.

The member explains that he had a return ticket from Langley to Nellis, but no ticket from Grissom to Nellis. The member states that he was informed by his senior enlisted supervisor (a senior master sergeant) that since he was authorized leave after TDY, he was free to purchase his own ticket. In these circumstances, the member believed he would be reimbursed up to the amount that the government would have paid for his return travel directly from Grissom to Nellis. The member shopped various fares and obtained a return fare of \$154.68. The member argues that his senior enlisted supervisor had to expend \$188 for each return ticket for members returning directly from Grissom to Nellis. The member argues that he did the best he could do without a "SATO"⁽³⁾ at Grissom, and that he was completely unaware of the policy in 1 JFTR ¶ U3120.

The member's senior enlisted supervisor also provided a statement. He states that the entire TDY was plagued with problems because of hurricanes on the East Coast, and that as a consequence, his command had to reschedule transportation for 63 personnel, leaving at various times in different waves and using different modes of transportation. The supervisor states that due to the urgency of these circumstances, the member was incorrectly advised on how to make return arrangements. The supervisor confirms that he left responsibility to the member to secure his return arrangements, and that he believed that members on leave had complete discretion in making return arrangements.

Discussion

To avoid the non-reimbursement provision in 1 JFTR ¶ U3120 with respect to domestic travel, the record must contain authorization (beforehand) or approval (afterwards) by the order-issuing official that unusual circumstances prevented the member's use of the CTO or other approved facility, and that the member had no alternative. The member must demonstrate an attempt to use such facilities. The senior enlisted supervisor provided evidence of what an order-issuing official may consider to be unusual circumstances. But the statements of the member and the senior supervisor taken together, and considered in their most favorable light, do not meet the requirements of the unusual circumstances exception. The record contains no evidence that the supervisor is approving the member's use of a non-contract facility as the order-issuing official, and the record does suggest an alternative. The alternative was the sentence at the end of Item 3 of the reverse side of the original orders which stated that personnel authorized to personally procure commercial transportation should report to N & N travel for reservations. A telephone number was provided. Without further explanation from the order-issuing official, we must assume that the member could have telephoned N & N Travel and arranged return travel. There should have been sufficient time either to mail the tickets to the member's TDY point or for N & N Travel to use electronic ticketing procedures so that ticketing would be available to the member when he arrived at the Indianapolis airport for his return trip. The member's efforts to shop fares is commendable. But the regulation requires that the member show that he attempted to use the CTO or other approved facility; he did not do so.

The member's position is not strengthened by his lack of knowledge of the regulation, or his supervisor's good faith but incorrect advice. For travel claims, we must base our decisions on the law and implementing regulations applicable to the situation at hand--in this case, the relevant portions of the JFTR in effect at the time the member traveled. *See* DOHA Claims Case No. 96123013 (June 2, 1997). *See also* DOHA Claims Case No. 00021415 (June 12, 2000) and DOHA Claims Case No. 99101308 (May 5, 2000), recent decisions involving the same JFTR language in paragraph

U3120 that controls the present claim. In the context of this regulation, we have held that the fact that the member was not advised to use an approved facility does not provide a basis for payment, since the government is not liable for the erroneous or negligent actions of its officers, agents, or employees. *See, for example*, the discussion in DOHA Claims Case No. 97041009 (July 30, 1997); DOHA Claims Case No. 97030601 (July 30, 1997); DOHA Claims Case No. 97041006 (August 26, 1997); and DOHA Claims Case No. 97031010 (September 16, 1997), all cited in DOHA Claims Case No. 99101308, *supra*. *See also* DOHA Claims Case No. 98051405 (May 20, 1998); and *Petty Officer John R. Blaylock, USN*, 60 Comp. Gen. 257 (1981).

As we explained in DOHA Claims Case No. 99101308, *supra*, the prohibition against disbursements not authorized by statute or regulation is so fundamental that even if an actual government official had specifically misinformed the member that he did not need to use a facility described in 1 JFTR ¶ U3120-A, the member still would not have had the right to reimbursement. The government is neither bound nor estopped by the erroneous or unauthorized acts of its officers, agents, or employees even though committed in the performance of their official duties, and it is a well-settled rule of law that the government is not bound by the erroneous advice of its officers or employees, when such advice contravenes existing regulations. *See* DOHA Claims Case No. 99092806 (February 4, 2000) citing *Joseph Pradarits*, 56 Comp. Gen. 131 (1976), and *Office of Personnel Management v. Richmond*, 496 U.S. 414 (1990), *reh'g denied* 497 U.S. 1046 (1990).

For all of the above reasons, we find no basis to allow payment of the member's claim.

Conclusion

The member's claim is disallowed.

Signed: Michael D. Hipple

Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Arthur A. Elkins

Arthur A. Elkins

Member, Claims Appeals Board

Signed: Jean E. Smallin

Jean E. Smallin

Member, Claims Appeals Board

1. At the time that the member traveled (JFTR updated through Change 153), 1 JFTR ¶ U3120-A1 provided that in arranging official travel, personnel are required to use a commercial travel office under government contract, an in-house travel office, or a General Services Administration Travel Management Center. But, under 1 JFTR ¶ U3120-B, the order-issuing official may authorize/approve direct purchase from a non-contract travel agent or common carrier when unusual circumstances existed and there was no alternative. The exceptions in 1 JFTR ¶ U3120-B were prefaced with the following note: "When a non-contract CTO is used, the member must demonstrate that use of a contract CTO was attempted. The last paragraph of 1 JFTR ¶ U3120-B contains the following payment limitation: "Reimbursement for transportation arranged through authorized/approved use of a non-contract travel agent or common carrier . . . is limited to the amount the member would have paid if the arrangements had been made directly through the carrier(s)."
2. The original order was Special Order TTF-201, dated August 26, 1999, that was a group order involving the member and other named individuals. TTF-229, dated September 27, 1999, authorized four days leave for the member at the end of his TDY.
3. SATO stands for Scheduled Airline Ticket Office. SATO may be the CTO at some installations, but not in every installation. It appears that N & N Travel was the CTO at Nellis at this time.