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DATE: June 22, 2000

In Re:

[Redacted]

Claimant

Claims Case No. 00033004

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 Maxwell Air Force Base, Alabama, to perform temporary duty (TDY) training for five days starting December 6, 1999. The member requested and was authorized leave in conjunction with his official travel for the period December 11-13, 1999. 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* 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." 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 \$171.50 of the \$210.50 he expended for the return portion of his travel.⁽³⁾

The member explains that he did not use N & N Travel for his return flight because he assumed that he had to make the arrangements himself because this was the portion of his travel involving leave. Therefore, he purchased the ticket directly from the airline, and he states that the \$210.50 was the best possible fare at the time.

Discussion

When a member fails to use a CTO or other approved facility to procure his airline tickets, he must meet an exception in 1 JFTR ¶ U3120 to obtain reimbursement. 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. Unfortunately, the record contains no evidence that the member met these requirements. Apparently, the member was not familiar with the policy requiring that he purchase his tickets from an approved source like N & N Travel, the CTO for Nellis.

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. 00021004 (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 156), 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 anagement 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 Travel Order was TK-0012, dated November 22, 1999. Leave was authorized by TK-0013 dated November 30, 1999. Order TK-0017, dated December 14, 1999, was an additional amendment which incorporated Item 3 from the standard *Reverse Statements for TDY Orders (December 9, 1998)*, the paragraph that is normally added when leave in conjunction with TDY is authorized.

3. See ACC Form 79, *Statement in Absence of Receipt*, which the member signed.