

March 30, 1998

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In Re:

[Redacted]

Claimant

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Claims Case No. 98012620

## CLAIMS APPEALS BOARD DECISION

### DIGEST

A member's dependents traveled from his duty station in Germany to the United States at the member's expense due to a family emergency without availing themselves of emergency travel entitlements. He cannot be reimbursed for their return travel to Germany under the emergency leave provisions of the Joint Federal Travel Regulations (JFTR), since paragraph U7205 of volume 1 of the JFTR states that there is no entitlement to one-way emergency leave transportation from the continental United States back to a permanent duty station outside the continental United States.

### DECISION

We have been asked to render a decision regarding the claim of an Air Force member for reimbursement for return emergency leave commercial air fare for his dependents. [\(1\)](#) Under Public Law No. 104-316, October 16, 1996, section 3702 of title 31 of the United States Code, which provides for the settlement of claims, was amended to provide that the Secretary of Defense shall settle claims involving service members, including travel claims. The Secretary further delegated that authority to this Office.

### Background

While stationed in Germany, the member learned that his father-in-law had six months to live. He determined that his dependents would return to the United States immediately to visit his wife's family. They expected to go back to Germany and then return to the United States for the funeral. They were unable to obtain "space available" transportation to the United States. Because the member was advised that he could be reimbursed for their round-trip travel once for the emergency, he purchased tickets for their travel to the United States in the belief that they would need to make another round-trip at the time of the funeral. While his dependents were still in the United States, his father-in-law died. The member was advised that he could purchase commercial airline tickets for his dependents' return to Germany and that he would be reimbursed. Finance officials in Germany denied his request for reimbursement.

### Discussion

Paragraph U7205-C of volume 1 of the Joint Federal Travel Regulations (JFTR) contains a note which states that there is no entitlement to one-way emergency leave transportation from the continental United States to a duty station outside the continental United States.

A member's entitlement to pay and allowances, including travel allowances, is governed by the applicable statutes and regulations, including the JFTR. Such entitlements cannot be increased by erroneous information provided by government employees. This is the basis of the long-standing principle that the government is not bound by negligent or erroneous information provided by its officers, agents, or employees. See DOHA Claims Case No. 97041009 (July 30, 1997); and Petty Officer John R. Blaylock, USN, 60 Comp. Gen. 257 (1981).

This Office must base its decisions on applicable statutes and regulations. See DOHA Claims Case No. 97041009 (July 30, 1997); and DOHA Claims Case No. 96123013 (June 2, 1997). The regulations applicable to the member's claim in the case before us are the JFTR, which have the force of law. As noted above, 1 JFTR para. U7205-C states that a

member is not entitled to one-way emergency leave transportation in a situation such as the one before us. While it is unfortunate that the member was misinformed as to his entitlement, that does not provide a basis for reimbursement, even when the misinformation appears in travel orders. See DOHA Claims Case No. 97041009 (July 30, 1997); and Petty Officer John R. Blaylock, USN, 60 Comp. Gen. at 260.

**Conclusion**

The member's claim is denied.

/s/

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Christine M. Kopocis

Acting Chairman, Claims Appeals Board

/s/ \_\_\_\_\_

Joyce N. Maguire

Member, Claims Appeals Board

/s/

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Jean E. Smallin

Member, Claims Appeals Board

1. The Claims Appeals Board has decided to render a decision on this matter for administrative reasons.