

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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August 17, 2000

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GSBCA 15342-TRAV

In the Matter of LINDA M. CONAWAY

Linda M. Conaway, Westminster, MD, Claimant.

Deborah A. Taylor, Director, Accounting and Risk Management Group, Office of Financial Management, Health Care Financing Administration, Baltimore, MD, appearing for Department of Health and Human Services.

**DANIELS**, Board Judge (Chairman).

When the Health Care Financing Administration (HCFA) wanted Linda M. Conaway to attend a training session away from her permanent duty station, it issued her travel orders which authorized reimbursement for expenses she might incur in purchasing lodging and meals and incidentals. Ms. Conaway actually incurred such expenses while attending the session. After returning from her trip, the employee asked for the authorized reimbursement. HCFA refused to make it. The agency's action was improper.

Ms. Conaway works at a HCFA facility in Baltimore, Maryland. She lives in Westminster, Maryland, northwest of Baltimore. Her training session, which lasted three days, took place in Washington, D.C.

Under statute, the Government pays for an employee's lodging, meals, and incidental expenses when the employee is "traveling on official business away from [his] designated post of duty, or away from [his] home or regular place of business." 5 U.S.C. § 5702(a)(1) (1994). The Federal Travel Regulation similarly says that an employee is eligible for reimbursement for these costs only if he "perform[s] official travel away from [his] official station, or other areas defined by [his] agency." 41 CFR 301-11.1 (1999). See generally Ollice C. Holden, GSBCA 15175-TRAV, ¶ 00-1 BCA 30,815; Murray Lumpkin, GSBCA 14513-TRAV, 98-2 BCA ¶ 30,042.

HCFA bases its determination on a provision of the Travel Manual issued by the Department of Health and Human Services, the department of which HCFA is a part, which apparently is designed to implement these laws. The provision reads as follows:

As a matter of Departmental policy overnight subsistence allowances may not routinely be authorized in the Washington, DC, Baltimore, MD, and Rockville[,] MD areas unless justified under the following conditions:

The temporary duty station is more than 35 miles from the permanent duty station and residence, and:

The employee is required to be in official duty status for at least a normal workweek, or

The employee is required to remain on official duty beyond a reasonable hour for return to the permanent station or residence, and is also required to return to the temporary duty station for duty early the next morning.

HHS Travel Manual § 5-00-50.C (Jan. 26, 1990). HCFA denied reimbursement because Ms. Conaway did not meet either of the last two conditions.

HCFA has not read its department's rules correctly. The cited provision does not prohibit authorization of travel allowances. It says instead that if the first condition and either of the last two conditions are met, such allowances are to be routinely authorized. The provision says also that if the first condition and either of the last two conditions are not met, travel allowances may be authorized on a case-by-case basis, after careful consideration.

Where an agency could have authorized travel allowances and actually did so, and the employee incurred expenses in reliance on the authorization, the agency must reimburse the employee for those expenses. Cheryl A. Cadwell, GSBCA 14148-RELO, 97-2 BCA ¶ 29,066; John Patrick Pede, GSBCA 13862-RELO, 97-2 BCA ¶ 29,023. Ms. Conaway's situation meets this test. HCFA must reimburse her for the expenses she incurred for lodging and meals and incidental items, at the amounts she seeks, which are within the limitations prescribed by the Administrator of General Services in the Federal Travel Regulation, 41 CFR 301-11.6, 301-11.7, 301 App. A.

We make special note of two items for which Ms. Conaway seeks reimbursement. First, a HCFA official questions whether, even if the agency is required to pay for other expenses the employee incurred, it should pay for the cost of lodging on the night before the training session began. The short answer is that the agency authorized reimbursement of this cost and the employee incurred it, so reimbursement must be made. We comment additionally that it was entirely reasonable for the agency to have paid for the lodging, in light of the facts that (a) the training session began at 8 a.m. and (b) Ms. Conaway lived seventy miles from the training site and would have had to drive through heavy traffic in suburban Baltimore, suburban Washington, and downtown Washington to reach the site by that early hour.

Second, the employee lists, as an additional expense for which she seeks reimbursement, \$20 for telephone calls. Phone calls are reimbursable as miscellaneous expenses of travel only if they were made for the transaction of official business. With respect to these calls, different agencies define "official business" in different ways. 41 CFR

301-12.1; Rachelle A. Booth, GSBCA 14713-TRAV, 99-1 BCA ¶ 39,168 (1998); Andrew R. Miller, GSBCA 14486-TRAV, 98-2 BCA ¶¶ 29,921, modified on reconsideration, 98-2 BCA ¶ 30,101. Ms. Conaway has not specified to whom and for what reason she made telephone calls while at her training session, and she has not detailed the cost of any of these calls. Without this information, HCFA has no way of knowing whether reimbursement for this expense would be appropriate or not. The agency's denial of this portion of the claim is therefore justified at the moment. If the employee resubmits her claim with proper substantiation, however, the agency may decide that reimbursement should be made.

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STEPHEN M. DANIELS  
Board Judge