

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

November 28, 2001

GSBCA 15655-TRAV

In the Matter of ANTHONY MILANO

Anthony Milano, Emerson, NJ, Claimant.

J. Patrick O'Toole, Director, Division of Travel Management, Social Security Administration, Baltimore, MD, appearing for Social Security Administration.

DeGRAFF, Board Judge.

Anthony Milano is employed by the Social Security Administration (SSA) and his official duty station is New York, New York. Earlier this year, Mr. Milano worked several Saturday mornings at a location in Newark, New Jersey. According to mapquest.com, Mr. Milano's official duty station and his residence are within thirty miles of the location in Newark. <http://www.mapquest.com> (visited Nov. 5, 2001). In addition, the distance between Mr. Milano's residence and the location in Newark is slightly less than the distance between his residence and his official duty station in New York. Mr. Milano submitted a claim to SSA for mileage for the trips between his residence and Newark. SSA decided to deny the claim and Mr. Milano asked us to review SSA's decision.

When an employee is engaged on official business for the Government, the employing agency will pay the employee's transportation costs, including local transportation costs, and will pay the employee a rate per mile instead of the actual cost of transportation, if the employee uses a privately owned vehicle. 5 U.S.C. § 5704 (2000); 41 CFR 301-10.1 (2000). An employee who is engaged in commuting between his or her residence and official duty station is performing personal business, not official business for the Government, and the employing agency will not pay the transportation costs that the employee incurs while commuting. Freddie G. Fenton, GSBCA 13638-TRAV, 97-1 BCA ¶ 28,712 (1996).

An agency has the discretion to limit payment for local transportation costs to those in excess of an employee's normal commute. Edgardo L. Delgado, GSBCA 15285-TRAV, 01-1 BCA ¶ 31,272. SSA's written directives explain that local transportation costs are those incurred within the greater of the corporate limits of the city or town in which the employee is stationed, or a thirty-mile radius of the employee's official duty station or permanent residence. SSA's directives also explain that it will pay an employee for local transportation costs, including mileage. If, however, the local transportation begins or ends at the

employee's residence, SSA will reduce the amount of the mileage payment by the employee's normal commuting costs between the residence and the employee's official duty station. SSA Administrative Instructions Manual System, Financial Management Manual, ch. 07, instruction no. 13.

SSA says that Mr. Milano is not entitled to be paid mileage for the trips between his residence and Newark because he was commuting, not engaged on official business, when he made those trips. We agree with SSA's result, although we disagree with its reasoning. Mr. Milano did not commute between his residence and Newark, because Newark was not his official duty station. Thus, it is not appropriate to reject Mr. Milano's claim as one for commuting costs.

Mr. Milano incurred local transportation costs, and SSA's directives regarding local transportation provide that SSA will pay a rate per mile to cover those costs. Because Mr. Milano began and ended his local transportation at his residence, SSA will reduce the amount of his mileage payment by his normal commuting costs between his residence and his official duty station. Making this deduction leaves Mr. Milano with no payment for mileage, because the distance between his residence and the location in Newark is less than the distance between his residence and his official duty station in New York.

Mr. Milano contends that the amount of his mileage payment should not be reduced because he does not normally incur any commuting costs on Saturdays. The provisions of SSA's directives apply, however, regardless of the day of the week that an employee incurs local transportation costs. The directives are a permissible exercise of SSA's discretion not to reimburse employees for the full cost of local transportation, because an employee's commute is not restricted to ten round trips on weekdays between the employee's residence and official duty station. Employees can incur transportation costs for commuting on any day of the week. Leon Rodgers, Jr., GSBCA 14678-TRAV, 99-1 BCA ¶ 30,376; George F. Clark, B-190071 (May 1, 1978); Carl P. Mayer, B-171969 (Jan. 9, 1976); 36 Comp. Gen. 450 (1956). Because Mr. Milano can commute between his residence and his official duty station any day of the week, SSA can deduct commuting costs from local transportation costs no matter what day of the week the local transportation occurs.

Mr. Milano believes that SSA has paid other employees in circumstances similar to or the same as his. Even if Mr. Milano is correct, SSA's actions would not justify making another such payment.

MARTHA H. DeGRAFF
Board Judge