

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

August 5, 2004

GSBCA 16423-TRAV

In the Matter of RICHARD L. HENGEL

Richard L. Hengel, Bethesda, MD, Claimant.

Rita Bauguess, Program Specialist, Office of Clinical Research, Program Planning & Analysis Branch, National Institutes of Health, Department of Health and Human Services, Bethesda, MD, appearing for Department of Health and Human Services.

DeGRAFF, Board Judge.

Statute and regulation limit an agency's authority to reimburse the transportation expenses of an employee who must abandon a travel assignment.

Background

Richard L. Hengel is an employee of the Department of Health and Human Services (HHS). In June 2003, Dr. Hengel left his permanent duty station near Washington, D.C. to perform official Government travel. His itinerary called for him to fly from Washington, D.C. to Mali, with a stop in Paris, France, and to return from Mali to Washington, D.C., also with a stop in Paris.

HHS paid for Dr. Hengel's round-trip airline ticket for the trip. The agency's contract travel office used an excursion fare when it made Dr. Hengel's reservation because the travel office understood it was supposed to obtain the lowest available fare. Although the excursion fare was a refundable fare, it contained a restriction that limited the flights for which the fare was available and limited the number of passengers carried on any one flight at the excursion fare.

Shortly after Dr. Hengel arrived in Mali, his father, who lived in Canada, died unexpectedly. Dr. Hengel's supervisor, who was also his travel approving official, said Dr. Hengel had whatever authorization he needed in order to travel to Canada in order to arrive in time for his father's funeral. Dr. Hengel contacted his agency's contract travel office and learned that due to the availability of seats, flying from Mali to Paris to Washington, D.C. would add two days to his travel time. Dr. Hengel used his Government-issued ticket

to fly from Mali to Paris. Using his own funds, he purchased a ticket from Paris to Canada, at a cost of \$3308.32. Also using his own funds, he purchased a ticket from Canada to Washington, D.C., at a cost of \$276.71. Dr. Hengel paid a \$55 taxi fare to travel from the airport in Washington, D.C. to his home.

Dr. Hengel returned the unused portion of his Government-issued ticket (Paris to Washington, D.C.) to HHS. According to the General Services Administration's Audit Division, HHS should have received a credit of \$99.31 plus taxes and fees of \$32.09 for the unused portion of the ticket. The Government contract carrier air fare for a one-way ticket from Paris to Washington, D.C. in June 2003 was \$375 plus taxes and fees of \$32.09.

Dr. Hengel submitted a claim to HHS for \$2985.03, which is the cost of his air fare from Paris to Canada, plus the cost of his air fare from Canada to Washington, D.C., minus \$600 he estimates he would have paid for a bereavement airfare from Washington, D.C. to Canada. HHS denied Dr. Hengel's claim and submitted it to us for review.

Discussion

HHS's authority to reimburse Dr. Hengel is limited by statute and by the regulations that implement the statute. When an employee traveling on official Government business abandons the travel assignment before it is completed due to a personal emergency situation such as the death of a family member, the employing agency has the discretion to reimburse the employee for transportation expenses to return the employee to his or her official duty station. The regulations define "family" as including immediate family members, and a parent is an immediate family member only if the parent is a dependent of the employee. However, the regulations also allow the employing agency to broaden the definition of family, on a case-by-case basis, to include extended family members. 5 U.S.C. § 5702(b)(1)(B) (2000); 41 CFR 300-3.1, 301-30 (2002).¹ In addition, if an employee travels by an indirect route to reach an authorized destination, the employee's reimbursement is limited to the cost of travel by a direct route. 41 CFR 301-10.8.

Dr. Hengel's supervisor, who was also his travel approving official, exercised his discretion to broaden the definition of family to include Dr. Hengel's father and to reimburse Dr. Hengel for his transportation expenses. Dr. Hengel's supervisor lacked the authority, however, to authorize the reimbursement of any greater amount than allowed by the statute and regulations, which limited Dr. Hengel's reimbursement to the transportation expenses of returning from Mali to his official duty station near Washington, D.C., by the most direct route. Although Dr. Hengel did travel from Mali to Washington, D.C., he did not do so by the most direct route. Instead, he routed his travel through Canada. Dr. Hengel made his travel arrangements at a time of great stress and in difficult circumstances. Understandably, he wanted to travel to Canada as quickly as possible. Because Dr. Hengel traveled to his official duty station by an indirect route, however, HHS's authority is limited to reimbursing him for the cost of travel by a direct route.

¹ Another statutory provision, not applicable here, applies when an employee interrupts, rather than abandons, a temporary duty assignment. 5 U.S.C. § 5702(b)(2).

HHS should have granted Dr. Hengel's claim in part. HHS paid for Dr. Hengel's ticket from Mali to Paris. HHS did not, however, pay for Dr. Hengel's transportation from Paris to Washington, D.C. Although HHS purchased his ticket from Paris to Washington, D.C., Dr. Hengel could not use this portion of his ticket and return to Washington, D.C. expeditiously due to the restrictions accompanying the excursion fare. We will not limit Dr. Hengel's reimbursement to the credit due to HHS for the unused portion of the ticket, because HHS assumed the risk that utilizing an excursion fare might result in Dr. Hengel being unable to use a portion of the ticket if his travel plans changed. When his plans changed and the agency authorized him to terminate his temporary duty assignment, HHS could have paid \$407.09 (\$375 + \$32.09) to purchase a ticket at the Government contract carrier air fare and return Dr. Hengel to his official duty station by the most direct route. It is appropriate to limit Dr. Hengel's reimbursement for air fare to this amount, instead of limiting it to the credit due for the unused portion of the excursion fare ticket. In addition, Dr. Hengel paid a \$55 taxi fare in order to return to his home from the airport in Washington, D.C.

In order to reimburse Dr. Hengel within the limits imposed by the statute and the regulations, HHS should pay Dr. Hengel the \$409.07 it would have cost HHS to return him to the airport at his duty station in Washington, D.C. by the most direct route, plus the \$55 taxi fare to return him from the airport to his home, for a total of \$462.09.

MARTHA H. DeGRAFF
Board Judge