

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

January 9, 2001

GSBCA 15285-TRAV

In the Matter of EDGARDO L. DELGADO

Edgardo L. Delgado, Okmulgee, OK, Claimant.

Terry L. Peach, State Executive Director, Farm Service Agency, Stillwater, OK, appearing for Department of Agriculture.

WILLIAMS, Board Judge.

This is a claim for \$58.15, representing mileage and miscellaneous and incidental expenses (M&IE) claimant incurred in connection with official travel.¹ The agency allowed mileage for only 146 miles instead of the 261 miles claimant had sought because it deducted the mileage for his normal commute from the total claimed. Further, the agency denied any reimbursement of M&IE because with the removal of the normal commute in mileage and travel time, the total travel time did not meet the eligibility requirement for M&IE.

We conclude that the agency had the discretion to adopt rules disallowing reimbursement of mileage for an employee's commute in conjunction with local travel and correctly applied those rules. In addition, claimant traveled via a circuitous route, and only the mileage for the direct route between his home and temporary duty location, less the mileage for his normal commute, should be reimbursed. The agency's conclusion that the duration of the claimant's travel did not entitle him to M&IE was correct as well; the extended time attributable to both claimant's commute and the circuitous route should be deducted in determining his M&IE entitlement. Therefore, we deny the claim.

Background

Claimant was authorized to travel for official business between Okmulgee and Shawnee, Oklahoma. Claimant left his home in Tulsa, Oklahoma, on August 5, 1998, at 5:03 a.m., and took what he claimed was the fastest route on the interstate highway, in order to arrive at his business meeting in Shawnee on time. According to standard mileage charts

¹Claimant also contends that his denial of travel benefits was in retaliation for an equal employment opportunity (EEO) complaint he filed in 1998. Claimant is pursuing that aspect of his claim in another forum.

from the Oklahoma Department of Transportation, Shawnee is eighty-nine miles southwest of Tulsa. Claimant states that he was not fully familiar with an alternative route so he passed by Okmulgee, where his office is located, without stopping. Shawnee is seventy-three miles west of Mr. Delgado's duty station in Okmulgee. Claimant completed his work and returned home at 5:33 p.m. that evening.

Claimant claimed reimbursement for 261 miles, and the agency reduced his mileage to 146 miles because claimant "selected a circuitous route from his residence in Tulsa to his temporary duty point in Shawnee." Specifically, the agency disapproved the portion of the mileage which entailed claimant's normal commute. This resulted in claimant being disallowed a per diem allowance for M&IE in the amount of \$22.50 because of the reduction in travel time. The agency determined that subtracting claimant's normal commute, he would have departed at 5:41 a.m. and arrived home at 4:55 p.m.

Discussion

The agency disallowed full reimbursement for the claimed mileage because it deducted the mileage of claimant's normal commute, based upon Federal Travel Regulation (FTR) 301-70.100 and -70.102 and the Department of Agriculture's Farm Service Agency's regulation FI-2293, "Reimbursing Employees For Official Travel," effective between May 28 and September 30, 1998. The FTR provisions state:

Subpart B—Policies and Procedures Relating to Transportation

§ 301.70.100 How must we administer the authorization and payment of transportation expenses?

You must:

- (a) Limit authorization and payment of transportation expenses to those expenses that result in the greatest advantage to the Government;
- (b) Ensure that travel is by the most expeditious means practicable.

....

§ 301-70.102 What governing policies must we establish for authorization and payment of transportation expenses?

You must establish policies and procedures governing:

....

- (g) What procedures an employee must follow when he/she travels by an indirect route or interrupts travel by a direct route; and

(h) For local transportation whether to reimburse the full amount of transportation costs or only the amount by which transportation costs exceed the employee's normal costs for transportation between:

- (1) Office or duty point and another place of business;
- (2) Places of business; or
- (3) Residence and place of business other than office or duty point.

41 CFR 301-70.100, -70.102 (1998).

In implementing the FTR, the Department of Agriculture (USDA), Farm Service Agency (FSA) established the following policy in FI-2293:

This notice provides procedures for reimbursing employees for authorized local travel.

The intent of the Agency is to make its employees whole if they incur local travel expenses in excess of their normal commuting costs to or from their workplace.

The following table explains how to claim reimbursement for local travel when an employee travels to a location other than his or her workplace for training, meetings, or other official business.

IF an employee normally commutes to the workplace using...

personally owned vehicle (POV)

THEN the employee may claim...

local travel expenses in excess of the normal POV commuting cost computed as the mileage between the employee's residence and the official duty station times a mileage rate established by the Agency plus parking fees normally incurred.

FI-2293 (1998).

The agency properly applied these regulations and procedures in denying a portion of the mileage claimed and deducting claimant's normal commuting expenses from his travel reimbursement. As the Comptroller General recognized in Inspector General, Department of Veterans Affairs, B-270403 (Sept. 11, 1996):

The established rule is that an employee must travel between his residence and his regular place of work at his own expense. 32 Comp. Gen. 235 (1952). When an employee is assigned to a nearby temporary duty

post, it is within administrative discretion to allow mileage without deduction for normal commuting expenses, but employing agency officials may refuse to authorize reimbursement for such expenses if no additional travel costs are incurred or may limit reimbursement to such additional costs. Brian E. Charnick, B-184175, June 8, 1979. Thus, in Howard M. Feuer, 59 Comp. Gen. 605 (1980), we stated that the determination to limit reimbursement for travel to a temporary duty station is within the discretion of the employing agency and that we would not question an agency's decision to limit such reimbursement. See 36 Comp. Gen. 795 (1957).

The agency properly followed its policy in denying mileage reimbursement for claimant's normal commute. However, the agency should also have deducted additional mileage attributable to the circuitous route claimant chose. According to the regulations and decisions applicable to employees who travel by circuitous routes, the agency should limit reimbursement to the amount that it would have paid if claimant had traveled by a direct route between Tulsa and Shawnee, less the mileage of claimant's normal commute. 41 CFR 301-2.4, 10.8; Thomas L. Laughlin, GSBCA 15393-TRAV (Dec. 6, 2000); Patrick T. Klever, GSBCA 14304-TRAV, 98-2 BCA ¶ 29,862; Susan Reed, GSBCA 13993-TRAV, 97-2 BCA ¶ 29,303; James Jackson, GSBCA 13897-TRAV, 97-2 BCA ¶ 29,029.

The agency also properly denied reimbursement for M&IE since part of the time claimant spent while away from home was attributable to claimant's commute and the circuitous route. Claimant was not in a travel status for more than twelve hours as required by FTR 301-11.1.

Decision

The claim is denied.

MARY ELLEN COSTER WILLIAMS
Board Judge