

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

August 6, 2003

GSBCA 16069-TRAV

In the Matter of ROBERT M. MALONE, JR.

Robert M. Malone, Jr., Lawrence, KS, Claimant.

Gregg Gardner, Chief, Fiscal Officer, VA Eastern Kansas Health Care System, Department of Veterans Affairs, Leavenworth, KS, appearing for Department of Veterans Affairs.

DeGRAFF, Board Judge.

Robert M. Malone, Jr. is employed by the Department of Veterans Affairs (DVA) as director of its eastern Kansas health care system. Mr. Malone is responsible for a medical center located in Topeka, Kansas, and a second medical center located at his official duty station in Leavenworth, Kansas. Although quarters are available for Mr. Malone at both medical centers, he lives in Lawrence, Kansas, which is located between Topeka and Leavenworth. In 2002, the city of Leavenworth asked Mr. Malone, in his capacity as director of the health care system, to participate in its Veterans Day parade. On November 11, a paid holiday for federal government employees, Mr. Malone drove his privately owned vehicle from his home in Lawrence to Leavenworth, participated in the parade, and returned home. So far as we can tell from our record, the distance Mr. Malone drove on November 11 was no greater than the distance he usually drives to his duty station. Mr. Malone asked DVA to pay a mileage allowance for his round trip between Lawrence and Leavenworth. DVA decided not to pay the mileage allowance and Mr. Malone asked us to review DVA's decision.

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 may not pay the transportation costs the employee incurs while commuting. Freddie G. Fenton, GSBCA 13638-TRAV, 97-1 BCA ¶ 28,712 (1996). However, when an employee travels in order to perform official business for the Government, the employing agency will pay the employee's transportation costs, including local travel costs. If the employee uses a privately owned vehicle for transportation, the agency will pay the employee a mileage allowance instead of the actual costs of transportation. 5 U.S.C. § 5704 (2000); 41 CFR 301-10.1, -10.2 (2002). Agencies have the

discretion to limit payment for local travel costs to less than the full amount of such costs, and DVA has a travel policy in place that limits payment for local travel to costs in excess of the employee's normal daily commuting costs to the permanent duty station. 41 CFR 301-70.102(h); DVA MP-1, pt. II, ch. 2 (Feb. 28, 1995).

On November 11, 2002, Mr. Malone did not drive between Lawrence and Leavenworth in order to commute to and from his official duty station at the medical center. Instead, he traveled in order to represent DVA in a parade honoring the nation's veterans. Thus, Mr. Malone's travel was accomplished in order to perform official business for the Government and DVA can reimburse him for his local travel costs, or a mileage allowance in lieu of his actual costs, in accordance with its travel policy. As Mr. Malone recognizes, however, the application of DVA's travel policy results in his receiving no mileage allowance because his local travel costs on November 11 did not exceed his normal daily commuting costs. He asks that we not apply the policy to him because he performed his local travel on a holiday. DVA's policy applies, however, regardless of when an employee performs local travel. DVA's policy of deducting an employee's normal commuting costs from local travel costs no matter when the local travel occurs is a permissible exercise of its discretion, because it recognizes that an employee can incur commuting costs on any day, including a paid federal holiday, and there is no authority to reimburse an employee for commuting costs. Anthony Milano, GSBCA 15655-TRAV, 02-1 BCA ¶ 31,695 (2001) (citing cases).

DVA properly denied the claim.

MARTHA H. DeGRAFF
Board Judge