

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

October 20, 2004

GSBCA 16438-TRAV

In the Matter of JOY S. MICKELBERRY

Joy S. Mickelberry, RAF Lakenheath, Suffolk, England, Claimant.

Robert Schildkraut, Assistant General Counsel, Office of the General Counsel, Department of Defense Education Activity, Arlington, VA, appearing for Department of Defense.

HYATT, Board Judge.

Agencies should authorize upgraded seating during air travel to accommodate medical disabilities and special needs that are appropriately supported by a physician's prescription or recommendation.

Background

Claimant, Joy S. Mickelberry, is an educator employed by the Department of Defense Dependents Schools in the United Kingdom. She is currently posted to Lakenheath Elementary School at Royal Air Force (RAF) Station Lakenheath in East Anglia, Suffolk, England. The tour-of-duty at this location is two years, and renewal agreement travel is authorized when the employee signs up for another tour. Ms. Mickelberry became eligible for tour renewal travel in July of this year.

Claimant initiated her renewal agreement travel process in April 2004. At that time she requested upgraded seating for the flights to and from the United States to accommodate several medical conditions. Her request was supported by her physician, who confirmed that because of these conditions, "moving around is extremely difficult for her."

An initial review of claimant's documentation was conducted by a physician for the Department of Defense Educational Activity (DoDEA), who recommended that Ms. Mickelberry's request for premium air travel be denied. Ms. Mickelberry submitted a claim to the Board asking that that decision be reviewed. In her initial submission to the Board, claimant states that premium air travel is justified because her disabilities and symptoms have progressively worsened since her diagnosis some seven years ago. Over time, activities involving mobility and fine motor tasks with the hands and arms have been severely affected.

Claimant experiences frequent bouts of fatigue and weakness. She is able to walk, but only short distances, and with a cane. She is also able to stand for only about one minute without experiencing substantial pain. In addition, claimant is 5'10" tall. She explains that upgraded, or premium, class seating would enable her to stretch and move more easily while seated in flight for an extended period, thus easing and diminishing the muscle cramps, stiffness, and soreness associated with her ailments. In addition, first class travel generally offers more ergonomic seating, seats with better head and neck support as well as foot rests, and improved accessibility to restroom facilities, with reduced walking distance and waiting time.

Following the submission of Ms. Mickelberry's claim, DoDEA noted that the applicable regulations had been modified in April 2004, and reassessed her request. In making his recommendation, the DoDEA physician stated that he was unable to reach claimant's physician in England to discuss her conditions and symptoms bearing on the need for premium seating during air travel. Based on the clinical information provided in the English physician's letter, he concluded that her conditions appeared to cause pain only during movement and would not be alleviated by first class seating. He thus opined that the purchase of two seats in economy or coach, or bulkhead seating, should be sufficient to accommodate her needs. Consequently, Ms. Mickelberry was offered two coach seats as an accommodation of her disability. Claimant accepted this proposed solution in order to travel in July, rather than await the Government's response to her claim and a decision from the Board. Ms. Mickelberry nonetheless believes that this accommodation does not fully meet her needs and continues to press her case for the approval of premium class seating. Following her travel, she has submitted additional documentation, further describing the extent of her disabilities, and her physician has contacted the DoDEA physician.

Discussion

Although this question appears to be moot insofar as it applies to Ms. Mickleberry's tour renewal travel this summer, both claimant and the agency have provided excellent input with respect to this matter, and claimant may well have occasion to undertake future travel for which some guidance would be helpful.

The availability of upgraded travel accommodations for official travel has recently been addressed by this Board. Although Government employees are generally limited to coach-class accommodations when traveling at Government expense, there are exceptions to this rule when medical needs justify upgraded seating. Steven J. Maass, GSBCA 16393-TRAV (October 19, 2004). These exceptions are addressed in the Federal Travel Regulation (FTR) and are supplemented in the Joint Travel Regulations (JTR), which apply to civilian employees of the Defense Department.

The FTR permits agencies to authorize first-class air travel when needed to accommodate a disability or other special need that has been substantiated in writing by a competent medical authority. 41 CFR 301-10.123 (2003). The pertinent JTR provisions were amended shortly before Ms. Mickelberry's tour renewal travel was initiated, and address the availability of premium (first and business)-class travel accommodations as follows:

Premium-class accommodations may be authorized/approved by the authorizing/approving official due to medical reasons only

if competent medical authority certifies that sufficient justification/documentation that the physical impairment exists and that the impairment necessitates (for a specific time period) the accommodations upgrade. The premium-class authorizing/approving official must be able to determine that at the time of travel, premium-class travel is/was necessary because the traveler is so handicapped, or otherwise physically impaired, that other lower-cost economy accommodations (e.g., "bulk-head" seating, or providing two economy seats) cannot/could not be used to meet the traveler's requirements.

JTR C2000-A.2.c.

Although Ms. Mickelberry described her physical impairments in detail in her submission to DoDEA seeking a premium-class upgrade, the documentation provided by her physician was less specific, stating only that her medical ailments made "moving around . . . extremely difficult for her." As a result, the DoDEA physician concluded that the purchase of two economy-class seats would suffice to meet her needs. Ms. Mickelberry reluctantly acceded to this arrangement due to the rapidly approaching date of her planned travel. Under the circumstances, the DoDEA decision was in accord with the relevant regulations, given the documentation then available to the agency.

Ms. Mickelberry and her physician have now provided additional information supporting the need for premium-class seating. To the extent that Ms. Mickelberry undertakes future travel at the expense of the Government, and her physician continues to believe that for future travel a further upgrade is justified and necessary given her disabilities, current detailed and specific documentation from her physician should be provided for consideration by DoDEA at that time.

CATHERINE B. HYATT
Board Judge