

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

November 3, 2003

GSBCA 16262-TRAV

In the Matter of MARY JOANN BENSON

Mary Joann Benson, Overland Park, KS, Claimant.

David Parry, Relocation Management and Travel Policy Branch, Office of the Chief Financial Officer, General Services Administration, Washington, DC, appearing for General Services Administration.

NEILL, Board Judge.

The General Services Administration (GSA) asks, pursuant to 31 U.S.C. § 3529 (2000), who has the authority to sign the travel voucher of a deceased employee. We are also asked to comment "on the official expenses reimbursable in this matter." We conclude that the agency should look to 5 U.S.C. § 5582 and implementing regulations for guidance.

Background

On August 27, 2003, Mr. John A. Benson, a realty specialist employed by GSA's Public Buildings Service and stationed in Kansas City, Missouri, left his permanent duty station on official travel. He had been authorized to travel, by personally owned vehicle, first to Lincoln, Nebraska, where he planned to inspect a building of interest to his agency. After an overnight stay in Lincoln, he was to continue on to Grand Island, Nebraska, where he planned to meet with officials of the local airport and the Transportation Security Administration. After an overnight stay in Grand Island, he was to return to his permanent duty station in Kansas City.

Mr. Benson's official travel was tragically cut short by a traffic accident on the afternoon of August 27. He was taken to a hospital in Lincoln, where he died from injuries sustained in the accident. His remains were transported to a funeral home in Omaha, Nebraska, and were returned from there to Kansas City.

Mr. Benson's widow has expressed concern to the agency regarding the filing and payment of a travel voucher for Mr. Benson's final temporary duty (TDY) assignment. The agency asks our opinion on who has the authority to sign such a voucher.

Discussion

Chapter 37 of title 31 of the United States Code, which deals with claims of and against the United States Government, provides that claims against the Government must contain the signature and address of the claimant or an authorized representative. 31 U.S.C. § 3702(b)(1). To the extent that a travel voucher represents a claim for travel expenses, the theoretical answer to the agency's question is relatively simple. The voucher should be signed by the claimant, i.e., by the person or entity having the legal right to payment of the expenses. It is, however, in the practical application of this answer that an agency may encounter problems.

Fortunately, so far as deceased civilian employees of the Federal Government are concerned, the identification of the rightful claimant is facilitated by provisions contained in title 5 of the United States Code. Under section 5582(a) of that title, an agency is required to notify each of its employees of his or her right to designate a beneficiary or beneficiaries to receive money due, and of the disposition of money due if a beneficiary is not designated. The employee may change or revoke a designation at any time pursuant to published regulations. In a subsequent provision, the same statute provides:

In order to facilitate the settlement of the accounts of deceased employees, money due an employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and the payment bars recovery by another person of amounts so paid:

First, to the beneficiary or beneficiaries designated by the employee in writing received in the employing agency before his death.

Second, if there is no designated beneficiary, to the widow or widower of the employee.

Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed legal representative of the estate of the employee.

Sixth, if none of the above, to the person or persons entitled under the laws of the domicile of the employee at the time of his death.

5 U.S.C. § 5582(b). Implementation of these statutory provisions is left to the Director of the Office of Personnel Management (OPM). *Id.* § 5583(a). The OPM regulations are found in subpart B of 5 CFR pt. 178 (2003).

In asking for our opinion on who has the authority to sign a travel voucher covering Mr. Benson's travel expenses, the agency has not provided us with information regarding any designation Mr. Benson may have made prior to his death, pursuant to 5 U.S.C. § 5582(a). Nevertheless, we would expect the agency to look to this statute and to its implementing regulations to determine the rightful claimant of moneys due for expenses incurred by the deceased during his final temporary duty assignment.

GSA also asks us for our "comments on the official expenses reimbursable in this matter, especially those that are not covered by the Federal Employees' Compensation Act (FECA)." As the agency recognizes, we have no authority to address possible claims relating to FECA. Lagrande H. Merritt, GSBCA 14638-TRAV, 98-2 BCA ¶ 29,978. So far as regards any claim for travel expenses, we have little specific information on what reimbursement is in fact being sought in Mr. Benson's case. It is our custom in responding to requests for our opinion pursuant to 31 U.S.C. § 3529 to invite the actual or potential claimant to comment on the request if he or she wishes to do so. In this case, because of the high probability that Mr. Benson's widow may be the rightful claimant, we invited her to comment on GSA's request. She chose not to comment on the issue presented by GSA but did provide some very limited information regarding possible travel expenses. Since we have no information other than this, we are reluctant to comment in the abstract, as requested, on "other expenses reimbursable in this matter." Rather, we would refer the agency in general to guidance contained in chapters 301 and 303 of the Federal Travel Regulation System, which deal respectively with TDY travel allowances and the payment of expenses connected with the death of certain employees. 41 CFR chs. 301, 303 (2002).

EDWIN B. NEILL
Board Judge