

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

June 15, 2005

GSBCA 16571-TRAV, 16579-TRAV

In the Matters of DOUGLAS E. HICKEY and RONALD A. BELICA

Douglas E. Hickey, Havre de Grace, MD, Claimant in GSBCA 16571-TRAV.

Lawrence Berger, Federal Law Enforcement Officers Association, Garden City, NY, appearing for Claimant in GSBCA 16579-TRAV.

G. Thomas Carter, Immigration and Customs Enforcement, Department of Homeland Security, Washington, DC, appearing for Department of Homeland Security.

GOODMAN, Board Judge.

Claimants are Federal Air Marshals (FAM) employed by the Federal Air Marshal Service (FAMS), a component of the Department of Homeland Security (DHS). They have asked this Board to review the agency's denial of reimbursement of mileage charges incurred while on duty.

The official duty station of both claimants is the FAM Washington Field Office in Fairfax County, Virginia. They regularly travel from their residences directly to three airports - Washington Dulles International, Ronald Reagan Washington National, and Baltimore Washington International (the three airports) - to fly missions. The driving distances between claimants' residences and the three airports are less than the driving distances between their residences and their field office.

Both cases involve only the issue of reimbursement of mileage charges when the claimants travel from their residences directly to the three airports for missions scheduled for less than twelve hours. Claimants submitted vouchers for reimbursement for mileage and DHS initially reimbursed the amounts requested as local travel expenses. DHS subsequently determined that reimbursement under these circumstances was not authorized by regulation, and now seeks to collect from claimants the reimbursed amounts as a debt owed. Claimants ask this Board to review the agency's determination.¹

Discussion

Claimants are subject to travel regulations contained in Transportation Security Agency (TSA) Financial Management Policy Letter No. FM-108, "Interim Policy and Procedures on Reimbursement for Local Travel and Expenditures on Official Business" (TSA FM-108), and its implementing guidance, ADM 1510, "Federal Air Marshal Service Local Travel and Temporary Travel Rules."²

TSA employees are not entitled to reimbursement for any local travel or miscellaneous expenses. Employees may be authorized reimbursement for local travel, but any reimbursement of these expenses is at the discretion of management and the employee must have pre-approval before incurring the expense. TSA FM-108 ¶ 2. Local travel is defined as "as travel to conduct official government business within a 50-mile radius of an employee's official duty station, and/or within 50 miles of the employee's residence." Local travel reimbursement is intended to cover the employee's out of pocket costs in excess of normal commuting expenses. *Id.* ¶ 3.

¹ Claimant in GSBCA 16571 requests the Board to also decide whether he is entitled to reimbursement of per diem expenses. The only agency determination in the record is the Government's demand for repayment of mileage charges in a specific dollar amount. No amounts for denial of per diem expenses are included, nor has any information been submitted as to the circumstances under which per diem expenses were allegedly denied. We consequently do not consider this matter.

² These regulations were issued when the FAMS was a component of the TSA. In January 2003, TSA was transferred from the Department of Transportation to the DHS. In November 2003, the Secretary of DHS issued Delegation of Authority No. 7060.2 to the TSA Administrator which separated FAMS from TSA and stated that any "regulations and policies issued before November 2, 2003 pertaining to the FAM program [shall] continue in effect until superseded, rescinded, or amended by competent authority."

ADM 1510 defines a FAM's field office as the official duty station and also states that "airports or other sites located within 50-mile radius of the field office are considered within the FAM's official duty station, and are normally covered under local travel rules." Local travel is defined as "authorized travel within a 50-mile radius of the physical location of the field office. This includes FAM missions originating at any airport within the 50-mile radius with less than 12 hours of travel time." Temporary duty travel is "authorized travel outside the 50-mile radius of the field office. This includes FAM missions originating at an airport outside of the 50-mile radius or for FAM missions originating at an airport within the 50-mile radius involving overnight travel or travel longer than 12 hours." A list of field offices and airports within and outside a fifty-mile radius of each is included. The three airports are specified as within a fifty-mile radius of the Washington Field Office.

ADM 1510 states further that:

[u]nder certain circumstances, mileage, tolls and parking costs for the use of a personal owned vehicle (POV) can be claimed for authorized local travel. For local travel starting and ending at the FAM's field office, the actual mileage and tolls can be claimed. For local travel starting and ending at the FAM's residence, mileage must be prorated to back out the normal cost of travel between the FAM's residence and the field office.

ADM 1510 also contains a section entitled "Frequently Asked Questions" which illustrates hypothetical examples of FAMs traveling between their residences and airports located within and outside a fifty-mile radius of their field offices. Each example contains an explanation as to whether rules for local travel or temporary duty travel apply and whether the specific expenses are reimbursed. The facts of examples 1 and 7 are directly applicable to the instant cases. In both examples, a FAM travels from his residence to an airport within a fifty-mile radius of his field office, the driving distance from his residence to the airport is less than the driving distance from his residence to his field office, and the mission scheduled is for less than twelve hours of flight time. According to these examples, local travel rules apply, and the FAM is not entitled to mileage.³

We find that claimants are not entitled to reimbursement for mileage charges that they submitted. It is clear from the applicable regulations that claimants are performing local

³ Claimant in GSBCA 16579-TRAV asserts that whenever a FAM travels to an airport and flies a mission, he is obviously on temporary duty travel and is therefore entitled to mileage reimbursement. This assertion is contrary to the definition of local travel in TSA FM-108 and ADM 1510 and inconsistent with examples 1 and 7 of ADM 1510.

travel when they travel directly from their residences to the three airports for missions scheduled for twelve hours or less. They are therefore only entitled to out-of-pocket costs which exceed their normal commuting expenses. For local travel starting and ending at a FAM's residence, excess costs are those which exceed the normal cost of travel between the FAM's residence and the field office. Because the driving distances between the claimants' residences and any of the three airports is less than the driving distances between their residences and their field office, claimants do not incur any mileage costs in excess of their normal commuting mileage expenses when driving from their residences to the three airports. They therefore are not entitled to reimbursement of mileage charges incurred under these circumstances.

Decision

The claims are denied.

ALLAN H. GOODMAN
Board Judge