UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 10, 2014

CBCA 3852-TRAV

In the Matter of MARK HUNTER

Mark Hunter, Islamabad, Pakistan, Claimant.

Barbara Thomanek, Authorized Certifying Officer, Agency for International Development Egypt, Dumfries, VA, appearing for Agency for International Development.

VERGILIO, Board Judge.

> The agency can reimburse the claimant no more than the constructive costs of round-trip, direct airfare for a dependent, minor child (attending a school away from post) who traveled during school break to an authorized location as the alternate to employee's foreign post of duty.

Background

The Agency for International Development (agency) seeks an advisory opinion regarding the appropriate payment for airfare for travel of a teenaged, dependent child of the claimant, Mark Hunter, who attended a school away from the claimant's post, and was authorized round-trip travel to a different location during a school break. Travel occurred in February and March 2014. Because of restrictions on the travel of minors to Pakistan (the claimant's duty station), the claimant selected Park City, Utah, as the alternate location for meeting his dependent on a school break. The dependent flew from BDL (Hartford, Connecticut) (the relevant departure city) to BNA (Nashville, Tennessee), remained there for several days, then flew from BNA to SLC (Salt Lake City, Utah) (the relevant terminus city for the flights involved), remained there for several days, then flew from SLC to BDL. The legs were purchased as one-way, youth class tickets.

The total of the ticket prices for each leg of the actual travel was approximately $4570, which the agency states is comparable to full airfare that would have been incurred for round-trip travel to Pakistan. The agency estimates that a direct, unrestricted economy flight to Salt Lake City would have cost $1500, although this is based upon an April 7 internet search and use of first class fares, because, as the agency states, "the trip took place in February which is the height of ski season."

In contrast to the actual purchase of tickets and the agency's suggested pricing, city-pair ticket prices existed for the travel. No city-pair between Hartford and Salt Lake City existed; however, combinations of city-pairs would accomplish the trip. With routing through Denver, Colorado, the Government capacity controlled fare (CA fare) would have resulted in a total round-trip price of $542, and the Government unrestricted coach fare (YCA fare) in a total round-trip price of $790. The round-trip price, with routing through Nashville, at the Government CA fare, would have been $826, and at the Government YCA fare $1440.

Discussion

Statute permits an agency to grant an employee travel costs to assist with the extraordinary and necessary expenses of providing adequate education for dependents, not otherwise compensated for, incurred because of service in a foreign area. The allowance could include periodic transportation between the post and the school chosen by the employee. "When travel from school to post is infeasible, travel may be allowed . . . to join a parent at any location, with the allowable travel expense not to exceed the cost of travel between the school and the post." 5 U.S.C. § 5924(4) (2012).

The claimant's reimbursement initially is tied to the Department of State Standardized Regulations (DSSR). The given of the proposed question is that this dependent was at school away from the claimant's post and travel to the post was not feasible. The regulations permit reimbursement for travel

> to join a parent at any location with the allowable travel expense not to exceed the cost of travel between the school and the post. . . . Travel must be performed and reimbursed in accordance with the Federal Travel Regulation and implementing regulations of the responsible government agency. Student transportation rates, if available and cost advantageous to the [United States Government], may be authorized[.]

DSSR 277.2.c.(1). "Any other travel expense not specifically detailed in this section is not allowable." DSSR 277.2.

By regulation, a traveler is to act prudently in establishing travel plans. Federal Travel Regulation (FTR), 41 CFR 301-2.3 (2013) (FTR 301-2.3). Further, a traveler is to use the least expensive class of travel that meets one's needs. FTR 301-10.123. At issue here is the air travel between Hartford and Salt Lake City.

Based upon the information provided, it is presumed that the dates for the travel, tied to school break time, were fixed and known in advance. The travel authorization was signed in early January 2014. The travel agency invoiced the tickets on January 17, 2014. The existing record does not indicate when the claimant sought authorization or when the trip was planned. A prudent traveler would book such a trip at the earliest date when plans were set.

The city-pair fares, available to dependents for authorized travel, with routing through Denver, would have satisfied a principal objective of the travel at issue, reuniting employee and dependent child. The claimant or traveler opted for personal reasons to utilize alternate, indirect routing. Under statute and regulations, the extra costs are to be borne by the claimant. The record does not demonstrate that city-pair seats were not available for routing through Denver. Accordingly, because the employee ultimately bears the burden of proof to recover additional money, the $542 pricing for the tickets should be used here.

The agency raises subsidiary questions. Use of first class travel fares to constructively price this travel has not been justified.

The agency also asks if the travel authorization could be amended now to change the authorized route to include Tennessee. Statute permits an agency to identify a location, not locations, as an alternate to an employee's post of duty. Routing through Tennessee would be for personal reasons. The travel authorization cannot be amended as proposed.

The round-trip travel costs between the student's location and Islamabad, Pakistan (the claimant's location) define the maximum reimbursement for the actual travel to a designated alternate location when the student could not travel to the claimant's location. However, the ceiling figure does not provide the claimant with an entitlement to recover any travel costs incurred up to that maximum. Rather, reimbursement is limited for travel pursuant to the regulations. Reimbursement is capped at constructive costs of travel to the alternate location by direct routing, utilizing available Government rates for the travel. Here, the agency may pay $542 for the airfare; the claimant is liable for the remainder of the airfare.

JOSEPH A. VERGILIO
Board Judge