



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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July 16, 2020

CBCA 6726-TRAV

In the Matter of GLENDA A. DeVINNEY

Glenda A. DeVinney, Claimant.

Patrick S. Kim, Office of General Counsel, National Geospatial-Intelligence Agency, Springfield, VA, appearing for National Geospatial-Intelligence Agency.

**VERGILIO**, Board Judge.

The claimant seeks reimbursement for several incidents of emergency visit travel (EVT) from a duty station outside the continental United States (OCONUS) to CONUS, completed more than thirty days before the payment requests were made. The agency denied reimbursement on the basis that the requests were untimely and that it cannot waive the requirement for a timely certification and submission. The payment of EVT expenses is non-discretionary. By failing to authorize the EVT travel at the time it occurred and to notify the claimant of the availability of these benefits and the actions necessary to obtain reimbursement, the agency improperly denied the claimant a non-discretionary benefit. Upon submission of the necessary certifications, the claimant is entitled to the benefits for each qualifying incident, calculated pursuant to regulation.

The claimant, Glenda A. DeVinney, a civilian employee of the National Geospatial-Intelligence Agency, experienced various family-related incidents (deaths and arranging for parental care) for which she traveled from her duty station OCONUS to CONUS during the period of May 2017 through April 2019. She provided notice to her supervisors that she was undertaking travel in each instance and the basis for each travel. The agency did not authorize, or inform her that she could receive, EVT benefits (transportation allowances), such that she could have flown, with the agency to pay or reimburse airfare and transportation expenses to and from airports, instead of her driving. Joint Travel Regulations (JTR) 040101, 0403.

By regulation, EVT is not discretionary for purposes of travel in response to a medical emergency, elder care, death, or unusual personal hardship “once the approval authority confirms the need.” JTR 040301. An employee must submit a written statement or certification detailing particular information regarding the EVT incident. An employee may be reimbursed for travel occurring before receiving authorization. However, “[i]n 30 or fewer calendar days after travel is completed, the EVT traveler must provide a written certification to the AO [authorizing or approval official] detailing the name, address, and relationship to the traveler of the person visited.” JTR 040301-B.2.d. Other documentation or certifications may be required as well. JTR 0403.

The claimant notified her supervisor of each incident and need for travel. The agency did not authorize EVT benefits or indicate that they were available before or within thirty days after the claimant’s return from travel. For the final incident, travel related to the death of a parent, some individuals within the agency determined the EVT benefits were available. This conclusion was reached contemporaneously with the travel. The claimant was not informed of the determination nor was authorization provided. More than thirty days after completion of all EVT, upon learning of the availability of EVT benefits, the claimant requested reimbursement. The agency denied the requested authorizations for EVT, because the requests came too late after each travel period. The agency notes further that in response to its inquiry of its Per Diem Committee, it was informed that no exception could be made to the thirty day rule.

In this proceeding, the agency recognizes that the incidents would have entitled the claimant to EVT benefits. However, at no point did she have travel authorization, nor did she submit a written certification to obtain EVT reimbursement until well after the thirty-day period prescribed by JTR 040301-B.2.d. The agency maintains that it cannot waive the requirement or expand the period for a submission.

The regulation specifies that EVT benefits are not discretionary. This indicates entitlement for an employee satisfying the conditions to receive the benefits. As the agency recognizes, the claimant was such an employee with respect to the death of various immediate family members as defined by regulation, and the care of her mother. However, the claimant did not provide necessary certifications in a timely fashion.

The agency is correct that the claimant failed to provide certifications in a timely manner. However, her superiors should have authorized the claimant to receive EVT benefits at the start of each incident, upon learning of the bases of travel, and notified her of the available benefits and necessary actions to receive compensation. The agency failed to fulfill its responsibilities to extend benefits to the claimant, which could have included air

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transportation, as opposed to the claimant traveling by privately owned vehicle. While the claimant is charged with knowing obligations under the regulations, the agency's failure to provide authorization or guidance amounted to a knowing or unknowing discretionary determination that is inconsistent with the principles of the JTR.

The claimant is entitled to EVT benefits upon submission of the required certification for each qualifying incident and an itemization of costs. The agency is obligated to pay reimbursable expenses and provide benefits allowable under the JTR. The lack of a timely certification does not act to bar the entitlement for this claimant.

*Joseph A. Vergilio*  
JOSEPH A. VERGILIO  
Board Judge