



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 5, 2023

CBCA 7762-RELO

In the Matter of CHANAE J.

Chanae J., Claimant.

Connie J. Rabel, Director, and Michelle Stafford, Financial Analyst, Travel Mission Area, Enterprise Solutions and Standards, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

LESTER, Board Judge.

Claimant asks us to review a decision of the Defense Finance and Accounting Service (DFAS) rejecting her request for reimbursement of costs that she incurred to ship her personally owned vehicle (POV) from her old permanent duty station (PDS) in the continental United States (CONUS) to her new CONUS PDS. DFAS asserts that, even though claimant's approving official (AO) at the Defense Contract Audit Agency (DCAA) authorized POV shipment as part of her transfer, claimant failed to obtain a cost construct from a federal transportation management office (TMO) that would have allowed DFAS to compare (1) the POV shipping costs that the Government would have incurred had it arranged for POV shipping itself with (2) the POV shipping costs that the transferring employee actually incurred through the commercial carrier that the employee hired.

Contrary to DFAS's assertions, nothing in the sections of the Joint Travel Regulations (JTR) that DFAS cites creates a requirement for a TMO cost construct. The regulations instead require the AO to compare the costs of having the employee drive her POV to the new PDS with the costs and time benefits of shipping the POV. Claimant's AO conducted that cost comparison, satisfying the JTR requirements. Further, the evidence in the record shows that no federal employee could satisfy the documentation "requirement" that DFAS is imposing because TMOs do not provide cost constructs for CONUS-to-CONUS POV shipments. It is arbitrary and capricious, and therefore not sustainable, for DFAS to impose

a documentation requirement that is inconsistent with applicable regulations and requires an action that no federal employee can meet. DFAS must reimburse claimant's POV shipping costs.

Background

DCAA approved claimant's transfer from a PDS in California to a new PDS in Missouri, with a reporting date of April 25, 2022. In travel orders (DD Form 1614) dated February 28, 2022, claimant's AO authorized claimant to fly from her old to her new PDS and to ship her POV from the old to the new PDS rather than to require claimant to drive her POV to the new PDS. The travel orders reflect the AO's finding that "[i]t is more advantageous to the government for the employee to be working vs. traveling for an extended period of time" and that "[s]hipment of one POV is authorized and determined to be more cost effective to the Government than driving."

As part of the authorization process, the AO conducted a cost comparison analyzing the costs associated with shipping the POV and the costs that the agency would incur were claimant to drive her POV for five days from the old to the new PDS. In calculating the total costs associated with POV shipment, the AO first identified a cost for shipping the POV through a commercial transport company, a dollar figure that the AO obtained by reviewing three quotes from commercial shippers that claimant had obtained and provided to DCAA. The AO added that POV shipping cost with the additional cost of claimant's airfare to the new PDS, baggage fees, taxi costs to and from the airports at the old and new PDSs, and on-line costs that the agency would be charged for reserving and purchasing the airline ticket. The AO then compared that total cost to the costs that the agency would incur if claimant drove her vehicle to the new PDS, which the AO identified as the total of the per diem that the employee would receive during a five-day trip, reimbursable mileage costs, and tolls that would be incurred on the trip. The AO determined that, even without considering the benefit of the employee's accelerated arrival at the new PDS, the total cost of POV shipment was less than the cost of having the employee drive her POV to the new PDS. Adding in the benefit of the employee's accelerated arrival, according to the AO, tripled the value of shipping the POV and flying the employee to the new PDS.

At the AO's direction, claimant arranged for a commercial carrier to ship her POV and, after relocating to the new PDS, submitted her reimbursement request.

On June 14, 2022, DFAS notified claimant that it could not process the request unless and until she obtained a cost construct from a federal TMO identifying and comparing the cost that the Government would have incurred if it had arranged for POV shipping with the cost that claimant actually incurred using the commercial shipping agent:

Thank you for contacting DFAS Rome regarding your POV shipment claim. The cost comparison needed is the construct completed by the Transportation Office (TMO) / Personal Property Processing Office (PPPO) and on letterhead from that office. The comparison you have included appears to be what your Approving Official would typically use to determine if it is more advantageous to drive vs fly and is not the cost comparison we require. Unfortunately, any shipment of personal property (including a POV) does need to route through the TMO first and receive approval/cost construct and then be returned to DFAS Rome.

Another DFAS representative later told claimant that “[w]hat we require is an actual cost construction memo from your local Transportation Office that provides the amount the government would have paid for the shipment” and that DFAS would reimburse either the cost construct amount or the actual commercial shipping amount, whichever was lower.

The DCAA’s assigned travel specialist assisting claimant questioned DFAS, asserting that she “had always processed POV shipments with [the agency’s] own cost comparison limited to driving a POV (mileage and per diem)” and had “[n]ever had any problems.” DFAS informed her and claimant that, until shortly before claimant submitted her POV shipping reimbursement request, the DFAS Travel Pay Office had routinely used a federal transportation office website to obtain the cost constructs that it wanted but that DFAS’s website access had recently been eliminated. Without access to that federal site, DFAS told claimant, DFAS was shifting the burden of obtaining a TMO cost construct to the relocating employees:

The reimbursement [for CONUS-PDS-to-CONUS-PDS POV shipment] is limited to the cost the government would have incurred for shipping the POV versus commercially shipping, i.e., the lesser of the two. Previously DFAS Travel Operations, as a courtesy to their customers, were able to get these rates through the [United States Transportation Command] website if the government cost comparison was missing from the travel voucher that was submitted. However, the Transportation Management Office removed access to this information stating the information contained [controlled unclassified information]. Unfortunately this meant the service DFAS Travel Operations previously provided as a courtesy to customers is no longer available to them to access. This however does not alleviate the requirement in [JTR], Chapter 5, 054702(A), a cost comparison is to be made between the cost of the government to ship the POV and the cost of the traveler to ship the POV using a commercial shipping agent.

As claimant has established with ample evidence, federal TMOs do not provide (and have never provided) civilian employees with cost constructs for CONUS-to-CONUS POV shipments. Claimant and her agency's travel specialists contacted at least seven TMOs in an attempt to obtain a TMO cost construct in response to DFAS's demand, only to be told by the only TMO that responded that, for CONUS-to-CONUS moves, TMOs do not assist with POV shipments. As the TMO representative stated in his email, "someone is giving someone bad information. We provide estimates on [household goods (HHG) shipments,] not POV." Claimant was, at one point, able to obtain a memorandum from a TMO with information about POV shipping, but DFAS rejected it because it did not contain claimant's name, dates of travel, and Metric Tons (MTONS) calculations addressing her specific POV.

The DCAA's assigned travel specialist also contacted the Travel, Relocation, Mail, and Transportation Policy Division (TRMTPD) of the Office of Asset and Transportation Management within the General Services Administration (GSA) to determine whether DFAS's insistence on a TMO cost construct for POV shipping was, in its view, consistent with federal travel policy. In response to that informal query about "how to cost construct the productivity of the employee's accelerated arrival," a TRMTPD program manager responded that "[u]sually it is the 'salary cost' savings by flying to the new PDS so [the employee] can go to work versus getting paid for driving to the new PDS and no work is being done." The TRMTPD program manager disclaimed knowledge of any requirement for a cost construct from a TMO. With regard to DFAS's insistence on obtaining a MTONS calculation involving height, weight, length, and cost considerations, the TRMTPD program manager indicated that "if [the TMO] can't provide, not sure what the employee can provide for reimbursement."

Despite being informed of the TMO and TRMTPD responses, DFAS has continued to insist that, under the JTR, it cannot pay POV shipping costs without a TMO cost construct comparing the costs of Government-arranged shipping and of employee-arranged commercial shipping. In its submission to the Board, DFAS indicated its "regret[]" that a more favorable determination was not made" but stated that "based upon current regulations we can find no authority for additional reimbursement for [claimant] without the mandatory cost comparison from the Transportation Officials."

Claimant has requested that the Board consider her POV shipment reimbursement claim.

Discussion

JTR 054702 sets forth the prerequisites for authorizing and reimbursing POV shipments for civilian employees of military agencies who are relocating from one CONUS PDS to another CONUS PDS:

Commanding officers, or their designated representatives, are authorized to determine eligibility to transport a POV at Government expense. Both the old PDS . . . and the new PDS must be within the CONUS. The distance the POV is shipped must be 600 miles or more.

A. Eligibility. It must be more advantageous and cost effective to the Government to transport the POV to the new PDS at Government expense and to pay for transportation of the civilian employee or immediate family by other means than to have the civilian employee or immediate family member drive a POV, or two POVs if applicable, to the new PDS.

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B. Mandatory Cost Comparison. For each travel order, an AO must consider the cost of POV travel, the cost of transporting the POV, travel costs if the POV is transported, and the productivity benefit from the civilian employee's accelerated arrival at the new PDS. Performing a cost comparison is mandatory for each order.

JTR 054702 (Apr. 2022).

Claimant's relocation satisfies these JTR requirements. Both the old PDS and the new PDS are within the CONUS, the two PDSs are more than 600 miles apart, and, as required in JTR 054702-A, the AO determined that it would be more advantageous and cost effective to the Government to ship claimant's POV to the new PDS at government expense and pay her travel expenses than to have claimant drive the POV for several days. In compliance with JTR 054702-B, the AO, in making her determination, considered the cost of POV travel, the cost of transporting the POV, claimant's travel costs, and the productivity benefit from claimant's accelerated arrival at the new PDS. In light of that analysis, claimant's authorization to ship her POV was valid, and she is entitled to reimbursement.

DFAS refers to two phrases in JTR 054702 as evidencing a requirement that claimant must obtain a cost construct from a TMO that compares the cost of having the Government ship the POV with the cost of having the employee arrange for commercial shipment: the phrase "at Government expense" in the first part of the provision and the phrase "the productivity benefit from the civilian employee's accelerated arrival at the new PDS" in paragraph B. These phrases, DFAS suggests, require the Government to pay the lowest possible amount for POV shipment that it can. As JTR 054702 makes clear, however, the "productivity benefit" at issue is the value of having the employee's services at the new PDS earlier than it would if the employee had to drive the POV from the old PDS for several days.

DFAS's suggestion that the proper comparison is the difference between Government-arranged POV shipping and employee-arranged POV shipping is simply not what JTR 054702 says.

DFAS also cites to JTR 054703, titled "Shipment Methods in the CONUS," which it states makes clear that the TMO, based upon MTONS calculations that it allegedly would perform, must determine whether the Government will make the POV shipment arrangements or will allow the employee to do that. Part A of JTR 054703, which is the portion of the regulation to which DFAS refers, reads as follows:

Government or Civilian Employee Arranges POV Transportation. *When the Government arranges POV transportation, the Transportation Officer determines the transportation mode. Shipment procedures must follow the regulations in [Defense Transportation Regulations (DTR)] 4500.9-R. When POV shipment is authorized at Government expense and the civilian employee personally arranges the POV transportation, reimbursement is limited to the civilian employee's actual expenses, limited to the POV transportation cost from the authorized origin to the authorized destination.*

JTR 054703-A (emphasis added). Contrary to DFAS's construction of this JTR provision, the TMO is not required to make the initial call as to whether it will be the Government or the employee that arranges for POV shipping. By necessity, the AO makes that determination as part of his or her evaluation of the transferring employee's relocation benefits, as JTR 054702 makes clear: "Commanding officers, or their designated representatives, are authorized to determine eligibility to transport a POV at Government expense." Here, the AO conducted a proper evaluation in deciding to authorize POV shipment to the new PDS and authorized claimant to make the shipping arrangements herself, entitling claimant to recover her actual expenses of the POV transportation. *See* JTR 054703-A, 054709-A. DFAS has no right to override the AO's determination, particularly after claimant has already incurred the POV shipping costs.

The only official publication in this record that says anything about a TMO cost construct is a pre-printed "Civilian Relocation DD 1351-2 Checklist" that DFAS created (and that DFAS apparently makes available to civilian employees on its website) with instructions on how to complete travel vouchers. In those instructions, DFAS indicates that, when seeking POV shipment reimbursement, the traveler should provide a "[c]ost construction memo from the Transportation Office or Surface Deployment and Distribution Command and paid receipts." DFAS's instructions are not supported by the JTR, which does not require a TMO cost construct or a comparison of the cost of Government-arranged shipping versus the cost of employee-arranged commercial shipping. DFAS cannot, on its own, create a documentation requirement that is ultimately irrelevant to the evaluation of the employee's

reimbursable cost entitlement and, beyond that, is impossible for the employee to satisfy. DFAS's demand is arbitrary and capricious.

DFAS here takes a position contrary to applicable travel regulations. Moreover, DFAS has not established that a TMO cost construct would have resulted in a lesser figure for comparison. Nothing in the record suggests, much less supports, the proposition that the AO and employee did anything but act in accordance with the regulations with respect to the transportation of the POV.

Decision

The claim is granted. DFAS shall reimburse the actual POV shipping costs that claimant incurred.

Harold D. Lester, Jr.
HAROLD D. LESTER, JR.
Board Judge