



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

---

March 28, 2025

CBCA 8191-RELO

In the Matter of DIMITRY M.

Dimitry M., Claimant.

Yordan Metodiev, Certifying Official, Bureau of Comptroller and Global Financial Services, Department of State, appearing for Department of State.

**O'ROURKE**, Board Judge.

Claimant, a foreign service officer, seeks an allowance at the “family rate” in connection with an overseas assignment. Because claimant was single when he transferred to the overseas post, he was provided an allowance at the single rate (\$750). Shortly before completing his three-year assignment, claimant married and requested a second portion of the allowance (another \$750) based on his new marital status and his wife’s arrival at post. The Department of State (agency) denied the claim since the purpose of the allowance was to help claimant get established at the overseas post, and his assignment was nearly over when his wife arrived. For the following reasons, we affirm the agency’s denial.

Background

Pursuant to official permanent change of station (PCS) orders, dated April 2, 2021, claimant transferred from his duty station outside the continental United States (OCONUS Post 1) to begin a three-year assignment at another overseas location (OCONUS Post 2). Claimant’s PCS orders authorized various travel and relocation allowances, including miscellaneous expenses under the foreign transfer allowance (FTA). The miscellaneous expense portion of the allowance was authorized at the “single rate,” also referred to as the “without family” rate, since no eligible family members (EFM) were identified on claimant’s PCS orders.

Claimant arrived at OCONUS Post 2 on August 27, 2021. The following month, he submitted a travel voucher for payment of his PCS expenses, including the FTA. The voucher was approved, and he received \$750 for the miscellaneous expense portion of the FTA (the single rate). The “with family” rate would have been twice that amount (\$1500). For the next two years and nine months, claimant worked at OCONUS Post 2 while maintaining a household without EFM.

On April 26, 2024, about ninety days before transferring to a new assignment in the continental United States (CONUS), claimant married. On May 2, 2024, claimant asked the agency to amend his 2021 PCS orders so that he could add his spouse as an EFM and authorize her travel from her country of residence to OCONUS Post 2. Based on his updated marital status, claimant requested another \$750 payment under the miscellaneous expense portion of the FTA; the difference between the single rate and the family rate.

The amendment to claimant’s 2021 PCS orders adding claimant’s wife was approved on May 4, 2024, a step which apparently enabled claimant’s wife to travel from her country of residence to claimant’s OCONUS Post 2. The agency denied claimant’s request for the family portion of the miscellaneous expense (\$750) since claimant was not married when he transferred to OCONUS Post 2.

On June 16, 2024, claimant’s spouse arrived at OCONUS Post 2 on a self-purchased ticket. There are gaps in the record regarding the next series of events. At some point, claimant’s spouse returned to her country of residence. Then, she traveled back to OCONUS Post 2 on July 28, 2024, on a ticket purchased against claimant’s new PCS travel authorization. The following day, claimant and his spouse departed OCONUS Post 2 for claimant’s new duty station in the United States.

Based on the information available, it appears that after arriving in the United States, claimant again attempted to claim the \$750 miscellaneous expense payment under the FTA for his spouse’s arrival at his previous duty station (OCONUS Post 2). It is unclear whether claimant resubmitted the claim as part of his travel voucher for expenses related to his PCS back to the United States or as a stand-alone claim. Regardless of how the claim was re-presented, the agency solicited an opinion from the division chief of the PCS customer support section regarding reimbursement of the claim. Quoting the regulation governing payment of the FTA, the division chief responded, “The employee may be paid the difference upon the arrival of their family.”

Despite the positive response from the division chief, the agency’s certifying official ultimately denied the \$750 miscellaneous expense claim because: (a) claimant was not married when he transferred to OCONUS Post 2 in 2021, and (b) the purpose of the allowance was to help claimant get his household established at OCONUS Post 2. By the

time claimant requested the second portion of the allowance, that assignment was almost over and his household had been long established. Claimant asked the Board to review the agency's determination.

### Discussion

Statute confers the authority to settle travel and relocation claims of federal civilian employees in the Administrator of General Services, who re-delegated that function to the Board. 31 U.S.C. § 3702(a)(3)(2018); *James W.*, CBCA 8126-RELO, 24-1 BCA ¶ 38,659, at 187,933. The burden is on the claimant to establish the liability of the agency and the claimant's right to payment. 48 CFR 6104.401(c) (2024).

The Department of State Standardized Regulations (DSSR), promulgated by the Secretary of State, governs the eligibility and payment of allowances incident to an overseas PCS, including the FTA. *John E. Gartland*, CBCA 6880-RELO, 20-1 BCA ¶ 37,698, at 183,018 (quoting *Gregory J. Bird*, GSBCA 16110-RELO, 04-1 BCA ¶ 32,425, at 160,478 (2003)). The DSSR defines the FTA as "an allowance under 5 U.S.C. 5924(2)(A) for extraordinary, necessary and reasonable expenses . . . incurred by an employee *incident to establishing him or herself at any post of assignment in a foreign area.*" DSSR 241.1(a) (emphasis added); *Kelsey S.*, CBCA 8340-RELO, 25-1 BCA ¶ 38,758, at 188,395. The FTA is comprised of four elements: 1) a miscellaneous expense portion, 2) wardrobe expense portion, 3) pre-departure subsistence expense portion, and 4) a lease penalty expense portion. DSSR 241.2 (a)-(d). This claim involves the miscellaneous expense portion of the FTA.

Eligible employees receive a lump sum miscellaneous expense portion to assist with certain household costs "provided they are deemed to be reasonable and necessary in the individual case." DSSR 241.2. Examples include, but are not limited to, disconnecting, connecting, and converting appliances, equipment and utilities; utility fees or contract deposits that are not offset by eventual refunds; automobile registration and driver's license fees; and removal or re-installation of a catalytic converter and other special auto parts such as tinted windows and special lights in order to comply with host country laws and regulations. *Id.*

Also relevant here is the DSSR provision pertaining to *payment* of the FTA, which the PCS division chief referenced in favor of paying the claim. It states:

A foreign transfer allowance granted under these regulations may be paid as a single payment at any time following the employee's arrival at post. Should the employee arrive at the post in advance of the family, he/she may be paid the miscellaneous expense portion, the wardrobe portion, if applicable, and the subsistence expense portion, if applicable, provided for an employee without

family. *The employee may, upon the arrival of his/her family, be paid the difference between the amount already paid and the allowance to which he/she is eligible by reason of family status.*

DSSR 242.5 (emphasis added).

Claimant's position echoes that of the division chief in the PCS support section—the payment provision of the DSSR authorizes compensation of the difference between the two rates (single and family) upon the arrival of the family member at the employee's post. Reading that provision in isolation, however, disregards the overall purpose of the FTA which is to help defray the costs an employee incurs when transferring to an overseas post. Such assignments impose unique costs on an employee, and the miscellaneous expense portion of the FTA helps alleviate some of that cost burden. Even so, the FTA limits miscellaneous expenses to those which are “reasonable and necessary in the individual case.” DSSR 241.2(a).

The timing of claimant's wife's arrival at OCONUS Post 2 prompted the certifying official to question the necessity of the allowance in this case. Since claimant requested a lump sum payment, he did not have to submit a list of miscellaneous expenses with his claim and justify them. *Id.* Nonetheless, these regulations do not operate in a manner that automatically entitled claimant to a supplemental payment once his wife arrived in-country in June 2024. The plain language of the DSSR's payment clause states that the employee “*may* be paid,” (DSSR 242.5 (emphasis added)), not *will* be paid or *shall* be paid. There is discretion there. The certifying official who exercised that discretion looked to the clear intent of the allowance and found no evidence that claimant incurred any “reasonable and necessary” costs that warranted the additional payment. Claimant considered his wife's “mere arrival” at OCONUS Post 2 to be a sufficient basis for authorizing the payment. We find that this interpretation of the regulation disregards the purpose of the FTA.

We also note that the claim was submitted in early May 2024, but the record indicates that claimant's spouse was not at OCONUS Post 2 until mid-June 2024. Furthermore, there is no evidence that claimant's spouse remained at OCONUS Post 2 for any period of time that would necessitate the type of expenses that this portion of the FTA is expressly intended to cover—getting established at a new duty station. Even if such expenses could be demonstrated, claimant has not attempted to do so despite having the burden to prove he was entitled to a supplemental payment of FTA when his spouse arrived at OCONUS Post 2.

Claimant also points out that his 2021 orders were amended in May 2024 to add his spouse. “The travel authorization is a record of vested travel entitlements and may not be administratively altered after the fact to increase or decrease benefits in the absence of clear error.” *William T. Cowan, Jr.*, GSBICA 16525-TRAV, 05-1 BCA ¶ 32,906, at 163,033. We

find no such error here. The agency exercised its discretion consistent with the facts of this particular case and the regulations governing payment of the FTA. To the extent that the agency represented that amending the orders, along with his spouse's arrival at his post, were sufficient to support payment of the claim, we regret that claimant received incorrect guidance or advice with regard to his eligibility for the allowance. However, the law is well settled that official funds cannot be obligated in violation of a statute or regulation. *Kevin S. Foster*, GSBCA 13639-RELO, 97-1 BCA ¶ 28,688 (1996). Erroneous advice given by a Government employee cannot create a right to reimbursement. *See Aman B. Kay*, GSBCA 15543-RELO, 01-2 BCA ¶ 31,508; *Scott A. Winterrowd*, CBCA 6680-RELO, 20-1 BCA ¶ 37,684, at 182,972-73 (The Board determined that an amendment to an employee's travel authorization was erroneous, precluding reimbursement of more than \$8000 in travel expenses.).

Finally, if claimant relied on his new PCS orders to support payment of the claim for miscellaneous FTA expenses for his spouse, we find that nothing in the record warrants payment of the FTA in connection with a PCS to the United States.

#### Decision

Claimant's request to be paid \$750, which represents the difference between the "without family" rate and the "with family" rate of miscellaneous expense under the FTA, is denied.

*Kathleen J. O'Rourke*  
KATHLEEN J. O'ROURKE  
Board Judge