



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 7, 2014

CBCA 3795-TRAV

In the Matter of DANIEL McDONALD

Daniel McDonald, Atlanta, GA, Claimant.

Kara L. Robinson, Associate Director for Management, Human Capital and Resources Management Office, Centers for Disease Control and Prevention, Public Health Service, Department of Health and Human Services, Atlanta, GA, appearing for Department of Health and Human Services.

McCANN, Board Judge.

Claimant, Dr. Daniel McDonald, an employee of the Public Health Service, asserts entitlement to travel costs in addition to those authorized in his travel authorization. We uphold the agency's decision to deny his claim.

Facts

On January 10, 2014, claimant submitted a travel authorization request through the government-approved travel system, GovTrip, for a business trip to San Antonio, Texas. The travel authorization was approved on January 22, 2014, in the amount of \$1245.31. Of this amount, \$286 was for common carrier costs and \$959.31 was for per diem and associated costs. The authorized travel dates were February 5 through February 9, 2014.

On January 30, 2014, claimant confirmed his hotel reservations through a third party vendor, HotelSavings.com, rather than using Omega Travel, the agency's travel management center. The total lodging cost for his four-day stay was quoted at \$1163.52, consisting of \$238 for the room and \$52.88 in taxes, for a total of \$290.88 per day ($\$290.88 \times 4 = \1163.52). This per diem rate exceeded the General Services Administration (GSA) per

diem rate, for San Antonio. Claimant received no authorization to exceed the authorized rate prior to travel.

After he returned from travel, claimant submitted a claim for \$1596.62. This claim was denied, as it contained expenses that were not authorized on the original travel authorization. Subsequently, claimant re-submitted his claim for reimbursement in the amount of \$883.07. This claim was approved and paid.

Claimant now asserts entitlement to the difference between what he received (\$883.07) and his original request for reimbursement (\$1596.62). Claimant contends he relied on representations made by the travel preparer prior to travel that an expense memorandum would be prepared based on the government rate not being available where he stayed at the hotel in San Antonio. Claimant submitted no support for this assertion, and the agency found no evidence of such a representation. Claimant failed to submit an actual expense memorandum (AEM) prior to his travel indicating that conference site rates exceeded the GSA per diem rate. He did submit an AEM dated February 27, 2014, over two weeks after his return from travel. This AEM asserted that he had contacted a number of hotels prior to travel and was unable to find rooms within the per diem rate. He listed three hotels, the Hotel Contessa, the Hotel Valencia, and the Emily Morgan, with alleged rates of \$349, \$239, and \$248 per day respectively. He submitted no documentation from the hotels.

Decision

With regard to temporary duty travel, the Federal Travel Regulation (FTR) provides:

When should I request authorization for reimbursement under actual expense?

Request for authorization for reimbursement under actual expense should be made in advance of travel. However, subject to your agency's policy, after the fact approvals may be granted when supported by an explanation acceptable to your agency.

41 CFR 301-11.302 (2013).

Agency officials have considerable discretion in deciding whether to grant retroactive reimbursement. *Robert H. Pasternack*, GSBCA 15803-TRAV, 02-2 BCA ¶ 31,923. The pertinent policy for the Public Health Service is found in the Health and Human Services (HHS) Travel Policy Manual. Section 5.1.3.6 of the manual states, "In accordance with FTR

301-11.302, requests for reimbursement of actual expenses must be made in advance of travel.” (Emphasis added.) The manual further states:

Actual expense reimbursement may also be approved after travel is completed (“post-approval”) when properly justified, under the following conditions:

1. Emergency situations in which requests for prior travel authorizations were not possible;
2. Unanticipated and exceptional circumstances which, during the course of the specific travel assignments, resulted in the incurrence of actual and necessary subsistence expenses that were much greater than the authorized per diem allowance; or
3. Other circumstances that would necessitate approval by the appropriate delegated official.

HHS Travel Manual, § 5.1.3.7. Under the manual, therefore, post-approval reimbursement can only be approved under the proper circumstances. Those circumstances are not present here. The first two conditions do not apply as no unanticipated, exceptional, or emergency circumstances existed. Further, claimant has made no showing that any other circumstances existed that would have necessitated approval under the third condition.

Claimant failed to submit a pre-travel authorization request in accordance with the FTR and the HHS Travel Manual. He failed to do so even though he received confirmation more than five days prior to travel that his lodging rate far exceeded the GSA per diem rate. Accordingly, the agency acted properly and within its discretion when it denied claimant’s request for additional travel cost reimbursement.

R. ANTHONY McCANN
Board Judge