August 26, 2015

CBCA 4357-TRAV

In the Matter of BRIAN J. EBEL

Brian J. Ebel, FPO Area Pacific, Claimant.

Holly Kay Botes, Command Counsel, Department of the Army United States Army Garrison – Kwajalein Atoll, APO Area Pacific, appearing for the Department of the Army.

SHERIDAN, Board Judge.

Claimant, a civilian employee stationed at the United States Army Garrison – Kwajalein Atoll (USAG-KA), contested the agency's denial of additional compensation for the lodging and per diem associated with his dependent spouse's delivery of their child in Fort Collins, Colorado.

We issued a decision, *Brian J. Ebel*, CBCA 4357-TRAV (July 20, 2015), denying claimant's request for reimbursement of extended medical leave for his dependent wife and newborn child. We concluded that medical evidence in the record was insufficient to support a medical need to extend the medical travel beyond the sixty-four days authorized by the agency.

On August 24, 2015, claimant submitted additional documentation from medical personnel pertinent to the duration of his dependents' medical leave and asks the Board to reconsider its decision.

The new evidence requires the agency to exercise its discretion and reconsider the duration of medical leave it will allow for obstetrical and post-natal care in this matter. The agency must exercise that discretion reasonably and set forth the reasons for its determination. Typically, the Board "will not disturb an agency's discretionary judgments

unless we are convinced that they are arbitrary, capricious, or clearly erroneous." *William T. Orders*, GSBCA 16095-RELO, 03-2 BCA ¶ 32,389, at 160,290.

　　　Claimant's request for reconsideration is granted with this matter returned to the agency for reconsideration in lieu of the newly submitted evidence. If, after reconsideration, the claimant is convinced that the agency's determination was arbitrary, capricious, or clearly erroneous, he may appeal that decision to this Board.

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PATRICIA J. SHERIDAN
Board Judge