



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 27, 2023

CBCA 7750-RELO

In the Matter of CHRISTINA C.

Christina C., Claimant.

Teresa H. Harper, Deputy Director, Post Support Unit, Department of State, Charleston, SC, appearing for Department of State.

KULLBERG, Board Judge.

Claimant, Christina C., a foreign service officer and an employee of the Department of State (DOS), requests reimbursement for the cost of purchasing specially-designed containers for the overseas shipment of frozen breast milk during her permanent change of station (PCS). DOS contends that applicable regulations only allow reimbursement for “non-durable and/or recyclable” containers, and claimant seeks reimbursement for the purchase of containers that do not fit that definition. Claimant contends that she purchased three cardboard and Styrofoam containers that were specially designed for the shipment of frozen breast milk. For the reasons stated below, the claim is granted up to the amount allowed by regulation, which is \$1000.

Background

Claimant relocated from the Washington, D.C., area to her present overseas station during the period from November 26 to 27, 2022. In advance of her relocation, claimant, a nursing mother, had to freeze a quantity of breast milk, which was to be used after being vaccinated. She purchased three specially designed containers for shipping frozen breast milk at a cost of \$1055.50. Additionally, claimant has represented that the containers she purchased, which were made from cardboard and Styrofoam, were the only containers

available that would maintain the proper temperature for the length of her overseas travel. The manufacturer of the containers provided a refund of \$100 to the purchaser upon return of the containers for recycling within seven to ten days after use. Because of her overseas location, claimant has represented that she was unable to return the containers for recycling and receipt of the refund.

Claimant submitted her claim to DOS for her relocation expenses that included \$1000 for the containers. DOS denied reimbursement for the purchase of the containers based upon a finding that the manufacturer's information described the boxes as "reusable," and DOS contended reimbursement is only allowed under DOS regulations for containers that are "non-durable and recyclable."

Discussion

The issue in this matter is whether claimant is entitled to reimbursement for the cost of purchasing boxes for transporting frozen breast milk. The Federal Travel Regulation (FTR) provides the following:

Under what conditions will my agency pay for my additional travel expense(s) under this part?

When an additional travel expense is necessary to accommodate a special physical need which is either:

- (a) Clearly visible and discernible; or
- (b) Substantiated in writing by a competent medical authority.

41 CFR 301-13.2 (2022) (FTR 301-13.2). In light of FTR 301-13.2, the Board has recognized that the needs of a nursing mother are "clearly visible and discernible," and the costs of accommodating such needs during travel are reimbursable. *See Ashley R. Lou*, CBCA 6528-TRAV, 19-1 BCA ¶ 37,398, at 181,804.

On October 21, 2021, the General Services Administration (GSA) issued GSA Bulletin FTR 22-03 (FTR 22-03), which referenced the Board's decision in *Ashley R. Lou* and sought to clarify FTR 301-13.2. FTR 22-03 stated the following:

What expenses may be reimbursed to accommodate a nursing employee's special need? Expenses covered may include, but are not limited to, reasonable commercial shipping fees, excess baggage, disposable storage bags

or non-durable containers, cold shipping packages, refrigeration, and transport, as determined by the agency authorizing or approving official.

The DOS Foreign Affairs Manual (FAM) has provided similar guidance and allows for reimbursement of the following:

Expenses associated with the transport of breast milk expressed by an employee . . . on PCS travel (including for the authorized PCS travel to post or new infants following a parent's authorized obstetrical [medical evacuation]) in accordance with the FTR, 41 CFR 301-13.2[,], up to a maximum of \$1000. Reimbursement for expenses must be authorized in advance on the travel authorization and the traveler must submit all receipts, regardless of amount, with the travel voucher. Expenses may include commercial shipping fees excess baggage, disposable storage bags, non-durable and/or recyclable containers, cold shipping packages, refrigeration, and transport.

14 FAM 562.1a.(6).

The cost of the insulated boxes that claimant purchased is reimbursable up to the allowable maximum of \$1000. The containers were made from cardboard and Styrofoam, and a purchaser could return them to the manufacturer for recycling within seven to ten days after use. The record shows that the containers were “non-durable and/or recyclable.”

DOS argues that because the manufacturer described the containers as reusable, they were “durable.” “Durable goods,” however, are defined as “[c]onsumer goods that are designed to be used repeatedly over a long period; [especially] large things (such as cars, televisions, and furniture) that most people do not buy often.” Black’s Law Dictionary 809 (10th ed. 2014). Those containers cannot be considered “durable” in light of that definition.

Decision

The claim is granted up to the maximum allowable amount of reimbursement of \$1000.

H. Chuck Kullberg

H. CHUCK KULLBERG
Board Judge