



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

---

March 4, 2025

CBCA 8340-RELO

In the Matter of KELSEY S.

Kelsey S., Claimant.

Luis Galvan, Branch Chief of Program Operations, Office of Field Operations, Office of the Assistant Secretary for Administration and Management, Department of Labor, Chicago, IL, appearing for Department of Labor.

**ZISCHKAU**, Board Judge.

The Department of Labor (DOL) requests an advance decision pursuant to 31 U.S.C. § 3529 (2018) and Board Rule 502 (a)(2) (48 CFR 6105.502(a) (2024)). Under the Foreign Transfer Allowance (FTA) provisions in the Department of State Standardized Regulations (DSSR), DOL seeks to extend the number of days that an employee will receive reimbursement for pre-departure subsistence expenses. DOL's concern is that the limits in the Federal Travel Regulation (FTR) on the number of days of temporary quarters subsistence expense (TQSE) also may limit the number of days of pre-departure subsistence expenses authorized under the DSSR's FTA provisions. We conclude that the FTR's limits on TQSE do not apply to the DSSR's FTA for pre-departure subsistence expenses.

Background

The Department of Labor is transferring an employee from her old duty station in Washington, DC, to a new duty station in Mexico City, Mexico. In anticipation of her report date, claimant ended the lease on her apartment. Due to no fault of the employee, the Mexican government delayed the approval of a credential that the employee needed to obtain a visa. As claimant was unable to report to her new duty station and lacked housing in the United States, the DOL authorized the employee to receive a FTA for pre-departure subsistence expenses.

The Mexican government has yet to approve the credential the employee needs to obtain a visa. As a result, DOL seeks to extend the employee's FTA for pre-departure subsistence expenses for ninety additional days beginning on January 25, 2025. If approved, the employee could receive an additional 90 days of FTA, bringing her FTA total to more than 120 days of reimbursement for expenses incurred in temporary quarters. Concerned that the FTR's limits on TQSE reimbursements might apply to the DSSR's FTA for pre-departure subsistence expenses, the DOL requests an advance decision.

### Discussion

An agency may request an advance decision from the Board on a question involving "a payment the disbursing official or head of the agency will make." 31 U.S.C. § 3529(a)(1); Rule 502(a)(1). The request for an advance decision must "refer to a specific payment or voucher" and "may not seek general legal advice." Rule 502(a)(2).

Here, the Board is authorized to issue an advance decision. We decide the specific question of whether the DOL may authorize the employee to receive an additional ninety days of reimbursement for pre-departure subsistence expenses. To do so, we must first decide whether the FTR's limits on TQSE apply to FTAs for pre-departure subsistence expenses.

The FTR provides a TQSE allowance "to reimburse employee . . . for subsistence expenses incurred when it is necessary to occupy temporary quarters incident to an official relocation . . ." 41 CFR 302-6.2 (2024) (FTR 302-6.2). The maximum number of days of TQSE—under either the TQSE-LP (lodging plus) or the TQSE-AE (actual expense) reimbursement method—is 120 consecutive days. *Id.* 302-6.29(a). The maximum number of days of TQSE under the TQSE-LS (lump sum) reimbursement method is thirty consecutive days. *Id.* 302-6.29(b).

Yet, under the FTR, an employee relocating to a foreign area is not eligible for a TQSE allowance. FTR 302-6.6. Instead, an employee relocating to a foreign area *is* eligible for a "comparable allowance under the [DSSR]." *Id.* The FTR further explains that a comparable allowance includes pre-departure FTAs. FTR 302-3.101 (table B).

An FTA is "an allowance under 5 U.S.C. § 5924(2)(A) for extraordinary, necessary and reasonable expenses, not otherwise compensated for, incurred by an employee incident to establishing themselves at any post of assignment in a foreign area . . . prior to departure for such post." DSSR 241.1(a). One type of FTA is for pre-departure subsistence expenses, which include "lodging, restaurant meals including tips, groceries, laundry, cleaning and pressing expenses in temporary quarters . . . for up to 10 days before final departure from a post in the United States to a post in a foreign area, beginning not more than 30 days after

they have vacated residence quarters.” DSSR 241.2(c). If an agency determines “unusual circumstances cause an employee or family member to be unable to travel to the foreign post of assignment within the ten-day limit, the agency may permit additional days beyond the ten allowed.” DSSR 242.3(c).

We conclude that the FTR’s limits on TQSE do not apply to FTAs for pre-departure subsistence. The FTR excludes employees relocating to a foreign area from receiving TQSE allowances and assigns the DSSR as the authority governing any allowances they may receive. FTR 302-6.6. DSSR 242.3(c) specifies that an employee may receive an initial ten days for pre-departure subsistence. When, under DSSR 242.3(c), an agency exercises its discretion to authorize more than ten days of pre-departure subsistence, the DSSR does not impose a maximum limit. Moreover, 5 U.S.C § 5924, the statute authorizing FTAs, is also silent on the maximum number of days an agency may reimburse an employee for pre-departure subsistence expenses.

It is true that, in some situations, we look to the FTR for guidance on how to interpret sections of the DSSR. *See, e.g., Darren E.*, CBCA 8161-RELO, 25-1 BCA ¶ 38,725, at 188,280 (2024); *Raymundo R. Lomboy*, CBCA 5979-RELO, 18-1 BCA ¶ 37,079, at 180,489; *Sean P. Tweed-Kent*, CBCA 5528-RELO, 17-1 BCA ¶ 36,797, at 179,347; *David C. Scheivert*, CBCA 6657-RELO, 20-1 BCA ¶ 37,577, at 182,460. In these decisions, the Board applied “principles governing [TQSE] allowances to determine the appropriateness” of reimbursing certain costs an employee claimed should be covered under the DSSR’s TQSA. *Sean P. Tweed-Kent*, 17-1 BCA at 179,347. Given, however, the direct applicability of DSSR 241.2(c) and 242.3(3) to the circumstances here, there is no reason to apply FTR limits for TQSE to DSSR’s FTA for pre-departure subsistence expenses.

### Decision

We conclude that the FTR’s limits on the maximum number of days of TQSE reimbursement do not apply to FTAs for pre-departure subsistence expenses. Under the DSSR, the DOL may authorize the employee to receive ninety days of FTA for pre-departure subsistence expenses beginning on January 25, 2025.

Jonathan D. Zischkau

JONATHAN D. ZISCHKAU

Board Judge