



Work-Product

## UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01319

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

He be reimbursed for per diem and mileage as a Non-Medical Attendant (NMA) for his spouse from 22 Feb 22 to 26 Feb 22 (5 days).

### APPLICANT'S CONTENTIONS

He was originally approved on two separate orders for similar circumstances but was denied as an Non-Medical Attendant (NMA) by the Military Treatment Facility (MTF) on the third, similar circumstance, which is the reason for his claim. He had no reason to expect to be denied orders for this purpose. He sought information as to why he had been approved in Jun 21 and again Jul 21, the MTF stated that this denial for the third follow-up appointment was due to recent guidance changes. Patient Administration sent him an email denying the request. Patient Administration also stated, Per Defense Health Agency (DHA) guidance, "the patient is what drives the reimbursement, and since TRICARE Select does not fall under that travel eligibility, travel would not be reimbursable by the MTF".

He started Title 10 USC 12301 (d) Statutory Tour orders effective 07 Aug 19 through 06 Aug 23. His wife has been enrolled in TRICARE Select effective Aug 19. He was granted Permissive Temporary Duty (PTDY) on 17 Feb 22 instead of Temporary Duty Station (TDY) orders. After the initial HAF/A1PA review, a determination was unclear, so a Joint Travel Regulation (JTR) interpretation was requested by the Defense Travel Management Office (DTMO). HAF/A1PA received the review back from the Deputy Director of DTMO, in which he states, he does not think there is any legal authority under 10 USC § 1074i to deny payment. Furthermore, he recommended an advance decision from the Defense Office of Hearings and Appeals (DOHA). After careful review by HAF/A1PA, it was determined that the JTR is silent about deciding if a patient must be approved first before an NMA is approved. Therefore, HAF/A1PA recommended approval of his (DOHA) claim. However, after the next office received his DOHA claim, it was determined that DOHA was not the best action since no orders nor travel voucher was ever accomplished. In his submission he attached numerous supporting documentation attachments and regulation excerpts.

The applicant's complete submission is at Exhibit A.

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## STATEMENT OF FACTS

The applicant is a currently serving Air National Guard (ANG) senior master sergeant (E-8).

Per Order Number **Work-Product** dated 15 Jul 19, the applicant was on Extended Active Duty in accordance with 10 USC 12301 (d) and 10 USC 12310 for the period of 7 Aug 19 to 6 Aug 23.

On 27 May 21, provided by the applicant, his spouse was referred to a tertiary center for a higher level of care due to his spouse's complex case.

On 1 Jun 21, provided by the applicant, he was approved as an NMA by his MTF.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisories at Exhibit C and D.

## AIR FORCE EVALUATION

NGB/A1PS recommends partially granting the application. NGB/A1PS is the policy holder for DAFI 36-3003, *Military Leave Program*, and supports the applicant's claim that he is authorized per Table 3.6, Rule 4: "if the medical authority appointed member as a non medical attendant to accompany a dependent". However, the government reimbursement for per diem and mileage is not governed by DAFI 36-3003 and an additional advisory is recommended.

The complete advisory opinion is at Exhibit C.

NGB/FMFF recommends denying the application. NGB/FM does not support the applicant's claim for travel allowance reimbursement. Authorizing travel allowances for a NMA is at the discretion of the responsible MTF. Authorizing travel allowances for NMA is not an automatic entitlement and is authorized on a trip by trip, case by case basis. The fact that the NMA was previously authorized travel allowances during prior instances does not dictate that the NMA must be authorized allowances in this instance. The MTF was within their authority to deny the NMA allowances as the JTR states that allowances "may" be authorized instead of "must" be authorized.

The complete advisory opinion is at Exhibit D.

## APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 7 Sep 22 for comment (Exhibit E), and the applicant replied on 15 Sep 22. In his response, the applicant contended he was designated as the NMA for his spouse by a medical authority and her primary care physician referred her to a tertiary-level specialty care provider located greater than 100 miles away. In accordance with currently published regulations, NMA travel is to be funded by official TDY orders. DAFI 36-3003, Table 3.6., Rule 4 states, "Do not authorize PTDY if funded TDY is

appropriate. (T-0). This applies if a medical authority appointed the member as a non-medical attendant to accompany a dependent. See JTR, Chapter 3, Part D, *Medical Travel*, AFI 65-103, *Temporary Duty/Special Orders* and AFMAN 41-210, *TRICARE Operations and Patient Administration for more information.*”

TRICARE status/coverage for a service member assigned as a NMA for a dependent is not addressed in DAFI 36-3003, AFI 65-103, AFMAN 41-210, or the JTR. As a result, no authority exists for TRICARE status to be applied in the authorization process for officially funded NMA travel. Additionally, he is neither wounded nor an ill service member requesting Designated Individuals(s) to visit him. Therefore, JTR, Chapter 3, Part D, Section 033201 is not applicable and should not be used as the justification for a recommended denial. Furthermore, authority does not reside solely at the discretion of the responsible MTF for NMA travel allowances. According to Defense Health Agency Procedural Instruction 7000.01, Paragraph 3. POLICY IMPLEMENTATION, Sub-Paragraph b. states, “In accordance with Reference (d), if a Non-Medical Attendant is authorized, MTF personnel will ensure the completion of all required documentation, signed by the patient’s Primary Care Manager (PCM), Unit Commander, or MTF leadership, and generate DTS orders.” Moreover, AFI 65-103, *Temporary Duty/Special Orders*, Paragraph 3.1.23., Attendants and Escorts., states the servicing Military Personnel Section is to be contacted to determine proper orders creation, if necessary.

JTR, Chapter 1, Section 010104, Paragraph B. Traveler Rights states, “Unless stated otherwise in the JTR, the Service or Agency cannot reduce allowances or deny reimbursements because of limited DoD travel funds. Also, a Service or Agency cannot direct a traveler to travel at personal expense or at reimbursement rates or amounts inconsistent with the JTR.” The applicant listed additional paragraphs from JTR, Chapter 3, Part D, to support his claim that his case denial is inconsistent with the JTR. Additionally, the applicant cited the following regulations to support his request and is provided in his response: AFI 65-103, Table 3.1., Rule 2; AFMAN 41-210, Chapter 4, Section 4C – Patient Travel, sub-paragraph 4.9.3.; CFR Title 41, Chapter 301, Appendix C, Travel Purpose Identifier; 10 USC 1074i, paragraph (a). Finally, The DTMO Deputy Director provided a statement in which he believes there is no legal authority under 10 USC 1074i to deny payment and further recommended an advance decision from the DOHA.

The applicant’s complete response is at Exhibit F.

## FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. While the Board notes the recommendations of NGB/A1PS and NGB/FMFF against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant’s contentions. The Board notes the applicant’s dependent medical coverage did not

change and two similar requests were previously granted. Therefore, the Board recommends correcting the applicant's records as indicated below.

## RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that he be reimbursed for per diem and mileage as a Non-Medical Attendant (NMA) for his spouse from 22 Feb 22 to 26 Feb 22.

## CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-01319 in Executive Session on 11 Oct 22:

Work-Product, Panel Chair  
 Work-Product, Panel Member  
 Work-Product, Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 10 May 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/A1PS, w/atch, dated 22 Jun 22.
- Exhibit D: Advisory Opinion, NGB/FMFF, w/atch, dated 27 Jun 22.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 7 Sep 22.
- Exhibit F: Applicant's Response, dated 15 Sep 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

7/2/2025

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