

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2020-027



FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on December 10, 2018, and assigned the case to the staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision dated November 18, 2022, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant, a former Storekeeper (SK2/E-5), asked the Board to correct his record by reimbursing his separation travel claim.

The applicant alleged that upon separating from active duty in February 2020, he requested and received approval to have his household goods (HHGs) shipped to his home across the country. According to the applicant, because he served in the Coast Guard for more than eight years, he was entitled to have his HHGs shipped anywhere within the Continental United States. The applicant alleged that in addition to having his HHGs shipped, he was entitled to reimbursement for travel and lodging and to per diem benefits. The applicant alleged that he was promised \$2,000 in reimbursement. However, after shipping his HHGs across the country, the applicant submitted his travel claim form to the Pay and Personnel Center (PPC) but received only \$226.60 of the \$2,000 he was promised. The applicant stated that he did not make a copy of the travel claim prior to mailing it to PPC, so he was unable to provide a copy of the form with his application.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on February 28, 2011, for a period of six years. The applicant then executed a two-year extension on February 28, 2017, and left active duty on

February 27, 2019, enlisting in the Coast Guard Reserve on February 28, 2019, for a period of three years.

On January 24, 2019, the applicant was issued separation orders.

On July 8, 2019, the applicant's Commander of Surface Forces Logistics Center (SFLC) issued a memorandum, "Amendment to Separation Orders..." wherein he amended the applicant's separation orders to include the 8-year continuous active-duty stipulation.

On August 13, 2019, the applicant filed a claim for his travel to move his HHGs across the country to his home of record.

On September 12, 2019, PPC reimbursed the applicant for \$226.60 for all allowable travel expenses. The breakdown of the applicant's reimbursements were as follows: \$149 for one day of travel, in addition to \$77.60 for Monetary Allowance in Lieu of Transportation (MALT).

VIEWS OF THE COAST GUARD

On April 13, 2020, a Judge Advocate (JAG) for the Coast Guard submitted an advisory opinion in which she recommended that the Board deny relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

The JAG argued that there was no error because the applicant was reimbursed for all RELAD (related) travel expenses permitted in accordance with the Joint Travel Regulations (JTR). According to the JAG, section 051002 of the JTR states that members separating from active duty are only entitled to reimbursement for costs associated with travel from their Permanent Duty Station (PDS) to their Home of Record (HOR). The JAG argued that the administrative documents provided by the PPC prove that the applicant was paid in accordance with that regulation.

The JAG further argued that both of the applicant's Standard Travel Orders state that the applicant's HOR was within the same locality as his last active-duty location—413 miles away. The JAG stated that the applicant was given amended orders authorizing HHG shipment to his home of selection (HOS), but this amendment was in response to the applicant's request to have his HHGs shipped to his new location across the country. The JAG argued that changing the destination of the applicant's HHGs in no way altered or otherwise changed his travel entitlements. According to the JAG, the applicant was explicitly advised during his separation processing that he was only authorized reimbursement for travel up to the amount of travel to his HOR. The JAG further argued that the amendment to the applicant's separation orders was not intended to modify or change entitlement amounts or to extend allowances that were not otherwise permitted by the JTR.

The JAG stated that the applicant's claim that his 8 years of service entitled him to a move anywhere within the continental United States appears to be predicated upon misapplication of a different section of the JTR. Specifically, section 051003 of the JTR does allow for separation travel to a HOS for a member with 8 or more years of continuous active duty, but the JAG argued that this section only applies to a "Service member on active duty who retires, is placed on the

TDRL, is discharged with severance of separation pay, or is involuntarily released with readjustment or separation pay and associated dependent travel.” However, the JAG argued that the applicant voluntarily separated from the service, so he was never entitled to separation travel reimbursement under section 051003. As such, the JAG argued that no error was committed in the processing of the applicant’s travel claim because the applicant received JTR authorized travel payments that all other members receive. The JAG further argued that there is no indication or evidence that errors were made during the applicant’s pre-separation processing or that he was provided with incorrect information regarding his travel entitlements, and no legal authority exists to pay the applicant’s claim beyond that authorized by law.

Finally, the JAG argued that there was no injustice because the applicant was reimbursed for all RELAD travel expenses permitted in accordance with the JTR and the applicant was specifically advised regarding his travel entitlement eligibility. The JAG argued that the applicant has not provided any evidence to corroborate his claims that he was told he was entitled to travel, lodging, and per diem benefits totaling approximately \$2,000. The JAG stated that even if the applicant was promised \$2,000 in travel entitlements, the Coast Guard repudiates that promise. The JAG argued that in *Goldberg v. Weinberger*, the court addressed the issue of unauthorized statements (actions) by the government that were contrary to government policy upon which the plaintiff later relied.¹ Specifically, the court in *Goldberg* ruled that, “The government could scarcely function if it were bound by its employees’ unauthorized representations. Where a party claims entitlement to benefits under federal statutes and lawfully promulgated regulations, that party must satisfy the requirements imposed by Congress. Even detrimental reliance on misinformation obtained from a seemingly authorized government agent will not excuse a failure to qualify for the benefits under the relevant statutes and regulations.”

The JAG further argued that there is evidence the applicant knew, or should have known, he was not eligible for the claimed benefits. According to the JAG, the applicant was informed of travel claim limitations in his travel orders. The JAG claimed that the information contained in block 6 of the applicant’s travel orders corroborates the assertion that the applicant was aware of the travel entitlement limitations. Ultimately, the JAG argued that the applicant has provided no evidence or documentation to support his claim that “someone” told him he was entitled to \$2,000 for entitlements, or that he relied on the purportedly erroneous information provided to him. As such, the JAG argued, there has been no injustice in the handling of the applicant’s reimbursements and entitlements, and the applicant’s request for relief should be denied.

To support her application, the JAG submitted the following documents:

- The applicant’s March 6, 2019, travel orders.
- The July 8, 2019, memorandum from the applicant’s logistics command amending the applicant’s travel orders as they pertained to his HHGs.
- The applicant’s September 12, 2019, travel voucher.
- Copies of Section 051002 of the Coast Guard’s Joint Travel Regulations.

¹ *Goldberg v. Weinberger*, 546 F.2d 477 (2d Cir. 1976).

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 7, 2020, the Chair sent the applicant a copy of the Coast Guard's advisory opinion and invited him to respond within thirty days. As of the date of this decision, no response was received.

APPLICABLE LAW AND POLICY

Article 10 of the Coast Guard Joint Travel Regulations Manual provides the necessary guidance on travel related allowances when a service member is separated from active duty.

051002. Service Member Separates or is Released from Active Duty, Excluding a Discharge with Severance or Separation Pay.

A Service member on active duty who separates or is released from the Service, unless otherwise specified in this section, may be eligible for PCS travel and transportation allowances for his or herself and for a dependent. The Service member must have a break in service of at least 1 day and actually travel. A Service member is authorized travel from the last PDS to his or her HOR or PLEAD. A dependent is authorized travel from the PDS or place where he or she was last transported at Government expense to the HOR or PLEAD, whichever the Service member selects. A different location may be selected or travel may be between other locations. However, reimbursement is limited to the amount that would have been paid if the Service member had traveled from the last PDS to the HOR or PLEAD. See Chapter 5, Part C for HHG transportation.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.
2. The application was timely because it was filed within three years of the applicant's discovery of the alleged error or injustice in the record, as required by 10 U.S.C. § 1552(b).
3. The applicant alleged that the Coast Guard erred when it reimbursed him \$226.60 in travel related expenses, instead of the \$2,000 promised to him. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in the military record, and the applicant bears the burden of proving, by a preponderance of the evidence, that the disputed information is erroneous or unjust.² Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."³
4. The applicant alleged that the Coast Guard promised to pay him \$2,000 upon his separation for travel, lodging, and per diem to his new home across the country. However, the record shows that the applicant was issued travel orders on March 6, 2019. In paragraph "E" of

² 33 C.F.R. § 52.24(b).

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

these orders, the applicant's Home of Record (HOR) was clearly identified. In paragraph "F" of these orders, the HOR was shown to be 413 miles from his final duty station. Section 051002 of the JTR states that a service member is authorized travel from his last PDS to his HOR. This same section further states that a different location may be selected, but reimbursement is limited to the amount that would have been paid if the service member had traveled from his last PDS to his HOR.

Here, the record shows that the distance from the applicant's last PDS to his HOR was 413 miles. Policy allowed for changes to be made to the applicant's travel orders, which occurred on July 8, 2019, but any reimbursements would be limited to the original locations listed on his March 6, 2019, travel orders. The Coast Guard's 2019 per diem rates were \$94 per night for lodging and \$55 per day for meals, or a total of \$149 per day. The applicant's travel voucher shows that he was reimbursed \$149 for one day of travel, in addition to \$77.60 for Monetary Allowance in Lieu of Transportation (MALT). As such, the record shows that the applicant was reimbursed the amount allowable under Coast Guard policy and the applicant has failed to provide any evidence that would support an alternative finding. In addition, as argued by the JAG, even if the applicant's allegations are true, the Coast Guard is not bound by those promises not unauthorized or permitted by policy to pay more than the JTR authorizes. Therefore, the Board finds that the applicant has failed to prove, by a preponderance of the evidence, that the Coast Guard erred when it only reimbursed him for those expenses covered by policy, and his request for relief should therefore be denied.

5. For the reasons outlined above, the applicant has not met his burden, as required by 33 C.F.R. § 52.24(b), to overcome the presumption of regularity afforded the Coast Guard that its administrators acted correctly, lawfully, and in good faith.⁴ He has not proven, by a preponderance of the evidence, that his travel reimbursements were erroneous or unjust. Accordingly, the applicant's request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

⁴ *Muse v. United States*, 21 Cl. Ct. 592, 600 (1990) (internal citations omitted).

