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B-191190, March 16, 1979

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DIGEST: (1) OVERSEAS EMPLOYEE OF FBI PERMANENTLY ASSIGNED TO CARACUS, VENEZUELA, TRAVELED FROM CARACUS TO HIS HOME IN OKLAHOMA CITY, OKLAHOMA, IN ORDER TO RECEIVE MEDICAL TREATMENT FOR PAIN IN THE UPPER PORTION OF HIS BACK. APPROPRIATED FUNDS AND GOVERNMENT TRANSPORTATION REQUESTS WERE AUTHORIZED TO PURCHASE EMPLOYEE'S AIR TRANSPORTATION. SINCE THERE WAS NO SPECIFIC STATUTORY AUTHORIZATION FOR PAYMENT OF MEDICAL TRAVEL FOR OVERSEAS EMPLOYEES OF THE FBI, GOVERNMENT FUNDS MAY NOT BE USED TO PAY FOR SUCH TRAVEL. (2) EMPLOYEE MAY NOT BE REIMBURSED FOR THE TRAVEL EXPENSES INCURRED BY HIS WIFE FROM CARACUS TO OKLAHOMA CITY IN ORDER TO BE WITH EMPLOYEE SINCE THERE IS NO BASIS FOR PAYMENT OF EMPLOYEE'S TRAVEL EXPENSES, NO EVIDENCE THAT SPOUSE'S ABSENCE WOULD HAVE RESULTED IN GREAT PERSONAL HARDSHIP FOR THE EMPLOYEE, AND THERE WAS NOT A DETERMINATION THAT THE SERVICES OF AN ATTENDANT WERE REQUIRED.

DWIGHT G. GARRETSON - TRAVEL EXPENSES FOR MEDICAL TREATMENT:

BY LETTER DATED JANUARY 26, 1978, MR. D. E. COX, AUTHORIZED CERTIFYING OFFICER, FEDERAL BUREAU OF INVESTIGATION (FBI), UNITED STATES DEPARTMENT OF JUSTICE, REQUESTED AN ADVANCE DECISION CONCERNING THE PAYMENT OF TRAVEL EXPENSES TO OBTAIN MEDICAL TREATMENT, WHICH WERE INCURRED BY MR. DWIGHT G. GARRETSON AND HIS WIFE.

IN JULY 1977, MR. GARRETSON, AN EMPLOYEE OF THE FBI ASSIGNED TO THE OFFICE OF LEGAL ATTACHE, AMERICAN EMBASSY, CARACUS, VENEZUELA, BEGAN EXPERIENCING PAIN IN THE UPPER PORTION OF HIS BACK. UPON EXAMINATION THE PROBLEM WAS DIAGNOSED AS A "CERVICAL NERVE COMPRESSION AT THE LEVEL OF C-6 OR C-7." SINCE THE CAUSE OF THE PAIN WAS NOT DETERMINED IT WAS RECOMMENDED THAT MR. GARRETSON UNDERGO A MYELOGRAM EXAMINATION. THE EMBASSY'S MEDICAL STAFF ADVISED AGAINST THE MYELOGRAM SINCE IF IT IS NOT PERFECTLY PERFORMED SERIOUS CONSEQUENCES INCLUDING PARALYSIS COULD RESULT. AT THIS POINT THE LEGAL ATTACHE IN CARACUS AUTHORIZED THE USE OF APPROPRIATED FUNDS AND GOVERNMENT TRANSPORTATION REQUESTS TO PURCHASE AIR TRANSPORTATION FOR MR. GARRETSON'S TRAVEL TO HIS HOME IN OKLAHOMA CITY, OKLAHOMA, FOR MEDICAL TREATMENT.

ON JULY 19, 1977, MR. GARRETSON TRAVELED TO OKLAHOMA CITY AND WAS ADMITTED TO ST. ANTHONY'S HOSPITAL. AFTER 1 MONTH OF TRACTION AND PHYSICAL THERAPY, SURGERY WAS FOUND TO BE NECESSARY AND WAS SUCCESSFULLY PERFORMED ON AUGUST 24, 1977. MR. GARRETSON RETURNED TO CARACUS IN SEPTEMBER 1977.

WHILE MR. GARRETSON WAS IN OKLAHOMA CITY HIS WIFE TRAVELED FROM CARACUS TO BE WITH HIM. NONE OF MR. GARRETSON'S TRAVEL EXPENSES HAVE BEEN PAID BY THE GOVERNMENT. MR. GARRETSON, HOWEVER, REQUESTS REIMBURSEMENT OF HIS WIFE'S TRAVEL

EXPENSES ALLEGING THAT HER PRESENCE WAS NECESSARY TO PROVIDE CARE AND ASSISTANCE DURING THE PERIOD HE WAS UNDERGOING DAILY OUTPATIENT MEDICAL CARE.

UNDER 22 U.S.C. 1157(1976), OFFICERS AND EMPLOYEES OF THE FOREIGN SERVICE, AND WHERE REQUIRED ATTENDANTS, ARE SPECIFICALLY AUTHORIZED TO TRAVEL AT GOVERNMENT EXPENSE TO OBTAIN NECESSARY MEDICAL TREATMENT. THIS SAME BENEFIT HAS BEEN EXTENDED TO EMPLOYEES OF OTHER AGENCIES WHO ARE ASSIGNED TO OVERSEAS DUTY STATIONS; HOWEVER, IT HAS BEEN EXTENDED AGENCY BY AGENCY, NOT AS A BENEFIT GENERALLY AVAILABLE TO ALL OVERSEAS GOVERNMENT EMPLOYEES. WE HAVE FOUND NOTHING TO INDICATE THAT THE RIGHT TO GOVERNMENT PAID TRAVEL FOR MEDICAL TREATMENT HAS EVER BEEN EXTENDED TO FBI EMPLOYEES SERVING AT FOREIGN DUTY STATIONS. IN THE ABSENCE OF A STATUTORY AUTHORIZATION SUCH AS 22 U.S.C. 1157 THERE IS NO BASIS FOR PAYMENT OF AN EMPLOYEE'S TRAVEL EXPENSES TO OBTAIN MEDICAL TREATMENT. B-168202, DECEMBER 2, 1969.

THERE ARE OTHER CASES IN WHICH PAYMENT OF MEDICAL TRAVEL HAS BEEN APPROVED. SEE 57 COMP.GEN. 1 (1977). HOWEVER, IN THOSE CASES, PAYMENT FOR SUCH TRAVEL WAS PREMISED UPON 5 U.S.C. 5702(B)(1976) WHICH IS AS FOLLOWS:

"UNDER REGULATIONS PRESCRIBED UNDER SECTION 5707 OF THIS TITLE, AN EMPLOYEE WHO, WHILE TRAVELING ON OFFICIAL BUSINESS AWAY FROM HIS DESIGNATED POST OF DUTY OR, IN THE CASE OF AN INDIVIDUAL DESCRIBED UNDER SECTION 5703 OF THIS TITLE, HIS HOME OR REGULAR PLACE OF BUSINESS, BECOMES INCAPACITATED BY ILLNESS OR INJURY NOT DUE TO HIS OWN MISCONDUCT, IS ENTITLED TO THE PER DIEM ALLOWANCE AND APPROPRIATE TRANSPORTATION EXPENSES TO HIS DESIGNATED POST OF DUTY, OR HOME OR REGULAR PLACE OF BUSINESS, AS THE CASE MAY BE."

AS CAN BE GLEANED FROM THE ABOVE, THE PRESENT SITUATION IS NOT COVERED UNDER 5 U.S.C. 5702(B) SINCE THAT SECTION IS CONCERNED ONLY WITH A PERSON WHO BECOMES INCAPACITATED OR ILL WHILE TRAVELING AWAY FROM HIS DESIGNATED POST OF DUTY. IN THE PRESENT SITUATION MR. GARRETSON BECAME INCAPACITATED AT HIS PERMANENT DUTY STATION.

WE ARE UNAWARE OF ANY OTHER STATUTORY AUTHORITY APPLICABLE TO OVERSEAS EMPLOYEES OF THE FBI WHICH WOULD AUTHORIZE REIMBURSEMENT OF MR. GARRETSON'S TRAVEL EXPENSES FOR HIS TRIP TO OKLAHOMA CITY TO RECEIVE MEDICAL TREATMENT.

AS STATED PREVIOUSLY, WE HAVE ALSO BEEN ASKED TO RENDER A DECISION CONCERNING REIMBURSEMENT OF TRAVEL EXPENSES INCURRED BY MRS. GARRETSON. OUR OFFICE HAS AUTHORIZED REIMBURSEMENT FOR THE TRANSPORTATION EXPENSES OF AN EMPLOYEE'S SPOUSE WHERE A DETERMINATION HAD BEEN MADE BY THE ATTENDING PHYSICIAN THAT IN ORDER FOR THE EMPLOYEE TO TRAVEL THE SERVICES OF AN ATTENDANT WERE REQUIRED AND THE TRAVEL OF THE WIFE TO JOIN THE EMPLOYEE OR TO ACCOMPANY HIM DURING HIS TRAVEL AS AN ATTENDANT WAS ADMINISTRATIVELY AUTHORIZED OR APPROVED. SEE B-174242, NOVEMBER 30, 1971; B-169917, JULY 30, 1970; AND B-178529, JUNE 22, 1973. IN ALL OF THESE CASES, PAYMENT FOR EMPLOYEES' MEDICAL TRAVEL EXPENSES WAS SPECIFICALLY AUTHORIZED. THE ISSUE THEN BECAME WHETHER AN ATTENDANT WAS FOUND TO BE NECESSARY BY THE EMPLOYEE'S ATTENDING PHYSICIAN. NEITHER CONDITION IS MET HERE. THERE IS NO STATUTORY AUTHORITY FOR THE PAYMENT OF MR. GARRETSON'S MEDICAL TRAVEL EXPENSES NOR IS THERE A CERTIFICATION THAT MRS. GARRETSON'S PRESENCE AS AN ATTENDANT WAS MEDICALLY REQUIRED. BOTH CONDITIONS MUST BE MET BEFORE A SPOUSE'S TRAVEL EXPENSES MAY BE PAID. THERE IS NO EVIDENCE IN THE RECORD WHICH TENDS TO SHOW THAT THE ABSENCE OF MRS. GARRETSON WOULD HAVE RESULTED IN A GREAT PERSONAL HARDSHIP TO MR. GARRETSON, OR THAT MR. GARRETSON REQUIRED AN ATTENDANT.

ACCORDINGLY, MR. GARRETSON'S CLAIM FOR HIS OWN TRAVEL EXPENSES IS DENIED AND, IF ALREADY PAID, THE AMOUNT INVOLVED SHOULD BE COLLECTED. SIMILARLY, THE CLAIM FOR MRS. GARRETSON'S EXPENSES IS ALSO DENIED.