



PER DIEM, TRAVEL AND TRANSPORTATION ALLOWANCE COMMITTEE

4800 Mark Center Drive, Suite 04J2501

Alexandria, VA 22350-9000

www.defensetravel.dod.mil

PDTATAC/tgh

26 May 2016

MEMORANDUM FOR

SEE DISTRIBUTION

SUBJECT:

UTD/CTD for MAP/CAP 059-16(E) – Define Medical Authority

1. **SYNOPSIS:** Creates a definition for ‘Medical Authority’ in Appendix A1 of the JTR. This definition is used to standardize language approving or recommending travel based on a medical determination.

2. The attached clarifying revision is forwarded for information purposes only. No coordination or comments are required.

3. This revision was initiated by the DTMO Policy Reform Team.

4. These changes are scheduled to appear in the JTR, dated 1 July 2016.

5. This determination is effective when printed in the JTR.

6. Action Officer: Tim Haddix (timothy.g.haddix.civ@mail.mil).

//Approved//

JOEL T. RIDENOUR

Acting Chief, Strategic Planning and Policy Division

Attachment:

Rev 1

Uniformed E-Mail Distribution:

MAP Members P&R Branch PMO-DTS GSA-3FT GSA-OGP(MTT) DTMO PPC

Civilian E-Mail Distribution:

CAP Members P&R Branch PMO-DTS GSA-3FT GSA-OGP(MTT) DTMO CBCA Judges

JTR REVISIONS

2110-J2:

J. Medical and Special Needs

1. See App A1 for special needs definition.

* 2. 'Other than economy/coach' accommodations may be authorized/approved by the 'other than economy/coach' AO due to medical/special needs reasons only if a medical authority certifies that a disability/special need exists and, in the case of a medical need, the medical condition necessitates (for a specific time period or on a permanent basis) the accommodations upgrade. A medical authority must certify a disability/special need, in writing, every six months. If the disability/special need is a lifelong condition, a certification statement is required every two years.

3500-D2:

D. Air Travel Medically Inadvisable

1. *****

*2. Bona Fide Fear or Aversion to Flying. If a traveler has a bona fide fear or aversion to flying, to the extent that serious psychological/physical reaction would result, this may be a basis for the issuance of a medical certificate precluding aircraft travel. The condition must be certified by a medical authority and authorized by the AO in advance of travel. The traveler and the AO must each be furnished a copy of the written medical determination.

3530-D1:

D. Air Evacuation Required for Medical Reasons

*1. Transportation Mode. Travel by appropriate aircraft must be required when a medical authority determines it is necessary for an employee's medical evacuation.

3625-D2:

2. Medical Disability/Special Need

a. Authorization/Approval. See par. 2110-J and App H4.

b. Disability/Special Need

*(1) A medical authority must certify a disability/special need, in writing, every six months ,See par. 2110-J and App H.

(2) When unforeseen circumstances preclude recertification, an AO may approve a onetime extension NTE 30 days.

(3) If the disability/special need is a lifelong condition, a certification statement is required every two years.

(4) A certification statement must include:

*(a) A written statement by a medical authority stating special accommodation is necessary;

(b) *****

4250-B9a:

*a. Requirements. *Commands must approve requests in advance (i.e., before the days on which the higher rate is needed)*. Before approval is granted, all requests must first be supported by substantiating documentation (e.g., from local Embassy Security Officer or medical authority) explaining how the mission, health, welfare, or safety of the traveler TDY to a foreign location would result in extreme personal hardship if the M&IE were reduced.

5082-B2c:

2. Medically Inadvisable Condition

a.. *****

b. *****

*c. The condition must be certified by a medical authority and authorized by the AO in advance of travel.

d. *****

5588-B2c:

2. Medically Inadvisable Condition

a. *****

b. *****

*c. The condition must be certified by a medical authority and authorized by the AO in advance of travel.

7020-F7:

*7. Serious Illness/Injury. "Serious illness/injury" is a circumstance in which a medical authority determines that death is imminent or likely to occur.

7020-O2:

O. EVT for Medical Reasons

1. *****

*2. Procedure. An employee's request for EVT authorization/approval for a medical reason must include necessary information required to assess the medical condition of the immediate family member to be visited so that the AO (with the assistance of a medical authority if available) can make a determination whether the medical condition of the family member meets the requirements of par. 7020-F7. The necessary information includes:

7075-C1:

C. Appointment. Any person listed in par. 7075-B may be appointed, to accompany an active duty member patient physically incapable of traveling alone, as an:

*1. Attendant, by a medical authority, or

7095-F2:

*2. A written statement by a medical authority (military or civilian, as available) that travel is to specialty care provider facility IAW [10 USC §1074i](#) must support the order.

7105-K:

*K. Administrative Provisions. An order authorizing/approving dependent travel for medical or surgical care must cite par. 7105 as authority. A statement by a medical authority (military or civilian, as available) must support the order as to the seriousness of the condition and the absence of adequate military and civilian facilities for proper treatment. If a medical authority is not available, the order must so indicate and the AO's statement in the order that proper medical facilities are not available then suffices. For non-emergency conditions, the receiving medical facility must agree to accept the patient before the order is issued.

7170-B4:

B. Attendant

1. – 3. *****

*4. A medical authority appoints an attendant.

APP A Part 1:

ATTENDANT. An attendant:

1. – 3. *****

4. Is appointed by a medical authority.

***MEDICAL AUTHORITY.** **(New definition)** A doctor of medicine or osteopathy who is authorized to practice medicine or surgery, or other health care provider, authorized to practice in the United States (or one of its territories or possessions), authorized to diagnose and treat physical, dental or mental health conditions, and who is

performing within the scope of their practice. A medical authority in a foreign country is a health care provider who is authorized to practice in accordance with the laws of that country.

APP H - Part 2C:

3. Is the request for first class accommodations because of medical reasons (F2)?

a. **NO.** First class accommodations must not be authorized/approved.

*b. **YES.** Has a medical authority certified sufficient justification/documentation that the disability or other special medical needs exists and the medical condition necessitates first class accommodations?

(1) **NO.** First class accommodations must not be authorized/approved.

APP H – Part3B:

3. Is the request for business class accommodations because of medical reasons (B1)?

a. **NO.** Business class accommodations must not be authorized/approved.

*b. **YES.** Has a medical authority certified sufficient justification/documentation that the disability or other special medical need exists and the medical condition necessitates business class accommodations?

(1) **NO.** Business class accommodations must not be authorized/approved.

APP H – Part 4A:

*It is DoD policy (see par. 2110-J) that ‘other than economy/coach’ accommodations, due to a medical disability/special need, be used only when there is no alternative means to accommodate the traveler’s condition (e.g., bulkhead, aisle seating, use of two adjoining coach-class seats, etc.). The condition must be certified by a medical authority and authorized by the ‘other than economy/coach’ AO in advance of travel. This requirement is in the JTR. A certification validating the medical disability/special need is effective for up to six months or the duration of the medical disability/special need whichever is shorter. A medical disability/special need described as a lifelong condition requires a certification statement every two years from a physician. A traveler who requests ‘other than economy/coach’ accommodations due to disability or other special need should request authorization well in advance of anticipated travel to ensure there is sufficient time to obtain required ‘other than economy/coach’ authorization prior to travel. ***If extenuating circumstances or emergency situations prevent advance authorization, the traveler must obtain written approval from the appropriate ‘other than economy/coach’ AO within 7 days of travel completion. Failure to receive the appropriate authorization/approval for ‘other than economy/coach’ transportation either before or after travel may result in the traveler being financially liable for costs in excess of the economy/coach-class airfare.***

APP H – Part 4B-9:

*9. Has sufficient justification been provided from a medical authority certified in the last six months, that a disability or other special medical need exists and the condition necessitates ‘Other Than Economy/Coach’ transportation? ***If the disability is a lifelong condition, then a certification statement is required every two years.***

APP P – Part 2:

C. City Pair Air Travel Accommodation FAQs

1. *****

***2. Can I upgrade to business class seating at Gov't expense to accommodate my disability?**

Maybe. IAW Agencies/Services' policy, 'other than economy/coach' travel accommodations, due to a medical disability/special need, may be used only when there is no alternative means to accommodate the traveler's condition (e.g., bulkhead, aisle seating, use of two adjoining economy/coach seats, etc.). The condition must be certified by a medical authority and authorized by the 'other than economy/coach' AO in advance of travel IAW JTR requirements. A certification validating the medical disability/special need is effective for up to six months or the duration of the medical disability/special need, whichever is shorter. A medical disability/special need described as a lifelong condition requires a certification statement every two years from a physician.

The following pages are the same policy preceding this page but showing tracked changes.



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PDTATAC/tlw

9 November 2015

MEMORANDUM FOR

SEE DISTRIBUTION

SUBJECT:

UTD/CTD for MAP/CAP 142-15(I) -- Move Footnotes in DEPENDENT/
IMMEDIATE FAMILY Definition in App A1

1. **SYNOPSIS:** This item moves the footnotes in the definition of DEPENDENT/IMMEDIATE FAMILY MEMBER to the bottom of the definition so the references to the footnotes within the definition accurately apply.
2. The attached revision is forwarded for information purposes only. No coordination or comments are required.
3. This revision was initiated by PDTATAC Staff.
4. These changes are scheduled to appear in the JTR, dated 1 December 2015.
5. This determination is effective when printed in the JTR.
6. Action Officer: Lynn Wawrzyniak (tracie.l.wawrzyniak.civ@mail.mil).

JOEL T. RIDENOUR

Chief, Policy and Regulations Branch

Attachment:

Rev 1

Uniformed E-Mail Distribution:

MAP Members P&R Branch PMO-DTS GSA-3FT GSA-OGP(MTT) DTMO PPC

Civilian E-Mail Distribution:

CAP Members P&R Branch PMO-DTS GSA-3FT GSA-OGP(MTT) DTMO CBCA Judges

JTR REVISIONS

Effective 10 April 2015

DEPENDENT/IMMEDIATE FAMILY (Employees Only)

A. General

1. Dependent and Immediate Family Member. The terms “dependent” and “immediate family” include the following named members of an employee's household at the time the employee reports for duty at a new PDS or performs authorized/approved OCONUS tour RAT or separation travel:

- a. Employee’s spouse. Any individual who is lawfully married (unless legally separated), including an individual married to a person of the same sex who was legally married in a state or other jurisdiction (including a foreign county), that recognizes such marriages, regardless of whether or not the individual’s state of residency recognizes such marriages. The term “spouse” does not include individuals in a formal relationship recognized by a State, which is other than lawful marriage. It also does not include individuals in a marriage in a jurisdiction outside the U.S. that is not recognized as a lawful marriage under U.S. law.;
- b. Employee’s domestic partner;
- c. Children of the employee, of the employee’s spouse, or of the employee’s domestic partner who are unmarried and under age 21 years or who, regardless of age, are physically or mentally incapable of self-support. See item A2 below.
- d. Dependent parents (including step and legally adoptive parents) of the employee, of the employee's spouse, or of the employee’s domestic partner. See Footnote 2 below.
- e. Dependent brothers and sisters (including step and legally adoptive brothers and sisters) of the employee, of the employee's spouse, or of the employee’s domestic partner who are unmarried and less than 21 years of age or who, regardless of age, are physically or mentally incapable of self-support. See Footnote 2 below.

FOOTNOTES

~~1. An employee and spouse at an OCONUS PDS assumed temporary custody of two grandchildren. The grandchildren’s parent was a member on active duty with a DoD Service in Iraq. The member (the parent) executed a special military power of attorney granting guardianship of the children to the children’s grandparent. GSBCA held that the power of attorney did not create a “legal guardianship” as that term is used to define dependent/immediate family members for the purpose of determining eligibility for relocation allowances. Since the term “legal guardianship” is not defined in the JTR, GSBCA turned to AZ state law (the state in which the power of attorney was executed and in which the member resided) for guidance. Under AZ law legal guardianship can be established only by judicial determination and the powers of attorney provided by the member were not sufficient to create guardianship. Since legal guardianship did not exist, the grandchildren could not be the employee’s immediate family members and the employee was not authorized travel and transportation costs and overseas allowances (TQSA) on their behalf. See [GSBCA 16337 RELO, 19 April 2004](#).~~

~~2. Generally, individuals are the employee’s dependents if they receive at least 51% of their support from the employee/employee's spouse; however, this percentage of support criterion must not be the decisive factor in all cases. These individuals also may be dependents for the purpose of this definition if they are members of the employee's household and, in addition to their own income, receive support (less than 51%) from the employee/employee's spouse without which they would be unable to maintain a reasonable standard of living.~~

2. Children. The term “children” includes:

- a. Natural offspring;
- b. Stepchildren;
- c. Adopted children;
- d. Grandchildren,
- e. Legal minor wards or other dependent children who are under legal guardianship of the employee/employee's spouse.
- f. A child born and moved after the employee's effective date of transfer because of advance stage of pregnancy, or other reasons acceptable to the DoD component concerned (e.g., awaiting school year completion by other children). See [50 Comp. Gen. 220 \(1970\)](#), and [66 Comp. Gen. 497 \(1987\)](#). See [Footnote 1 below](#).

B. Common Law Marriage. For the purpose of allowances authorized in these regulations, determination of an employee's spouse when a "common law marriage" is involved is addressed in several GSBCA and Comptroller General decisions. Some quotes from those decisions are as follows:

1. GSBCA quotes "Issues of marital status are determined by state law and the relationship of spouse exists if common law marriage is recognized by the law of the state in which the parties entered into such a marriage".
2. "Issues of marital status are determined by state law", James H. Perdue, [GSBCA 14122-RELO, 16 March 1998](#). Some states recognize common law marriage -- "[a] marriage that takes legal effect, without license or ceremony, when a couple live together . . . , intend to be married, and hold themselves out to others as a married couple. "Black's Law Dictionary 986 (7th ed. 1999)".
3. As we recognized in James H. Perdue, the burden of proof is on the claimant to establish the common law marriage. See [GSBCA 14122-RELO, 16 March 1998](#), and [GSBCA 15207-RELO, 19 May 2000](#). State law determines issues of marital status, and the relationship of spouse exists if common law marriage is recognized under the law of the state in which the parties entered into such a marriage. The following Comptroller General decisions address specific circumstances: [B-260688, 23 October 1995](#); [B-247541, 19 June 1992](#); [B-212900, 15 November 1983](#); [B-191316, 27 September 1978](#); [B-191316, 6 April 1978](#); [B-186179, 30 June 1976](#).
4. The validity of a common law marriage is determined by the law of the place in which it was contracted, and if valid there, it will be valid elsewhere, in the absence of contravention of positive law, or consideration of policy to the contrary. [B-186179, 30 June 1976](#); [B-191316, 27 September 1978](#).
5. Once the employee has submitted evidence in support of the common law marriage, it should be submitted to the appropriate Agency legal counsel for assistance in determining whether or not the putative spouse qualifies as a spouse under the specific state and/or Federal law. PDTATAC does not adjudicate these cases.

C. Missing Persons Act. A dependent, ICW the Missing Persons Act, is defined in par. 7825-A3 for transportation eligibility.

D. Emergency Leave Travel. See par. 7025-D.

E. Pertinent GSBCA Decisions. [GSBCA 15947-RELO, 31 March 2003](#); [GSBCA 15382-RELO, 20 December 2000](#); [GSBCA 15207-RELO, 19 May 2000](#); [GSBCA 14673-RELO, 9 December 1998](#); and [GSBCA 14122-RELO, 16 March 1998](#)

FOOTNOTES

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grandchildren's parent was a member on active duty with a DoD Service in Iraq. The member (the parent) executed a special military power of attorney granting guardianship of the children to the children's grandparent. GSBCA held that the power of attorney did not create a "legal guardianship" as that term is used to define dependent/immediate family members for the purpose of determining eligibility for relocation allowances. Since the term "legal guardianship" is not defined in the JTR, GSBCA turned to AZ state law (the state in which the power of attorney was executed and in which the member resided) for guidance. Under AZ law legal guardianship can be established only by judicial determination and the powers of attorney provided by the member were not sufficient to create guardianship. Since legal guardianship did not exist, the grandchildren could not be the employee's immediate family members and the employee was not authorized travel and transportation costs and overseas allowances (TOSA) on their behalf. See GSBCA 16337-RELO, 19 April 2004.

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