



PER DIEM, TRAVEL AND TRANSPORTATION ALLOWANCE COMMITTEE

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PDTATAC/vap

17 May 2012

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: UTD for MAP 56-12(E) -- BAH for Divorced/Separated Member to Member

1. **SYNOPSIS:** Clarifies that when a member with children is divorced or legally separated from another member, each member may qualify for a with-dependent housing allowance provided they don't claim the same dependent/set of dependents.
2. These changes are scheduled to appear in JFTR change 307, dated 1 July 2012.
3. This determination is *effective on 17 May 2012*.

//approved//

PHILIP G. BENJAMIN

Chief, Strategic Planning and Policy Division

Attachment:

Rev 4

Uniformed E-Mail Distribution:

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

JFTR REVISIONS:

U10204-A:

A. Child(ren) from Previous Relationships and Dependent Parents. When one or both members are authorized housing allowances for a child(ren) from a previous relationship or on behalf of a dependent parent(s), and the members marry and are stationed in the same area, all children and dependent parents of either member are one (or the same) class of dependents. Therefore, only one housing allowance at the with-dependent rate (including BAH-DIFF) is payable. Any child(ren) born of their marriage, or adopted by them, is within the same class of dependents for housing allowances purposes. However, if the member elects to stop receiving a housing allowance at the with dependents rate, then the other member may claim the children for housing allowance purposes. A relationship determination is required, but ordinarily a dependency determination is not. In all instances of a member having a spouse on active duty, full details must be given showing the spouse's full name, social security number, duty station, and branch of Service. This does not apply to two members living together but not married. These members are each authorized a housing allowance based on each member's dependents.

U10204-D:

D. Dependent Parents. When one of two members married to each other is receiving a housing allowance at the with-dependent rate, the class of dependents includes either member's parents and only one member is authorized a housing allowance at the with-dependent rate or BAH-DIFF for the one class of dependents when the members are assigned to the same or adjacent bases.

U10206-A6:

A. Divorce or Legal Separation. In addition to par.U10106 , the following rules apply when the divorced or separated parents are both members and the divorce or separation occurred, or the decree or agreement was amended after 30 June 1992. These rules apply only when neither member is assigned to family-type GOV'T QTRS, unless otherwise specified.

1. Unless the members agree to the contrary, the custodial parent is authorized a housing allowance for the child(ren) regardless of the child support amount received by that member. In addition to the court order, a separate notarized agreement between the members must be provided for the non-custodial member to receive a housing allowance for the child(ren).
2. When each member has legal and physical custody of one or more of the children of the marriage, each member is authorized a housing allowance for the children in their individual custody, regardless of child support payments from one member to the other.
3. When the child(ren) of the marriage are in a third party's custody, only one member is authorized a housing allowance for the children, even if both members are paying sufficient

child support to qualify for the housing allowance. The senior member is authorized a housing allowance for the child(ren) when the two members do not agree on which person claims the authorization. If the members are of equal rank, date of rank determines which one receives a housing allowance for the child(ren).

4. In joint legal custody cases, when physical custody changes from one parent to another, each parent is authorized a housing allowance for the child(ren) during those periods the child(ren) are actually in that parent's physical custody.

5. When a non-custodial member pays child support to the custodial parent who also has another dependent who makes the member eligible for a housing allowance, there is a presumption that the custodial parent's authorization is based on the dependent(s) other than the child(ren) of the marriage. The housing allowance authorization for the custodial and non-custodial parents is determined individually.

6. When the dependents are no longer in one class, the housing allowance authorization for the custodial and non-custodial parents is determined individually. For example, if the non-custodial parent pays child support to a non-active duty parent for a child(ren) from a previous marriage or non-marriage relationship, the non-custodial parent may qualify for a housing allowance based solely on the basis of the member's child support for the child(ren). See par. U10008.