



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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August 12, 2024

CBCA 8055-TRAV

In the Matter of NATHAN P.

Nathan P., Claimant.

Mary F. Comans, Chief Financial Officer, Office of the Chief Financial Officer, Federal Emergency Management Agency, Washington, DC, appearing for Department of Homeland Security.

**NEWSOM**, Board Judge.

Claimant, an employee of the Federal Emergency Management Agency (FEMA or agency), challenges FEMA's attempt to recoup \$146 of his airfare reimbursement for authorized travel. That amount is the difference between the cost that claimant incurred to purchase a one-way business-class airline ticket and the agency's calculation of the cost to purchase a coach-class airfare with the same itinerary. The agency's policy required employees to obtain approval from the FEMA Chief Financial Officer (CFO) in advance of booking a business-class flight. Claimant did not seek or obtain CFO approval. He states that a coach-class ticket was not reasonably available within the time frame that he needed to travel, and there was insufficient time to seek approval to purchase a business-class ticket. In light of the agency's clear policy and the absence of evidence supporting claimant's factual contentions, we deny the claim.

Background

Claimant was authorized to conduct temporary duty (TDY) travel to St. Thomas, U.S. Virgin Islands, for an emergency support mission in August 2023. When booking his return travel, he self-booked a reservation through FEMA's electronic travel system and selected a business-class flight for his return from the TDY location to his home airport. Claimant's

approving official – not the FEMA CFO – approved the travel authorization. After completing his travel, claimant submitted a travel voucher seeking the full cost of the business-class flight in the amount of \$1729.53. The agency initially reimbursed him in full for the flight.

Subsequently, in a post-payment audit, FEMA discovered that claimant had been reimbursed for a business-class flight that had not received approval from the FEMA CFO. The agency obtained a market quote for the cost of a coach-class fare for claimant’s itinerary. It showed that a fully refundable Y coach-class fare for the return flight would have cost \$1583.53, which was \$146 less than the cost of the business-class ticket for which he was reimbursed. The agency notified claimant of the potential debt. Claimant appealed the agency’s decision to collect the debt, but FEMA rejected his appeal.

### Discussion

FEMA seeks to recoup from claimant \$146 in airfare reimbursement that it asserts was inappropriately paid to him. As a general rule, once travel is authorized, the employee’s “right to reimbursement of travel costs vests as the travel is performed, and valid travel orders cannot be revoked or modified retroactively, after the travel is completed, to decrease rights that have already become fixed.” *Renee Cobb*, CBCA 5020-TRAV, 16-1 BCA ¶ 36,240, at 176,819; *see Tomila K. Hearon*, CBCA 3995-TRAV, 15-1 BCA ¶ 35,904, at 174,512 (2014). An exception to this rule arises if the authorization was “erroneous on [its] face; in conflict with a law, regulation, or agency instruction; or contrary to the agency’s definite intention when the orders were issued.” *Mustak Y. Keval*, CBCA 3349-RELO, 14-1 BCA ¶ 35,490, at 173,991; *see Jeffrey E. Koontz*, CBCA 3251-TRAV, 13 BCA ¶ 35,318, at 173,372 (“Travel orders may be amended or revoked to correct an error on the face of the orders or if the orders clearly are in conflict with a law, regulation, or agency instruction.”).

We conclude that claimant’s travel authorization was issued in conflict with the Federal Travel Regulation (FTR) and agency policy and deny the employee’s claim.

The FTR directs that federal employees use coach-class common carrier accommodations for official travel “unless [the] agency authorizes or approves the use of other than coach class.” 41 CFR 301-10.102 (2023). The FTR restricts agencies from authorizing or approving business-class accommodations except in specific circumstances. *Id.* 301-10.103(b).

The Department of Homeland Security (DHS) Financial Management Policy Manual (FMPM) echoes these restrictions, FMPM sec. 7-3 at 2-1-2,<sup>1</sup> as does FEMA's Travel Policy Manual (FM), FM ch. 10. Of particular relevance here, FEMA's FM requires that "[a]ll travel accommodations above coach-class must be approved *in advance of travel* by the *appropriate official delegated the authority* to approve the premium class travel." FM 10-2.A.1 (emphasis added). The policy states that the "appropriate official" with authority to approve business-class travel is the FEMA CFO. *Id.* 10-2.C.2.

The policy spells out the consequence for an employee's failure to obtain CFO approval for business-class travel. It warns that, "[i]f the traveler does not obtain prior approval for business class travel, reimbursement will be limited to the cost of coach class accommodations and [the] traveler will assume the difference in cost." FM 10-2.C.1.

Claimant acknowledges that he did not seek, nor did he obtain, approval from the FEMA CFO to fly business class. Nevertheless, he contends that the agency should reimburse him for the cost of a business-class ticket. He argues that the FM, at chapter 10, sections E.2 and E.3, along with analogous DHS policy, allows an employee to travel by business class if no coach-class accommodations are reasonably available and the mission is urgent, or if traveling by business class provides cost savings to the Government. Claimant asserts that when he booked his return flight, a coach-class fare was not reasonably available. If he had waited until a coach-class seat became available, he contends it would have cost the Government more money in hotel costs and per diem to stay longer in the TDY location, compared with the marginally higher cost of a business-class fare on the date he traveled.

Claimant misreads the FEMA travel policy. That policy is clear that only the FEMA CFO possesses delegated authority to approve an employee's use of business-class travel. The portions of the policy referenced by claimant – FM chapter 10, sections E.2 and E.3 – state some of the conditions under which *the CFO may*, if the matter is presented to her, approve a business-class travel request. In other words, sections E.2 and E.3 do not establish

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<sup>1</sup> The FMPM provides that "DHS travelers must use coach class accommodations, unless use of other than coach class accommodations are authorized and approved by the designated approving official as provided in FTR § 301-10.103." FMPM sec. 7-3 at 2-1-2. It goes on: "Business class travel . . . requests must be justified in writing and submitted to the appropriate approving authority for review and approval prior to travel." *Id.* at 2-1-2.a.

that an employee may choose to fly business class; they only describe the circumstances that “may warrant” *the CFO’s* approval of a request to fly business class.<sup>2</sup> FM 10-2.D.

Those sections never came into play here, however, because claimant did not submit a request to the CFO for approval. He went ahead and booked a business-class flight without seeking CFO approval. His travel authorization for business-class airfare was approved by someone lacking authority to approve it. Thus, claimant’s travel authorization was issued in contravention of the FTR and FEMA policy.

Furthermore, based on the evidence presented, we cannot conclude that the circumstances would have warranted approval of a request to fly business class. Claimant argues that a coach-class fare was not reasonably available on the date of his proposed travel. The only evidence he presented on this point was an email allegedly from a travel agent and dated October 24, 2023, approximately two months after the travel, which states that “we cannot determine if lower coach inventory was available or not at the time of booking.” Notice of Appeal, Attachment 2. That email does not support claimant’s assertion.

Claimant also asserts that he had insufficient time to seek CFO approval for a business-class fare. It is true that the FM states that “approval for business class travel must be requested . . . at least five days prior to travel.” FM 10-2.C.1. But again, the evidence to support this assertion is absent. On August 22, 2023, claimant made a reservation for a return flight that was to depart only two days later, on August 24, 2023. Claimant has not explained why he did not, or could not, make a reservation for a return flight *before* August 22. As the FMPM notes, “[I]ack of available coach seating when booking at the last minute is not an acceptable reason for traveling business class, unless the need to travel arose at the last minute, is urgent, and cannot be postponed.” FMPM sec. 7-3, app. C. Had he submitted a request to the CFO for approval even if it were inside the five-day review period, there could have been a contemporaneous record with which to evaluate his assertions. As it stands, claimant offered no information or evidence demonstrating that the business-class travel was warranted under the DHS and FEMA policies.

Claimant bears the burden to prove a right to payment. Board Rule 401(c) (48 CFR 6104.401(c)). In the absence of evidence, we lack a basis to find that a coach-class fare was not reasonably available, and we lack a basis to credit claimant’s assertion that he did not have sufficient time to obtain CFO approval. Because claimant’s contention that booking

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<sup>2</sup> The FEMA travel policy provides only two exceptions to the requirement that the CFO must approve business-class travel: (1) when an employee upgrades using frequent traveler rewards, and (2) when an airline automatically upgrades an employee. FM 10-2.F. The parties acknowledge that neither exception applies here.

a business-class fare saved the Government money presupposes that a coach-class fare was not reasonably available, we likewise lack evidence to support that contention as well.

On the specific facts presented here, the Board finds no grounds to disturb FEMA's decision.

Decision

The claim is denied. FEMA may recoup the \$146 overpayment.

*Elizabeth W. Newsom*  
ELIZABETH W. NEWSOM  
Board Judge