

Opinion No. 65-167

August 31, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General James V. Noble, Assistant Attorney General

TO: Mr. Alex J. Armijo, State Auditor, Santa Fe, New Mexico

QUESTION

QUESTIONS

1. What supporting documents or evidence of expenditure are required to be submitted by District Judges in support of claims for reimbursement of actual expenses incurred on official business trips while absent from their district headquarters?
2. What supporting documents or evidence of expenditure are required to be submitted by District Court employees in support of claims for reimbursement of actual expenses incurred on official business trips while absent from their district headquarters?
3. Did travel expense limitations as specified by Chapter 2, Section 17, Laws of 1964 apply in the case of reimbursement for actual expenses incurred on official business trips while absent from the district headquarters of District Judges and District Court employees?
4. Do travel expense limitations as specified by Chapter 313, Section 19, Laws of 1965, apply to reimbursement of actual expenses incurred on official business trips while absent from the district headquarters of District Judges and District Court employees?

CONCLUSIONS

1. See analysis.
2. See analysis.
3. See analysis.
4. See analysis.

OPINION

{*280} ANALYSIS

The answer to your first question is set forth under Question and Conclusion No. 2 of Opinion No. 64-152, Opinions of the Attorney General, dated December 17, 1964, and

as yet unpublished. This opinion holds in this respect that District Judges, District Court Reporters and District Court Interpreters need only submit an itemized expense account in order to be reimbursed for actual travel and other expense incurred while absent from their district headquarters upon official business. No documents to verify the itemization need be submitted. The specific statute governing reimbursement of such travel expense is Section 16-3-33 N.M.S.A., 1953 Compilation and being a specific statute pertaining to reimbursement of expenses of District Judges, it governs over the provisions of general statutes. See also, Opinion No. 63-96, Opinions of the Attorney General, dated August 9, 1963. It is our opinion, therefore, that no documentary evidence whatsoever, except for the itemization, need be submitted in support of a claim by District Judges for reimbursement of travel expense from the district headquarters upon official business.

Your second question concerns itself with District Court employees and insofar as shorthand reporters and interpreters of the District Courts are concerned what has been said in answer to 1 above also applies to such particular Court employees by virtue of the provisions of Section 16-3-47 N.M.S.A., 1953 Compilation. Again see Opinion No. 63-96, supra. Therefore, for such employees the itemization itself is sufficient authorization of payment for reimbursement of actual necessary travel expense while absent from the district headquarters upon official business. The statutes above cited do not make reference to other Court employees, and specifically limits the provisions to District Judges, Court Interpreters and Court Reporters. The payment of expenses of other Court employees prior to July 1, 1965, would be governed by the provisions of 16-3-22, N.M.S.A., 1953 Compilation. In pertinent part it reads:

". . . when collected it shall be turned over to the county treasurer, to be by him disbursed for the payment of the expenses of the district court in his county only as provided by law **or upon a certificate of the clerk of the district court of the district in which his county is situated, that an allowance has been made by said court, . . .**" (Emphasis added.)

The section then provides that such certification shall only be made when there are sufficient funds on hand in the office of the treasurer to make payment thereof. Although there have been amendments to this section since it was construed by the Supreme Court in the case of **State ex rel. Armijo v. Romero**, 32 N.M. 178, the amendments would not substantially change the application of that case. It held, in substance, that the provisions of this section govern over the more general provisions of the appropriation act. By reason, therefore, of the language in said Section 16-3-22, supra, and the holding in the case of **State ex rel. Armijo v. Romero**, supra, if funds in the District Court Fund are available and if it is certified by the Clerk of the District Court of the district in which the county is located that an allowance has been made by the District Court for the reimbursement of expenses of the Court employee, then such employee is entitled to be so reimbursed. It would follow that the same limitations ^{*281} that apply to District Judges, Reporters and Interpreters would apply to claims for reimbursement for expenses of other employees of the Court.

The rationale necessarily contained in the answer to the first two questions requires a holding that the provisions of Chapter 2, Section 17, Laws of 1964 (the General Appropriation Act) did not apply to claims for reimbursement for District Judges or District Court employees. However, the requirements above set forth for such reimbursement must be met.

The answer to your last question is found in an amendment to Section 16-3-33, supra, found in Chapter 171, Laws of 1965, which provides, in pertinent part, that District Judges **and District Court employees** may claim reimbursement for actual and necessary travel expense and other expense incurred while absent from the district headquarters upon official business. It further provides that these expenses shall be paid from the Court fund of the county for which the business is transacted upon itemized expense accounts filed with the Clerk of the District Court and approved by the presiding District Judge. In lieu thereof, District Judges and Court employees may be allowed per diem and mileage established by the presiding District Judge at rates not exceeding those established by law or by the State Board of Finance for other State employees. It is our opinion, therefore, that both prior to and after July 1, 1965, and if they so elected or now select, District Judges and other District Court employees may be reimbursed for their actual and necessary travel expenses and other expenses incurred while absent from district headquarters upon official business. Such claims for reimbursement need not be supported by any document whatever save and except for an itemized statement as to what expenditures were actually incurred for which reimbursement is claimed and save and except for the requirement that such expense be incurred upon official business while absent from district headquarters and be reasonably necessary expenses. The claim must be approved by the District Judge.