

Daniels  
Aldrich  
Turner

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

March 10, 1955  
Letter Opinion  
No. 55-47

**REQUESTED BY:** The Honorable Jewel W. Jordan  
State Auditor  
Department of the State Auditor  
State Capitol Building  
Phoenix, Arizona

**OPINION BY:** Robert Morrison, The Attorney General  
H. B. Daniels, Assistant to The Attorney  
General

**QUESTION:** Under the provisions of Section 12-713,  
A.C.A. 1939:

1. Must the payment for reimbursement of subsistence be limited to a maximum of \$2.00 in the state and \$3.00 out of state for each period of six hours, commencing at midnight?

2. Are receipts for lodging required as proof that an individual is away from his home station for a period covering more than one calendar day?

3. Does the word "subsistence" include all necessary travel expenses, and if not, could a traveler claim reimbursement for lodging in addition to the per diem of \$8.00 in the state and \$12.00 out of state per day?

**CONCLUSION:**

1. No more than \$2.00 or \$3.00 per period can be paid as and for reimbursement of subsistence to an officer while traveling in state or out of state.

2. Receipts and vouchers for lodging are required as evidence of the individual being away from home.

3. Subsistence include all the necessary expenses of the trip, and lodging is included in the concept of subsistence, hence the lodger cannot recover for lodging in addition to subsistence allowance.

Dear Madam:

We have your letter dated March 2, 1955, for clarity, we restate the questions presented by you.

"1. Must payment for reimbursement of subsistence be limited to a maximum of \$2.00 in state and \$3.00 out of state for each period of six hours, commencing at midnight?

2. Are receipts for lodging required as proof that an individual is away from his home station for a period covering more than one day?

3. Does the word "subsistence" include all necessary expenses, and if not, could a traveler claim reimbursement for lodging in addition to the per diem of \$8.00 in the state and \$12.00 out of state per day?"

Under section 12-713, A.C.A. 1939, as amended, it is provided as follows:

"(d) Subsistence. Per diem for subsistence may be claimed at the rate of eight dollars (\$8.00) for travel within the state and twelve dollars (\$12.00) for travel without the state, for each twenty-four (24) hour day for each person. In computing per diem for subsistence for the calendar day, the day shall be divided into four (4) periods of six (6) hours each or fraction thereof, commencing at midnight.

(e) Receipts for lodging (lodging) and transportation. Claims which include lodging and/or transportation by common carrier shall not be allowed unless accompanied by receipts.  
\* \* \*

We interpret this provision to mean that the Legislature intended that the full or maximum amount that an official can be reimbursed for out of pocket money spent while on official business is \$8.00 per day if traveling in the state and \$12.00 if traveling out of state, and no more than that amount. This section further provides a method of computing payment in terms of fractional parts of a day. For every six (6) hour period or fractional part thereof that the official is away from home he may receive \$2.00 or \$3.00 depending on whether he is traveling in the state or out of the state. We answer the first question, yes.

Subsection (e) 12-713 reads:

"Receipts for lodging (lodging) and transportation. Claims which include lodging

and/or transportation by common carrier shall  
not be allowed unless accompanied by receipts.  
\* \* \* "

From the language used in this provision, we think that the law expressly requires that receipts for lodging be submitted as evidence that the official was away from his home station. This provision is one of the safeguards against abuses which the court speaks of in *EARHART v. FROMILLER*, 65 Ariz. 221, 226, when it said: \* \* \* "The act itself provides many safeguards; e.g., \* \* it provides only for necessary expenses for subsistence and lodging to the extent that these are supported by receipts and vouchers. \* \* \* " We think the answer to the second question is in the affirmative.

The word "subsistence" means an allowance for expenses incurred in the performance of duty while temporarily away from one's home. *WEBSTER'S NEW INTERNATIONAL DICTIONARY*; "it is support". *MAJORS v. LEWIS AND CLARK COUNTY*, 60 Mont. 698, 201 P 268; "that which procures provisions and livelihood". *DYER v. DYER*, 212 N.C. 620, 194 S.E. 278; "It is a form of compensation". In general an officer is entitled to compensation for expenses incurred by him in the performance of his official duties when, but only to the extent, provided directly or by necessary implication, and the officer cannot recover compensation additional to the compensation fixed by statute. 67 CJS 329, Officers, § 91. It appears plain that the legislature enacted this provision to care for the food and lodging of the official while traveling. All expenses necessarily incident to the trip must be paid by the allowance provided in Sub-section (e) 12-713, A.C.A., as amended. Lodging of the official must be paid out of the sum provided by the act.

Briefly we answer the questions posed by your letter as follows:

1. No more than \$2.00 or \$3.00 per period can be paid as and for reimbursement of subsistence to an officer while traveling in state or out of state.
2. Receipts and vouchers for lodging is required as evidence of the individual being away from home.

The Honorable Jewel W. Jordan  
State Auditor

March 10, 1955  
Page Four.

3. Subsistence include all the necessary expenses of the trip, and lodging is included in the concept of subsistence, hence the lodger cannot recover for lodging in addition to subsistence allowance.

Very truly yours,

ROBERT MORRISON  
The Attorney General

H. B. DANIELS  
Assistant to The  
Attorney General

HBD:llm