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BACK OUT CAMPING:

WHEN YOUR SUMMER PLANS CHANGE PART II

Rabbi Boruch Meir Levin, shlit"á; Dayan Bais HaVaad

When parents wish to opt out of a camp they enrolled their child in, the first thing to do is try and determine if the slot can be replaced. [Last week we discussed the halacha when the slot can be replaced.] If after reasonable effort the camp cannot find a replacement, the parents may bear financial responsibility for backing out of the camp as outlined below:

IF THERE WAS ONLY AN ORAL COMMITMENT

If the parents only made a verbal commitment to enroll their child, and did not sign any formal application or give any deposit, they are not technically bound to the agreement. Nevertheless, they may still be liable for causing the camp a financial loss. Accordingly, if at the time the parents signed up for the camp (or any time until now) the camp could have filled that slot with another child, the parents may not back out since they have prevented them from filling the slot by signing up their child. If they do back out, they will generally still be responsible to pay the tuition for the entire duration they had agreed to enroll their child for. Exceptions to this *halacha*, such as a case of *oness* - unavoidable termination - will be discussed below.

It should be noted that the above halachos only apply if at the time of the cancellation there is a significant likelihood that the camp will not be able to fill the slot, however if at the time of the cancellation there is little or no reason to assume that the camp will be unable to re-

place the slot, then even if the camp is indeed unsuccessful in doing so, the parents will not be responsible for the tuition.

When paying for lost tuition, the parents do not pay the full amount; rather they first deduct the amount that a camp would agree to forfeit in order to have one less child in their camp. Depending on the age of the child and the size of the camp, this deduction may only be a minimal amount or possibly nothing at all.

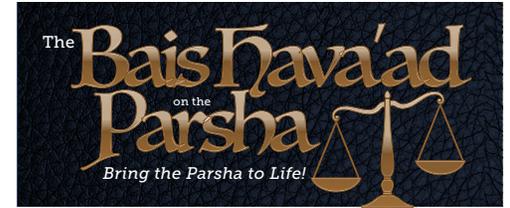
If the camp would not have been able to fill this slot either way, for example, if they still have slots available, then the parents have not prevented them from enrolling other children by their enrollment and subsequent cancellation. They would therefore have the ability to back out without any financial obligation to the camp. The *halachos* of *mechusar amana* as previously outlined would still apply.

Even in a case where the camp would not have been able to fill the slot, and thus the parents are not responsible for the tuition, nevertheless if the camp had made specific (non-refundable) expenditures in anticipation of the child's attendance, and the parents were aware that the camp would be doing so, the parents may be responsible for this loss. Examples of this could be the purchase of supplies, trip reservations or hiring extra staff.

IF A FORMAL APPLICATION WAS SIGNED AND/OR A DEPOSIT WAS GIVEN

If a *kinyan* was done to finalize the camp enrollment, the parents are *halachically* bound to the contract. Accordingly, if they withdraw their child, even if their initial enrollment did not cause the camp to turn down any potential enrollees, they will be responsible to pay the full camp tuition for the entire term they enrolled their child for or until a suitable replacement can be found.

(continued on back)



Summary of Parsha Shiur by: Rabbi Chaim Weg Shlit"á

WHEN YOUR POOR SPEECH IS ON THE ROCKS

Gemara in *Eirichin-kal vechomer*: If there's *loshon hora* on sticks and stones [less severe]; surely on people [more severe].

Question: Rashi [*Shelach*] says that the *meraglim* [less severe] should've learned from Miriam [more severe].

Answer-they were expected to learn from the punishment meted out to Miriam's questioning Hashem-*kefira*-not the *loshon hora*. Rashi [*Devarim*]: Names of travels are fictitious - they're referencing *aveiros*. '*Chatzeiros*'-refers to Moshe's rebuke regarding the *meraglim*. They should've learned from Miriam who was punished for her *kefira* in Hashem-not on her *loshon hora*.

Rav Shimon Schwab asks a different question: The *aveira* of *loshon hora* was already given - what should they have learned from Miriam that they didn't know yet? The prohibition on

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GENERAL HALACHA

A BELATED TISHA B'AV

Halachos of Tish B'Av On A Year of Nidcheh

By Rabbi Eliezer Gewirtzman

This year, the 9th of Av falls out on Shabbos, where Tisha B'Av is deferred until Sunday. Numerous shailos arise as a result of this, several of which we will discuss in this article.

TIME-RELEASED PILLS:

The advent of time-released pills has greatly eased the discomfort associated with fasting for many people.

These pills are taken before a fast day and, over the course of the day, release Aspirin or Tylenol into the body, helping relieve the headaches and other ailments that often come along with going without food and drink for a full day. With the fast coming out on a Sunday, those accustomed to taking these pills will want to swallow them on Shabbos. This leads to two pertinent *shailos*.

THE ISSUE OF REFUAH:

One may not take medications on Shabbos unless he is sick to the point "*nafal l'mishchav*", bedridden, and cannot function without them. In the case of the time-released Tylenol, the individual taking the pills is not sick at this time, but knows he won't be able to function tomorrow if he doesn't take this medication. This leads us to the question: if one is not bedridden as a result of his sickness yet, but knows he will become sick to that level later, is he permitted to take pills now to alleviate a future ailment?

Numerous Poskim rule that this is permitted. For example, someone may know that he gets terrible heartburn – to the point of "*nafal l'mishchav*" – every time he eats cholent if he does not take Tums immediately after his Shabbos seudah. These Poskim, who include Rav Shlomo Zalman Auerbach zt"l, rule that he may take the Tums at that time, even though he is not sick yet, as the fact that we know he will become incapacitated later is sufficient to allow him to take medication now.

Accordingly, there would be no issue of *refuah* for one to swallow time-released Tylenol on Shabbos – as one who takes them knows he will be "*nafal l'mishchav*" on the fast day if he

does not swallow this medication today.

THE PROBLEM OF HACHANAH:

A thornier issue is that of the prohibition of "*Hachanah*", preparing on Shabbos to do something after Shabbos.

We know that one may not perform an action on Shabbos as a preparation for a weekday. For example, one may not wash dishes

on Shabbos to use them on Sunday if he has no use for them on Shabbos itself. Does this mean that one would not be allowed to take time-released pills on Shabbos in preparation for a fast that begins after Shabbos?

Before we answer this question, we can discuss another *shailoh* that is pertinent for this Shabbos.

In anticipation for the fast which begins on *Motzoei Shabbos*, many people will be eating a hearty *Shalosh Seudos*. While most people usually do not eat much at *Shalosh Seudos*, this week they will want to fill their stomachs before the fast begins. Is this permitted or is it a forbidden act of preparing on Shabbos for a weekday?

From the Mechaber and Mishnah Berurah, it is evident that not only may one not do an action on Shabbos as a preparation for the week, one may not even discuss plans for the week on Shabbos. The Mishnah Berurah says that one may not even say that he plans on doing a mitzvah on Sunday. He does, however, say that an exception to this is in a case where the mitzvah will not be done at all if it is not discussed on Shabbos.

The Mishnah Berurah further stipulates that not all discussion regarding weekday activities are forbidden to be spoken about on Shabbos. He states that only discussions about doing a *melacha* that is forbidden on Shabbos are not allowed, but plans that do not involve a *melacha* are permitted to discuss.

The Debretziner Rov zt"l, in his Teshuvos Be'er Moshe, explains that one may discuss a plan for the weekday if the action being discussed



would be permitted on Shabbos. For example, if Shavuos falls out on Sunday, someone may say aloud on Shabbos afternoon that he is going to take a nap so that he will be awake on *Motzoei Shabbos* to stay up all night learning, as is the custom on Shavuos night. This is permitted because staying up all night does not involve any *melacha* that is forbidden on Shabbos. However, one may not say on Shabbos that he is laying down to rest so that he will be awake to drive somewhere on *Motzoei Shabbos*, as driving is a *melacha* that is forbidden on Shabbos and one may not discuss performing it on that holy day. The Teshuvos Machazeh Eliyahu, however, disagrees with the Be'er Moshe's opinion. Citing a Sefer Hachasidim as his source, he says one should not say that he is going to take a nap on Shabbos in order to be prepared for the weekday for any reason – even one that does not involve a *melacha*.

Even according to the Machazeh Eliyahu, however, if one simply says he is going to sleep because he is tired, or if he says nothing out loud at all, taking a nap would be permitted even if one's intentions in his mind are to be awake for *Motzoei Shabbos*. The only thing that makes the *hachanah* prohibited is the act of speaking out one's intentions.

According to this opinion, when one sits down for *Shalosh Seudos*, he should not say out loud that he is going to eat a good meal so that he will be full when the fast begins after Shabbos. However, one may simply eat a large meal without saying anything aloud, no matter what his intentions are. For the same reason, a parent

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GENERAL HALACHA

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should also not tell her teenage child, "You'd better sit down and eat something so that you'll be ready for the *tainis*." An exception to that would be if the parent knows his child won't eat enough without any urging and will be unable to complete his or her fast. In such a case, since the mitzvah will not be done without speaking about it on Shabbos, it is permitted to be spoken about.

Returning to our *shailoh* about the time-released pills: Some Poskim are of the opinion that taking these pills on Shabbos, even without saying anything out loud, would be forbidden. This is because taking these pills is worse than eating a meal, as when one eats a meal he is enjoying it right now and it is not noticeable that he is only eating in order to be full for the fast, while when one takes a time-released pill he has no enjoyment now and is only swallowing it as a preparation for *Motzoei Shabbos*. In this vein, Rav Elyashiv *zt"l* only permitted taking these pills on Shabbos if they are ground up and placed in water, which one can drink and derive benefit from on Shabbos.

The Orchos Chaim, however, quotes numerous Poskim who disagree and permit swallowing these pills on Shabbos. Their reasoning is that when one takes this pill, he is, in fact, deriving some benefit immediately, as he has put the Tylenol into his system, which provides relief to the body. Therefore, it is comparable to eating a large meal by *Shalosh Seudos* and would be permitted as long as one doesn't say aloud that he is taking the pill to be ready for the fast.

Rav Shlomo Miller *shlita* proposes another reason for leniency as follows: *Hachanah* is prohibited when it is clear that one is preparing for a weekday – for example, he is washing dishes that he has no need for on Shabbos. When one takes a pill on Shabbos, it is not noticeable that he does not need it for Shabbos. It is possible that he has a headache now and is swallowing the pill for immediate relief. Therefore, there is no prohibition of *hachanah*.

Since this type of *hachanah* is a *shailoh* of a *d'rabanan*, if one needs to take time-released

medication on Shabbos before a fast day, he has what to rely upon.

THE HAVDALAH CONUNDRUM:

Another relevant *shailoh* for a year like this one revolves around Havdalah.

Since Tisha B'Av is a *nidcheh*, many people who are in the category of *choleh* may have a *heter* to eat. The Biur Halacha rules that a pregnant woman may eat if she feels more sick than people normally do on a fast day.

The question that comes up is what she should do about Havdalah. The halacha is that one may not eat before Havdalah, and, with the fast on a Sunday, this lady's husband certainly did not make Havdalah for her at the end of Shabbos.

The Ramah rules that a woman should not make Havdalah for herself, but should instead be *yotzeh* by hearing it from someone else. The source of this ruling is that, as is well-known, woman are exempt from "*mitzvos aseh shehazeman grama*", timebound positive commandments. Since Havdalah is a mitzvah defined by a specific time, it would seem that woman have no obligation of that mitzvah. However, the Gemara says that woman are obligated in the mitzvah of Kiddush on Shabbos. This is because the Torah compares "*zachor*", remembering Shabbos through making Kiddush, to "*shamor*", observing Shabbos by not transgressing its prohibitions. Therefore, anyone who is obligated in "*shamor*", including woman, must also do "*zachor*", and hear Kiddush. This leads to the question of whether Havdalah is part of "*zachor*", which would mean that woman have this obligation as well.

Because of this question, the Rama rules that it is better for a woman not to make Havdalah for herself. The Mishnah Berurah rules that if a woman does not have a man at home, she should try to hear Havdalah from another man. However, if this proves very difficult, she may make Havdalah on her own. Thus, we can surmise that since there is no man around to make Havdalah for a pregnant woman on Tisha B'av, she may do it for herself.

WHAT DOES HAVDALAH ON TISHA B'AV CONSIST OF?

First of all, the custom is to recite the *bracha* of *Borei M'Orei Ha'Aish* right after Shabbos. If a husband can make this *bracha* for his wife at that time, it would solve a big problem, as the Mishnah Berurah states that even accord-

ing to the opinion that woman are obligated in Havdalah, they may not be obligated in the *bracha* of *M'Orei Ha'Aish*. This is because there is an opinion that *M'Orei Ha'Aish* is not a blessing on the benefit we have from light, but is actually a *bracha* to thank Hashem for creating light, and is therefore not part of the "*zachor*" of Havdalah. For this reason, a woman cannot make this blessing and it is best if the husband can do it for her on *Motzoei Shabbos*.

The *bracha* on *besamim* would not be recited on Tisha B'Av either, as the *besamim* are meant to revive a person and make them feel good – something we would not do on Tisha B'Av. Furthermore, the custom is not to recite the *pesukim* traditionally recited during Havdalah.

This leaves us only with the *bracha* of *Borei Pri Hagafen*. How is this blessing recited when making Havdalah on Tisha B'Av?

Of course, wine cannot be drunk on Tisha B'Av. Some Poskim also say that it is better not to drink grape juice, and, therefore, propose using orange juice instead. This is based on the halacha that one may make Havdalah on "*chamar medinah*", a "national" beverage that is broadly drunk by everyone in a specific country. However, in contemporary times it is very questionable that orange juice fits the bill as "*chamar medinah*". Today, many people are not keen on wasting calories on drinks, and it is certainly true that many less people drink juice on a daily basis than did three or four decades ago. Therefore, many Poskim feel that orange juice has lost its status as *chamar medinah*.

WHAT ABOUT COFFEE?

Hot coffee may qualify as a "national beverage" in America, although iced coffee almost certainly does not. However, one runs into another problem when attempting to use hot coffee for Havdalah. For Havdalah, one must drink a *revi'is* within a time span of "*kedi achilas pras*", which is quite a short period of time. It may not be plausible to drink that amount of hot coffee in such a short time.

Because of all these issues, Rav Shmuel Meir Katz *shlita*, is of the opinion that the best option to use for Havdalah on Tisha B'Av would be grape juice.

May we merit to see the Bais Hamikdash rebuilt speedily in our times and may we enter an age when these halachos are no longer applicable.

MATTERS OF INTEREST

AVISSAR FAMILY RIBBIS AWARENESS INITIATIVE:

TIPPING FOR DELAYS

Fischel has been tutoring Dan, a local Jewish boy. Dan's father arranged to pay Fischel at the end of the year. However, at the end of the year Dan's father experienced a cash flow shortage and asked Fischel to wait a few days to be paid.

On the appointed day, Dan's father paid Fischel what he owed, and threw in a few extra dollars as a tip for the great work Fischel had been doing with Dan. May Fischel accept the tip?

If Dan's father had offered the tip as compensation for the delay in payment, may Fischel accept?

Fischel should not accept the tip. The reason



for this is that since the payment period has passed, the money owed to Fischel is viewed as a loan and the extra as ribbis.

It is possible, however, that if Fischel clearly expended extra effort when teaching Dan, he may accept the tip for his additional efforts. One must ask a *shailah* to be sure.

If the tip was offered for the delay it is only more reason to forbid accepting the tip.

Another option to avoid this issue is for Fischel to teach Dan some more on the day of payment. We then view the work as "ongoing,"

never having achieved loan status, and the additional money as a larger payment.

All this would not be an issue if Dan's father had paid on time, since then it would not have become a loan, rather would be viewed simply a payment.

This would also allow the addition of a tip, since the tip would be viewed simply as a larger payment. This is obviously the simplest solution, though not always viable.

YOU DAILY LIVING

Weekly Questions

EATING FOOD COOKED WITH MEAT OR WINE VINEGAR DURING THE NINE DAYS

Beginning Rosh Chodesh Av until after Tisha B'Av (the Nine Days) the custom of Ashkenazim is not to eat meat or drink wine, in remembrance of the destruction of the Beis Hamikdash. What about a food that was cooked with meat, or a pareve soup that was cooked in a fleishig pot? Can they be consumed? Also, can one eat foods that contain red wine vinegar?



The *Mishna Berura* (551:63) writes that the common custom is not to eat foods that were cooked together with meat. For example, one should not eat a potato from a *fleishig cholent*, even though it does not contain actual meat.

Since it absorbed from the meat, we refrain from eating it. He adds that one may cook a *pareve* food in a *fleishig* pot, even if the pot had been used to cook meat immediately beforehand.

Rama (OC 551:9) writes that using wine vin-

egar is acceptable during the Nine Days. He explains that wine vinegar does not promote *simcha* (joy), and was not included in the wine restriction. Wine "vinegar" refers to wine that has fermented to the point where one would not drink it (*MB* 551:57).

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דף כ"ד The Baby Chatas

דף כ"ה Arbitration Clauses in Halacha

דף כ"ו Real Estate Rip-Off

(continued from front pg.)

One example of a kinyan would be if the parents signed an application form which included an agreement that the parents are obligating themselves to send their child to the camp.

Even if the parents did not sign such a form, if they paid the full tuition, this would likely constitute a kinyan and they would not be entitled to any refund. If the parents just gave a deposit towards the tuition, they would certainly not be entitled to a refund, however it is unclear if this would be considered a *kinyan* to obligate them to pay the rest of the tuition out of pocket. In any event, a deposit or even a full tuition payment specifically earmarked for the first half of the summer (July) would generally not obligate the parent to pay out of pocket for the second half of the summer (August).

If the child actually started attending the camp this would also constitute a kinyan. However, attending the camp for the first half of the summer (July) would generally not obligate the parents to pay out of pocket for the second half of the summer (August).

Here too, they would not pay the full amount, rather they would first deduct the amount that a camp would agree to forfeit in order to have one less child in their camp.

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(continued from front pg.)



loshon hora was already known at Har Sinai.

Moshe was *anav me'od mikol adam*-it didn't bother Moshe at all; nevertheless,

she was afflicted. The 'leniency' of Miriam's *loshon hora* was that it didn't bother Moshe, and perhaps *loshon hora* is only when it causes pain.

The lesson of Miriam is the prohibition of *loshon hora* even when there's no pain.

Why?

There is a *bein odom lemakom* component.

Rambam- *loshon hora* is defilement of the *nefesh*, and the speech of wicked people. It is a reflection on a negative lifestyle and culminates in heresy-*kefira*.

Miriam's sin was between man and Hashem; after all, Moshe wasn't bothered, as sticks and stones. Her *tzara'as* should've dissuaded the meraglim from their slander on the land.

EVENTS & HAPPENINGS AT THE BAIS HAVAAD

The Bais HaVaad Even HaEzer Chabura is privileged to host visiting Poskim from across the International spectrum. Recently, Rav Shlomo Tawil, *shlit"a*, the Chief Rabbi of Mexico City delivered a *shiur* to members of the Even HaEzer Chabura on contemporary topics related to *Ksuba* and *gittin*.



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