

Legal Opinion: GCH-0036

Index: 2.250
Subject: Public Housing Annual Income

January 13, 1992

Honorable Dean A. Gallo
House of Representatives
Washington, D.C. 20515-3011

Dear Mr. Gallo:

Thank you for your letter of December 17, 1991, on behalf of your constituent, Ms. Beverly McLaughlin, concerning the treatment of employer contributions to health plans, called "flex credits," in determining annual income in the public housing program. Ms. McLaughlin and Mr. Louis A. Riccio, Executive Director of the Madison Housing Authority, also wrote to the Department. In response to those letters, we provided the following information.

In calculating annual income, public housing agencies (PHAs) are required to count all income from all sources except for amounts specifically excluded. In particular, the regulations at 24 CFR 913.106(b)(1) provide that income includes "the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensations for personal services." On the other hand, the regulations at 913.106(c)(4) exclude "amounts received by the family, that are specifically for, or in the reimbursement of, the cost of medical expenses for any family member."

It is HUD's position that, in the case discussed, flex credits should not be counted as income. It is our opinion that they are amounts received by the family specifically for the cost of medical expenses (health benefits) and cannot be converted to cash that could be used for other purposes. Copies of our responses to Ms. McLaughlin and Mr. Riccio are enclosed.

Thank you for your interest in the Department's programs.

Very sincerely yours,

Russell K. Paul
Assistant Secretary

Enclosures