



U.S. Department of Housing and Urban Development

Seattle Office, Region X
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1321 Second Avenue
Seattle, Washington 98101-2058

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JAN 18 1989

TRACY, McDANIEL &
ATTORNEYS AT LAW

December 21, 1989

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SORIANO, SORIANO & LOWANS

Norman McLoughlin, Executive Director
Kitsap County Consolidated
Housing Authority
9265 Bayshore Drive
Silverdale, WA 98383

Dear Mr. McLoughlin:

This letter is in response to questions raised by your legal counsel regarding the computation of a lump sum payment made on behalf of an SSI recipient pursuant to the Section 8 Certificate Program regulations. Your counsel, Mr. Lowans, asked HUD Regional Counsel the following questions, to which we have provided answers:

1. Should the SSI lump-sum payment be counted as income to Ms. ?

Yes, in accordance with 24 CFR 813.106 (b)(4), annual income includes a lump-sum payment for the delayed start of a periodic payment.

2. Should the method of Head v. Jellico H. A. be applied, which is to allocate the payment over the period for which it was intended and, based thereon, to recalculate Section 8 Assistance payments over that period and thus determine a retroactive adjustment, or should the payment be counted as income in 1989?

It is up to the Housing Authority to determine the method used. In Head v. Jellico H. A. a retroactive adjustment was preferred because it involved a public housing rent computation. The case is Section 8 and involves assistance payments which may be harder to recalculate retroactively. Since the tenant has not been assisted for a long period of time, the Kitsap County Consolidated Housing Authority may calculate retroactively rather than prospectively. However, regardless of the method, the calculation should be about the same.

3. Should a portion of the payment representing the time prior to Ms. participation in the Section 8 Program be excluded from income in accordance with the 1983 memorandum from Madeline Hastings?

Yes. HUD's position has not changed since this memorandum was written.

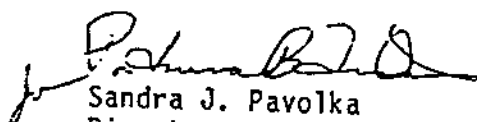
4. Should a portion of the payment representing Ms. legal expenses in winning the SSI case be excluded from her income and, if so, upon what authority?

Yes. A similar question was asked to which our Headquarters office provided a response in February 22, 1989. HUD recommends fees be deducted for legal services rendered in which a person is allowed a source of income.

In the case, the total lump sum payment minus attorneys fees was included as income. Ms. must be reimbursed for any overcharge she may have paid, and a recalculation must be made either retroactively or prospectively of income and rent for the period of time Ms. has participated in Kitsap County's Section 8 Certificate Program.

If we can be of any further assistance, please contact Janet W. Pruatt at the above address, attention: 1OPHM, or call her at (206) 442-0276.

Sincerely,



Sandra J. Pavolka
Director
Public Housing
Management Division