

Interpretive Memorandum No. 2013-4

DATE: REVISED AUGUST 17, 2015 (Originally issued July 1, 2013)

POLICY TOPIC: COMPENSATION FOR PART-TIME DUTIES IN EXCESS OF REGULAR FULL-TIME DUTIES

QUESTIONS/SCENARIO:

An Employer was reporting compensation for part-time duties of a Member for her services as a Health Officer along with compensation for her full time duties as an Administrative Assistant. The Employer said the Member receives a payment four times per year for the part-time duties and indicated that the compensation is not considered part of her Base Compensation or overtime.

The issue is whether the compensation for the part-time duties qualifies as Earnable Compensation under RSA 100-A:1, XVII? If not, how far back should NHRS perform an accounting of the part-time compensation for refund purposes?

CONCLUSION:

Compensation for part-time duties in a position different than the full time position of a Group I Member that is not characterized by the Employer as either Base Compensation or overtime pay is not Earnable Compensation.

ANALYSIS

In order for compensation to be Earnable Compensation it must qualify as one of the specific categories of compensation listed in the definition of that term under RSA 100-A: 1, XVII. Where (a) the compensation is for part-time duties in a position different than the Member's regular full-time position; and (b) the Employer has specified that the compensation is not part of the Member's Base Compensation¹ and is not overtime, the part-time compensation is not Earnable Compensation because it does not fit into any of the categories of compensation listed in RSA 100-A: 1, XVII. In this regard, it is noted that the Member in the scenario presented is not a Teacher, paraprofessional or support staff at a school and, therefore, does not qualify for "extracurricular or instructional activities".²

¹ See Interpretive Memorandum 2015-1 for a discussion of what constitutes Base Compensation.

² See Interpretive Memorandum 2015-2 for a discussion of what constitutes "additional pay for extracurricular and instructional activities"

In the past, such part-time compensation may have been "other compensation" that was includible as Earnable Compensation. However, the term "other compensation" was removed from the statute by 2008 HB 300:1, effective August 29, 2008. Thus, contributions with respect to the reported stipend paid for additional duties as a Health Officer earned on or after this date should be refunded.

STATUTORY REFERENCE: RSA 100-A:1, XVII



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Approval Date