

January 22, 2003

Nicholas Vincent Campasano, Esq.  
2000 Deer Park Avenue, Suite One  
Deer Park, New York 11729

Re: Payment of Volunteer Official's Uninsured Medical Expenses.

Dear Mr. Campasano:

You have asked if a federal credit union (FCU) may reimburse volunteer officials for the uninsured portion of medical expenses, co-payments and deductibles. You also asked if an FCU may reimburse volunteer officials for uninsured medical expenses, such as eyeglasses or dental care, which would be eligible expenses under a flexible benefit plan pursuant to Internal Revenue Service regulations. We believe an FCU's reimbursement of these expenses would constitute prohibited compensation. We note, however, that an FCU may adopt an insurance plan with comprehensive coverage that limits or eliminates expenses for co-payments, deductibles, eyeglasses, or dental care, as long as it is reasonable and within the bounds of safety and soundness.

The Federal Credit Union Act (FCU Act) prohibits any "member of the board or of any other committee" of an FCU from being compensated as such, except for certain insurance protection, and "the reimbursement of reasonable expenses incurred in the execution of the duties of the position." 12 U.S.C. §1761(c). An FCU may provide "reasonable health, accident, [and] similar insurance protection" to FCU board and committee members. 12 U.S.C. §1761(c).

NCUA regulations state that an FCU may pay for reasonable health, accident and related types of personal insurance protection supplied for officials, but do not permit an FCU to pay for the costs of an official's medical care. 12 C.F.R. §701.33(b)(ii). The regulation permits only the provision of insurance. The reimbursement of an official's out-of-pocket or uninsured medical expenses would be compensation because it is not the provision of insurance.

We have also said that the insurance must be reasonable in coverage and amount and must be within the bounds of safety and soundness. This is discussed in the enclosed legal opinion 94-0435, dated May 10, 1994. While the regulation limits an FCU to paying only the cost of insurance, an FCU may choose a policy that covers most out-of-pocket costs and includes coverage for vision, dental or other care, if it is reasonable and within the bounds of safety and

soundness. If your clients would like NCUA's assistance in determining whether particular health care coverage is reasonable under §701.33(b)(ii), we suggest they contact their NCUA examiner or regional office.

Sincerely,

Sheila A. Albin  
Associate General Counsel

OGC/DMS:bhs  
SSIC 3500

02-1203  
Enclosure