

**Title 10. General Welfare Exclusion - Chapter 1002**  
**ELDER ASSISTANCE PROGRAM**

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**1002.1. Purpose and Policy**

1002.1-1. *Purpose.* The purpose of this law is to establish the Elder Assistance Program to govern how the Nation provides financial assistance to elders, pursuant to the Oneida General Welfare law.

1002.1-2. *Policy.* It is the policy of the Nation to prioritize the general welfare needs of its elders. The Nation recognizes that its elders possess unique and irreplaceable stores of knowledge, skill, culture, and experience that enhance and enrich the lives of every member of the Nation. The interests of the Nation are advanced when its elders remain confident that their general welfare needs can be met.

**1002.2. Adoption, Amendment, Repeal**

1002.2-1. This law was adopted by the Oneida Business Committee by resolution BC-07-13-22-A.

1002.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1002.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

1002.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

1002.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

**1002.3. Definitions**

1002.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Approved program" means any program(s) to provide general welfare assistance that is intended to qualify as a General Welfare Exclusion, administered under specific guidelines, and is adopted by the Oneida Business Committee through resolution or law of the Nation in accordance with the Oneida General Welfare law.

(b) "Assistance" means benefits or payments under an approved program, which are paid to or on behalf of a recipient pursuant to this law. Assistance provided under an approved program shall not be considered income of the recipient.

(c) "Lavish" or "Extravagant" shall have the meaning determined by the Oneida Business Committee in its discretion and based on the circumstances, taking into account needs unique to the Nation as well as the social purpose being served by the particular assistance at hand, except as otherwise may be required for compliance with final guidance issued under 26 U.S.C. §139E following consultation between the Nation and the federal government.

(e) "Member" means an individual who is an enrolled member of the Nation.

(f) "Nation" means the Oneida Nation.

(g) "Recipient" means any member entitled to receive assistance in accordance with approved program requirements.

#### **1002.4. Establishment**

1002.4-1. *Establishment.* The Elder Assistance Program is hereby established as an approved program of the Nation in accordance with the Oneida General Welfare law. The purpose of the Elder Assistance Program is to provide financial assistance to elders of the Nation to address the unique and compounding general welfare needs of elders.

1002.4-2. *General Welfare Exclusion.* The Elder Assistance Program meets the requirements of the General Test as defined in the Oneida General Welfare law; General Criteria as defined in I.R.S. Rev. Proc. 2014-35, section 5; and the requirements of the Tribal General Welfare Exclusion Act of 2014, 26 U.S.C. §139E(b). The assistance provided through the Elder Assistance Program is:

- (a) paid on behalf of the Nation;
- (b) pursuant to an approved program of the Nation;
- (c) does not discriminate in favor of members of the governing body of the Nation;
- (d) available to any eligible member of the Nation who meets the guidelines of the approved program;
- (e) provided for the promotion of general welfare;
- (f) not lavish or extravagant;
- (g) not compensation for services; and
- (h) not a per capita payment.

#### **1002.5. Guidelines and Requirements**

1002.5-1. *Eligibility.* The Elder Assistance Program shall be open to any individual who meets the following criteria:

- (a) is a member of the Nation;
- (b) is age sixty-five (65) or older; and
- (c) submits a completed application during the designated submission timeframe.

1002.5-2. *Distribution Period.* The Oneida Business Committee, in consultation with the Oneida Trust Enrollment Committee, shall set forth through the adoption of a resolution an application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program.

1002.5-3. *Application for Funds.* Any individual seeking assistance from the Elder Assistance Program shall submit an application.

- (a) The Trust Enrollment Department shall make available an Elder Assistance Program application form and instructions.

(1) The application shall require, at a minimum, the following information:

- (A) first, middle, and last name;
- (B) date of birth;
- (C) street address, city, state, zip code;
- (D) phone number;
- (E) e-mail address;
- (F) enrollment number;
- (G) bank account information for direct deposit if necessary;
- (H) declaration from the applicant that their need exists, and all information provided therein is accurate and in accordance with the laws of the Nation and federal law; and

- (I) signature of the applicant, electronic or handwritten, affirming the declaration.
- (2) On the application the applicant shall designate the means by which they would like to receive their disbursement of funds from the Elder Assistance Program, either through direct deposit or check.
- (b) Applicants shall complete and return the Elder Assistance Program application form to the Trust Enrollment Department by the deadline set through resolution by the Oneida Business Committee in order to be eligible for assistance from the Elder Assistance Program.
  - (1) The information provided in the Elder Assistance Program application form may be provided to any department, division, or personnel that processes the applications.

1002.5-4. *Disbursement of Funds.* Assistance provided through the Elder Assistance Program shall be disbursed in accordance with the timeframe set through resolution by the Oneida Business Committee. Funds from the Elder Assistance Program may be disbursed through direct deposit, or check, depending on the selection made on the application by the recipient.

1002.5-5. *Qualifying Expenditures.* The following types of expenses shall be considered qualifying expenditures for use of assistance from the Elder Assistance Program by the recipient:

- (a) costs relating to housing needs of principal residences such as:
  - (1) mortgage payments, rent payments, and down payments;
  - (2) enhancements for habitability of housing;
  - (3) basic housing repairs or rehabilitation;
  - (4) improvements to adapt housing for special health needs;
- (b) costs for paying utility bills and charges, including, but not limited to, the following:
  - (1) water;
  - (2) electricity;
  - (3) gas;
  - (4) basic communication services such as:
    - (A) phone;
    - (B) internet; and
    - (C) cable;
- (c) costs associated with food security;
- (d) costs associated with home care assistance;
- (e) costs associated with vehicle payments, maintenance, repair, and insurance;
- (f) costs associated with medical care and transportation, room, and board costs for seeking medical care;
- (g) funeral and burial expenses and expenses for attending wakes, funerals, burials, bereavements, and subsequent honoring events; and
- (h) costs related to any other emergency circumstance.

1002.5-6. *Oversight.* The Trust Enrollment Department shall oversee the collection, review, and permitted distribution of funds from the Elder Assistance Program to the qualifying recipients.

1002.5-7. *Records Maintenance.* The Trust Enrollment Department shall be responsible for maintenance of records for the Elder Assistance Program. The recipient shall retain receipts for the expenditure of the funds associated with the Elder Assistance Program.

**1002.6. Funding**

1002.6-1. *Funding Source.* The Elder Assistance Program shall be funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund. The Oneida Business Committee may obligate additional funding to the Elder Assistance Program through any other funding source deemed necessary by the Oneida Business Committee. Use of the Elder Assistance Program is contingent upon available funding from the Elder, Education and General Welfare Trust Fund.

1002.6-2. *Amount of Available Funding.* The Oneida Trust Enrollment Committee shall determine the amount of assistance available to an eligible recipient from the Elder Assistance Program per any permitted distribution.

*End.*

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Adopted – BC-07-13-22-A