



TO: Legislative Operating Committee (LOC)  
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CMS*  
DATE: June 15, 2022  
RE: Elder Assistance Program Law: Public Comment Review with LOC Consideration

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On May 18, 2022, a public meeting was held regarding the proposed Elder Assistance Program law (“the Law”). The public comment period was then held open until May 25, 2022. The Legislative Operating Committee reviewed and considered each public comment received on June 1, 2022. This memorandum serves as a review of the written comments received during the public comment period.

### Comment 1 – Possession of Knowledge of Elders:

#### 1002.1. Purpose and Policy

**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.

**Edward Delgado (oral):** Hey, thanks for this opportunity. Ohh, looking at this, generally, it sounds really good. Oh, all these benefits and on page four (4). You could really rake it in, a lot of stuff you can get. Uhh. However, I do have one question, a few questions. On line thirty-eight (38) it talks about elders. I'm unclear. Do we process all these, all this knowledge? Or do we possess it? Because it says process here, so it's kinda confusing. Uh, Myself, I feel as though I possess some of these things. I don't process anything. Well, not right anyway. Umm, I think you meant possess.

#### *Response*

The commenter references a grammatical error that was made within the legislative analysis. This error in the legislative analysis will be revised. There is no revision to the Law recommended based on this comment.

#### *LOC Consideration*

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

## Comment 2 – Expiration of the Oneida General Welfare Law:

**Edward Delgado (oral):** Umm reminder, I have a question about no questions. But I do have a question. You don't have to answer it. A reminder that this is based on the General Welfare law. And the General Welfare law is due to expire soon. Uhh, trying to look at the different dates and the different see the July or somewhere around there, maybe October? I'm not sure. So, this law is based on that. So how can it last?

### *Response*

The commenter questions how the Elder Assistance Program law can be promulgated under the authority of the Oneida General Welfare law if the Oneida General Welfare law is set to expire. The commenter is mistaken about the expiration of the Oneida General Welfare law. The Oneida General Welfare law was adopted by the Oneida Business Committee on a permanent basis on December 8, 2021, through the adoption of resolution BC-12-08-21-A. There is no revision to the Law recommended based on this comment.

### *LOC Consideration*

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

## Comment 3 – Involvement of the General Tribal Council:

**Edward Delgado (oral):** ? Uhh. Everybody likes the idea that we're not gonna pay taxes on this umm, but the scary part is that it gives all the authority to their Business Committee, uhh to determine amounts, when and if, and there's no regard to General, General Tribal Council. And, uhh, it's long standing role in determining those benefits. Uh, there's a part in the General Welfare law that says it all goes to GTC, I mean to the BC. And sole discretion upon the GTC. And you don't have to write it that way. I think it would still be possible as a tax exempt assistance program if you're just write that a little bit nicer to GTC, whereby it doesn't have to be sole discretion. You can include GTC somewhere where it has the ultimate authority on whether or not these assistance programs are determined. Uhh,I think that's about it.

### *Response*

The commenter expresses displeasure with the idea of sole authority being provided to the Oneida Business Committee through the Law to determine the amounts of assistance provided through the Elder Assistance Program and the disbursement time periods, and desires instead that authority be provided to the General Tribal Council. The Oneida Business Committee does not have sole discretion as to the amounts of disbursements and timeframes for disbursements from the Elder Assistance Program. The Law provides that 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. [10 O.C. 1002.5-2]. The Law also provides that 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. [10 O.C. 1002.6-2]. The Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund, and any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1002.6-1]. The Oneida Trust Enrollment Committee determines the amount of assistance available to an eligible recipient from the Elder Assistance Program because the Oneida Trust Enrollment Committee is the body responsible for the management of the Elder, Education and General Welfare Trust Fund. If the Oneida Business Committee determines that the Elder Assistance Program should be funded through an additional funding source than the Elder, Education and General Welfare Trust Fund, then ultimately the General Tribal Council has the authority to adopt the Nation's budget which may contain the allocation of additional funds. There is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment. The Legislative Operating Committee does plan to encourage the Trust Enrollment Department and Oneida Trust Enrollment Committee to work with the Nation's Treasurer to discuss and plan for the future longevity and sustainability of the Elder, Education and General Welfare Trust Fund.

### **Comments 4 – Funding Source:**

#### **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, and any other funding source deemed necessary by the Oneida Business Committee.

**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.

**Edward Delgado (oral):** Ohh my last question was where is this coming from? What? Like money, usually determined by few per capita? Or is it coming through the, uhh, that seven hundred dollars (\$700) at sixty-five (65) year olds and over ger, uh, annually. Uh. From some kind of investments? That doesn't say it, but I don't know if this is the sum total of what elders get. Which was last year four thousand dollars (\$4000), and that was really nice. But these things are nice too, but I just don't think you should be giving all the authority to, to the Business Committee when we have a constitution and we have precedence where benefits go to GTC for approval, or at least we don't give it away. Thank you much.

### ***Response***

The commenter questions where the funding for the Elder Assistance Program is coming from. The Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund, and

any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1002.6-1]. The Oneida Trust Enrollment Committee determines the amount of assistance available to an eligible recipient from the Elder Assistance Program because the Oneida Trust Enrollment Committee is the body responsible for the management of the Elder, Education and General Welfare Trust Fund. There is no revision to the Law recommended bases on this comment.

### ***LOC Consideration***

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment. The Law is clear that the Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund, and any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1002.6-1].

The Legislative Operating Committee also discussed the comments about the authority of the General Tribal Council and the Oneida Business Committee and wanted to clarify any misconceptions. Article III Section 1 of the Constitution and Bylaws of the Oneida Nation provides that the General Tribal Council is the governing body of the Oneida Nation. Article III Section 3 then provides that the qualified voters of the Oneida Nation shall elect the Business Committee which shall perform such duties as may be authorized by the General Tribal Council. The Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the General Tribal Council.

Additionally, it is important to note that the General Tribal Council delegated the authority to develop and adopt legislation for the Nation to the Legislative Operating Committee and the Oneida Business Committee through the adoption of the Legislative Procedures Act (“the LPA”) through resolution GTC-01-07-13-A. The purpose of the LPA is to provide a process for the adoption of laws of the Nation that has been sanctioned by the General Tribal Council. [1 O.C. 109.1-1]. The development of this Law, as well as the development of the Oneida General Welfare law, has conformed with the process and procedure contained in the LPA.

### **Comments 5 through 6 – Specification of Annual Disbursements:**

**Michael Denny (oral):** OK, thank you. I'm not gonna dwell on the legislative analysis. I wanna go right to the Law, how its written. Umm, and under policy, line eight (8) - Interests of the Nation are advanced when elders remain confident in their general welfare. I would like to insert the year yearly or annual after their and before general. Because the way this is written, it doesn't say that there will be an annual or yearly distribution. Also, under establishment, line forty-seven (47) - The Elder Assistance Program is to provide financial assistance to elders. Also there, behind provide and before financial assistance, insert yearly or annual. So we're aware of that these are yearly things. There's nothing in here to say that this will be done on a yearly basis. It may be inferred, but if it's not written down, how do we know it will occur? And also on line one hundred and thirty-five (135) under funding - The Elder Assistance program should be funded through the Elder Education and General Welfare Trust Fund. I also again would like to insert annually after the word funded. Through the elder because that pinpoints to the elders that this will be done on an annual basis. Right now, it doesn't say that. It just says that the Business Committee in

conjunction with the Trust Committee, will set up a time. It doesn't say annual. And I think that should be pointed out. And that's all I have to say. I agree with the premise of the law. I just think that we could add the word annual or yearly in certain aspects. So we're clarified that the elders understand that this will be a yearly or an annual thing. That's all I have to say. Thank you.

**Oneida Nation Commission on Aging (written):** The following written comments concerning the proposed Elder Assistance Program, are brought forth on behalf of the ONCOA commissioners who met on 5-24-22.

1. Under Establishment, line 47, the insertion of the word annual, to read: provide annual financial assistance.
2. Under Guidelines and Requirements, line 71, the insertion of the word annual, to read: adoption of an annual resolution.
3. Under Guidelines and Requirements, line 102, the insertion of the word annual, to read: set through an annual resolution
4. Under 1002.6. Funding, line 135, the insertion of the word annually, to read: funded annually through.
5. Under 1002.6. Funding, line 141, to delete the words: per any permitted distribution.

### ***Response***

The commenters request that the Law be revised so that the Law provides that the Elder Assistance Program will provide *annual* assistance to elders. The Law provides that 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. [10 O.C. 1002.5-2]. The Legislative Operating Committee decided to require the application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program to be set through resolution instead of including dates in the Law itself to allow for more flexibility. This added flexibility allows the Oneida Business Committee and the Oneida Trust Enrollment Committee to determine the application submission period and disbursement timeframe to best meet the needs of elders – this means that the Oneida Business Committee and the Oneida Trust Enrollment Committee can determine the best time of year to make a disbursement from the Elder Assistance Program, whether the Elder, Education and General Welfare Trust Fund has the funds available to make a disbursement during a given year, or whether multiple disbursements should be made in a given year.

Whether to require the Law to provide that disbursements from the Elder Assistance Program will be made on an annual basis is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The Law should remain as currently drafted, so that the application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program is set through resolution to allow for more flexibility in determining how best to meet the needs of the Nation's elders.
2. The Law should be revised to require that disbursements from the Elder Assistance Program be made on an annual basis. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

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. Distributions of assistance from the Elder Assistance Program shall occur on an annual basis.

### ***LOC Consideration***

The Legislative Operating Committee was not in favor of revising the Law to be specify annual disbursements from the Elder Assistance Program, and instead determined that the Law should remain as currently drafted, so that the application submission period and disbursement timeframe for a distribution of assistance from the Elder Assistance Program is set through resolution to allow for more flexibility in determining how best to meet the needs of the Nation’s elders. The Legislative Operating Committee discussed how the COVID-19 pandemic taught them the lesson that the Nation needs to be able to pivot when necessary to address its financial needs, and therefore it is important that the Law provides flexibility to the Elder Assistance Program in determining its disbursements. The Legislative Operating Committee also discussed that the Elder Assistance Program is contingent on the availability of funds from the Elder, Education and General Welfare Trust Fund. [10 O.C. 1002.6-1]. Although the Oneida Business Committee may utilize any other funding source as deemed necessary, the Oneida Business Committee is not required to obligate additional funds to the Elder Assistance Program other than what is provided through the Elder, Education and General Welfare Trust Fund. If there was a time where funding is not available through the Elder, Education and General Welfare Trust Fund, then there may not be a disbursement made through the Elder Assistance Program. Assistance provided under an approved program of the Nation is not guaranteed, and assistance shall not be treated as a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid. [10 O.C. 1001.6-1]. The Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit. [10 O.C. 1001.6-2]. The Legislative Reference Office wanted to ensure that the Law is clear that the Elder Assistance Program is contingent on funding from the Elder, Education and General Welfare Trust Fund, and therefore directed that the following revision be made to the Law:

### **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 ~~and~~ 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.

## **Comment 7 – Application Form:**

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

**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.**

**Mark W. Powless (oral):** Yaw^ko. Well, first off, I wholly support this effort. From an implementation standpoint, currently, the GWA payments or GWE payments for membership are handled through the online portal. And, and in reading the proposed law, it appears there's it specifies an application form and I just want to make sure that there is no wording that that prohibits adding this payment option to the existing online application form for the overall GWA or GWE payments. So that's the first thing.

***Response***

The commenter wants to ensure that the Law will not prevent the Elder Assistance Program from using the same online application forms from other approved programs that provide assistance in accordance with the Oneida General Welfare law. The Law provides that Trust Enrollment Department shall make available an Elder Assistance Program application form and instructions. [10 O.C. 1002.5-3(a)]. The application is required, at a minimum, to collect the following information:

- first and last name;
- date of birth;
- street address, city, state, zip code;
- phone number;
- e-mail address;
- enrollment number;
- bank account information for direct deposit if necessary;
- 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
- signature of the applicant, electronic or handwritten, affirming the attestation. [10 O.C. 1002.5-3(a)(1)(A)-(H)].

There is nothing in the Law that would prevent the Elder Assistance Program application from being combined with an application of another approved program that provides assistance in accordance with the Oneida General Welfare law as long as the minimum application requirements of section 1002.5-3(a)(1)(A)-(H) of the Law are met. There is no recommend revision to the Law based on this comment.

***LOC Consideration***

The Legislative Operating Committee agreed that there is nothing in the Law that would prevent the Elder Assistance Program application from being combined with an application of another approved program that provides assistance in accordance with the Oneida General Welfare law as long as the minimum application requirements of section 1002.5-3(a)(1)(A)-(H) of the Law are met. The Legislative Operating Committee also determined that an applicant's middle name should be required on the application. The Legislative Operating Committee directed the following revision be made to the Law:

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 ~~attestation~~ declaration.

#### Comment 8 – Delegation of Responsibility to the Trust Enrollments Department:

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

**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.

**Mark W. Powless (oral):** The second thing is, this is very specific, and it specifies that the Trust Enrollment Department will process the payment. We are in, uhh, talks to transfer all the payments or the process to do the payments to the Trust Enrollment Department. My only concern is if we if that transition which is not complete, if that transition is not successful, we'll have two different requirements for receiving GWA, GWA payments for our elders. So, they would have to go to if, if all payments are not moved into Trust Enrollments, then elders would have to go to one area to apply for one payment and another area to apply for another payment. So, if we are able to transfer all payments over to Trust Enrollments that'll be fine. Then there's a one stop shop. But if we're not, my worry is that the wording is so specific that it details that Trust Enrollments will handle these payments it may be best not to identify which department must handle the payment process. Thank you.

##### ***Response***

The commenter expresses concern that the Law is specific in its designation of the Trust Enrollment Department as the area responsible for the oversight of the Elder Assistance Program, and how this may relate to other approved programs of the Nation that provide assistance under the Oneida General Welfare law. The Law provides that the Trust Enrollment Department shall



oversee the collection, review, and permitted distribution of funds from the Elder Assistance Program to the qualifying recipients. [10 O.C. 1002.5-6]. The Trust Enrollment Department is responsible for making available an Elder Assistance Program application form and instructions, and is also responsible for the maintenance of records for the Elder Assistance Program. [10 O.C. 1002.5-3(a), 1002.5-7].

The Legislative Operating Committee is currently developing an Oneida Nation Assistance Fund law to be considered by the Oneida Business Committee for emergency adoption on June 8, 2022. The Oneida Nation Assistance Fund law codifies resolution BC-04-14-21-D, *Oneida Nation Assistance Fund*, and creates an approved program of the Nation to govern how the Nation provides financial assistance to its members, pursuant to the Oneida General Welfare law. It is the intent of the Oneida Nation Assistance Fund law that the Trust Enrollments Department be the body responsible for the collection, review, and permitted distribution of funds from the Oneida Nation Assistance Fund. Due to the fact that the Trust Enrollments Department is the body designated the responsibility to oversee both the Elder Assistance Program and the Oneida Nation Assistance Fund, the commenters concern regarding consistency in the oversight of these two (2) approved programs is moot, and there is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

### **Comments 9 through 10 – Replacement of Elder Per Capita:**

**Florence Petri (written):** 1. Is this replacing the elder percentage?

**Florence Petri (written):** If this is replacing percapita, elders shouldn't have to apply

### ***Response***

The commenter questions if the Elder Assistance Program law is replacing the elder per capita payment, and if so, provides that elders should not have to apply. The Elder Assistance Program is not a per capita payment.

Per capita payments are the distribution of money to all members of the Nation, or to identified groups of members, which is paid directly from the net revenues of tribal gaming activity. Per capita payments made to members are taxable, and can be utilized by the member however they wish.

Approved programs under the Oneida General Welfare law, such as the Elder Assistance Program, are established and operated to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.4-3(a)]. The Oneida General Welfare law provides that any assistance provided through an approved

program to a recipient shall be treated as a General Welfare Exclusion, and be non-taxable, as long as the following criteria of the General Test are met:

- The assistance is paid on behalf of the Nation;
- The assistance was provided pursuant to an approved program;
- The assistance does not discriminate in favor of members of the governing body of the Nation;
- The assistance is available to any member who meets the guidelines of the approved program;
- The assistance is provided for the promotion of general welfare;
- The assistance is not lavish or extravagant;
- The assistance is not compensation for services; and
- The assistance is not a per capita payment. [10 O.C. 1001.4-2, 1001.4-3].

General welfare assistance provided under an approved program of the Nation can only be used for the purpose stated in the approved program description. [10 O.C. 1001.5-4]. Assistance provided through approved programs is funded through the Nation's budget, or through third-party funding if available. [10 O.C. 1001.5-3]. The Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which is derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund, and any other funding source deemed necessary by the Oneida Business Committee. [10 O.C. 1002.6-1].

Overall, the Oneida General Welfare law provides a separate mechanism than per capita payments to provide assistance to members of the Nation on a non-taxable basis to best meet their general welfare needs. It is the intent of the Nation that the Elder, Education and General Welfare Trust Fund will transition from funding elder per capita payments to funding elder general welfare assistance instead.

Both the Per Capita law and the Elder Assistance Program law require an individual to submit an application to be eligible to receive a payment. [1 O.C. 123.5-2, 10 O.C. 1002.5-3].

There is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

### **Comment 11 – Effect on Existing Programs:**

**Florence Petri (written):** 2. Does this affect the Aging program Home repair program and major home program, Community Support program and burial fund?

### ***Response***

The commenter questions whether the Elder Assistance Program will effect the Nation's home repair program, Community Support program, or burial fund program. No, the Elder Assistance Program will have no effect on existing programs of the Nation. The Elder Assistance Program is

a separate approved program of the Nation which has been created for the purpose of providing financial assistance to elders of the Nation to address the unique and compounding general welfare needs of elders. [10 O.C. 1002.4-1]. There is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment. The Elder Assistance Program is funded through the Elder, Education and General Welfare Trust Fund, which was derived from the Emigrant NY Indian Claims Award Docket 75 Trust Fund. [10 O.C. 1002.6-1]. The Oneida Business Committee may also fund the Elder Assistance Program through any other funding source in addition to the Elder, Education and General Welfare Trust Fund if deemed necessary. *Id.* Other programs of the Nation such as the Community Support Fund and the Oneida Life Insurance Plan Plus (OLIPP) are funded through other separate means.

### **Comment 12 – Residency on Reservation Requirements:**

#### **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.**

**Florence Petri (written):** 3. Is this Reservation only?

### ***Response***

The commenter questioned if residency on the Reservation will be required to received assistance from the Elder Assistance Program. No, residency on the Reservation is not an eligibility requirement for the Oneida Nation Assistance Program. The Elder Assistance Program is open to any individual who is:

- A member of the Nation;
- Age sixty-five (65) or older; and
- Submits a completed application during the designated submission timeframe. [10 O.C. 1002.5-1(a)-(c)].

There is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

## Comment 13 – Declaration of Need:

### 1002.5. Guidelines and Requirements

**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:

(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

**Florence Petri (written):** 4. Where do you get the declaration?

### *Response*

The commenter questions where an individual can get the declaration that is required by section 1002.5-3(a)(1)(H) of the Law. The Law provides that the application must require a 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. [10 O.C. 1002.5-3(a)(1)(H)]. It is intended that the individual be able to make this declaration right on the application for assistance from the Elder Assistance Program. Most recently, on a different application for assistance from an approved program of the Nation under the Oneida General Welfare law, the declaration was made on the application form by checking a box on the application. There is no revision to the Law recommended based on this comment.

### *LOC Consideration*

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

## Comment 14 – Release of Information:

### 1002.5. Guidelines and Requirements

**1002.5-3(b)(1)** The information provided in the Elder Assistance Program application form may be provided to any department, division, or personnel that processes the applications.

**Florence Petri (written):** 5. Line 98-99. Instead of using any, use only to and specify. Will there be a Release of info form?

### *Response*

The commenter questions if there will be a release of information form for the Elder Assistance Program. The Law provides that the information provided in the Elder Assistance Program application form may be provided to any department, division, or personnel that processes the applications. [10 O.C. 1002.5-3(b)(1)]. Therefore, there will not be a release of information form

for an individual to authorize the release of their information, as the Law already provides that the information may be shared with any department, division, or personnel that processes the application.

### ***LOC Consideration***

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

### **Comment 15 – Other Options:**

**Florence Petri (written):** Other options: Instead of paying for home repairs, why don't tribe pay for policies that cover home repairs. Examples:

American Home Shield  
Choice Home Warranty  
First American

Instead of paying for Home Care Assistance, why don't tribe pay for Long Term Care Insurance policies. Example:

Medicare Supplements  
Medicap policies

Tribe gets funds for an Information & Referral Specialist and Elder Benefits Specialist who can assist in these resources available for Home & Community based services. Aging and Disability resource centers are a critical entry point who provides options counseling and enrollment services to Family Care and Self direct programs

Shouldn't the tribe be payor of last resort after all other resources have been exhausted.

### ***Response***

The commenter questions the use of resources in the Elder Assistance Program, and whether it would be better suited if the Nation was a payor of last resort after other resources and services that are available to elders are utilized first. Overall, the purpose of this Law is to provide general welfare assistance to elders – in addition to any other program or service that may be out there – to ensure that the Nation's elders remain confident that their general welfare needs can be met. [10 O.C. 1002.1-2]. Whether to create the Elder Assistance Program and provide general welfare assistance to the Nation's elders is a policy decision for the Legislative Operating Committee, and the Legislative Operating Committee has determined to pursue the development of this law. There is no revision to the Law recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

**Comment 16 – Purpose of Law:**

**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 principles of General Welfare Exclusion.

**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.

**Florence Petri (written):** Not sure of the reasoning for this law or purpose.

**Response**

The commenter questioned the purpose of this Law. 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 principles of General Welfare Exclusion and the Oneida General Welfare law. [10 O.C. 1002.1-1]. 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. [10 O.C. 1002.1-2]. There is no revision to the Law recommended based on this comment.

**LOC Consideration**

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.

**Comment 17 – Qualifying Expenditures:**

**1002.5. Guidelines and Requirements**

**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.

**Florence Petri (written):** Who determines what's considered qualifying expenses?

***Response***

The commenter questions who determines what is considered a qualifying expenditure. The Law provides that the following types of expenses shall be considered qualifying expenditures for use of assistance from the Elder Assistance Program by the recipient:

- costs relating to housing needs of principal residences such as:
  - mortgage payments, rent payments, and down payments;
  - enhancements for habitability of housing;
  - basic housing repairs or rehabilitation;
  - improvements to adapt housing for special health needs;
- costs for paying utility bills and charges, including, but not limited to, the following:
  - water;
  - electricity;
  - gas;
  - basic communication services such as:
    - phone;
    - internet; and
    - cable;
- costs associated with food security;
- costs associated with home care assistance;
- costs associated with vehicle payments, maintenance, repair, and insurance;
- costs associated with medical care and transportation, room, and board costs for seeking medical care;
- funeral and burial expenses and expenses for attending wakes, funerals, burials, bereavements, and subsequent honoring events; and
- costs related to any other emergency circumstance. [10 O.C. 1002.5-5].

A recipient may use the assistance received from the Elder Assistance Program for any of the types of qualifying expenditures listed in section 1002.5-5 of the Law. The recipient is responsible for retaining receipts for the expenditure of the funds associated with the Elder Assistance Program.

[10 O.C. 1002.5-7]. All assistance provided through an approved program shall be used for the purpose stated in the approved program description. [10 O.C. 1001.5-4]. If assistance is used or pledged for a purpose inconsistent with the purpose set forth in an approved program, then the payment shall be deemed forfeited. *Id.* The Nation may secure repayment from any recipient who forfeited their assistance. *Id.*

There is no revision to the Law recommended based on this comment.

***LOC Consideration***

The Legislative Operating Committee agreed there is no revision to the Law necessary based on this comment.