

Title 10. General Welfare Exclusion - Chapter 1004
ONEIDA LIFE INSURANCE PLAN

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1004.1. Purpose and Policy

1004.1-1. *Purpose.* The purpose of this law is to provide a death benefit through the Oneida Life Insurance Plan (OLIPP) for all eligible enrolled Oneida Nation members, pursuant to the Oneida General Welfare law.

(a) The General Tribal Council, through resolution GTC-01-17-09-B, approved the concept of the Oneida Life Insurance Plan Plus to replace the Oneida Burial Fund. The General Tribal Council directed implementation of a benefit that pays fifteen thousand dollars (\$15,000) to the designated beneficiary or beneficiaries of the deceased Oneida Nation member. The payment of death benefits through OLIPP to designated beneficiaries of a deceased Oneida Nation member is an exercise of self-governance crucial to the Oneida Nation's sovereignty, and health and welfare of the community.

1004.1-2. *Policy.* It is the policy of the Nation to care for its members and their families even after their death. The Nation seeks to internalize the Oneida Life Insurance Plan process to ensure equitable and expedient distribution to designated beneficiaries.

1004.2. Adoption, Amendment, Repeal

1004.2-1. This law was adopted by the Oneida Business Committee on an emergency basis by resolution BC-09-28-22-C.

1004.2-2. This law may be amended or repealed by the Oneida Business Committee or the General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

1004.2-3. 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.

1004.2-4. 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.

1004.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

1004.3. Definitions

1004.3-1. 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) "Benefit" means the fifteen thousand dollars provided (\$15,000) to pay for funeral expenses of an enrolled member of the Nation, with any residual amounts paid thereafter to the designated beneficiary.

(c) "Decedent" means the deceased person.

(d) "Designated Beneficiary" means any person(s) designated by the enrolled member of the Nation, through the approved beneficiary designation form, to receive all or a portion of the decedent's Oneida Life Insurance Plan benefit.

(e) “Funeral Expenses” means the cost of the funeral of the decedent accrued and invoiced by the funeral home including, but not limited to, the following:

- (1) funeral planning;
- (2) securing the necessary permits and copies of death certificates;
- (3) preparing the notices;
- (4) sheltering the remains;
- (5) coordinating the arrangements with the cemetery, crematory or other third parties;
- (6) transporting the remains;
- (7) embalming and other preparation;
- (8) use of the funeral home for the viewing, ceremony or memorial service;
- (9) use of equipment and staff for a graveside service;
- (10) use of a hearse or limousine;
- (11) a casket, outer burial container or alternate container; and
- (12) cremation or interment.

(f) “Nation” means the Oneida Nation.

1004.4. Establishment

1004.4-1. *Establishment.* The Oneida Life Insurance Plan is hereby established as an approved program of the Nation in accordance with the Oneida General Welfare law. The purpose of the Oneida Life Insurance Plan is to provide fifteen thousand dollars (\$15,000) of financial assistance to eligible members of the Nation to pay for funeral expenses, with any residual benefit amounts paid thereafter to the designated beneficiary.

1004.4-2. *General Welfare Exclusion.* The Oneida Life Insurance Plan 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 5.01(1); and the requirements of the Tribal General Welfare Exclusion Act of 2014, 26 U.S.C. §139E(b).

(a) The assistance provided through the Oneida Life Insurance Plan is:

- (1) paid on behalf of the Nation;
- (2) pursuant to an approved program of the Nation;
- (3) does not discriminate in favor of members of the governing body of the Nation;
- (4) available to any eligible member of the Nation who meets the guidelines of the approved program;
- (5) provided for the promotion of general welfare;
- (6) not lavish or extravagant;
- (7) not compensation for services; and
- (8) not a per capita payment.

(b) . I.R.S. Rev. Proc. 2014-35, section 5.02(2)(e)(iv) lists funeral, burial, and expenses related to a death as Safe Harbor program for which need is presumed.

1004.5. Qualifications, Designation of Beneficiary, and Notice

1004.5-1. *Eligibility.* All members of the Nation shall qualify for benefits from the Oneida Life Insurance Plan to be used for funeral expenses first, with any residual benefits distributed to a designated beneficiary.

(a) Newly enrolled members of the Nation shall be covered the date their enrollment application is approved by Oneida Trust Enrollment Committee and Oneida Business

Committee.

(b) Members of the Nation that have relinquished their membership shall not be covered from the date their relinquishment request is approved by the Oneida Trust Enrollment Committee and Oneida Business Committee.

1004.5-2. *Designation of Beneficiary.* A member of the Nation shall complete the Oneida Trust Enrollment Committee approved beneficiary designation form and submit it to the Oneida Trust Enrollment Committee, either online or in person at the Oneida Trust Enrollment Office, prior to their death in order to secure benefits from the Oneida Life Insurance Plan for their beneficiary.

(a) Any Oneida Life Insurance Plan beneficiary designation forms submitted prior to the effective date of this law shall remain valid.

(b) Oneida Life Insurance Plan residual benefits shall not be paid or claimed if the decedent did not designate a living beneficiary though the beneficiary designation form.

(c) This section shall not be enforced during the initial one hundred and eighty (180) days after the effective date of this law, thereby creating a one hundred eighty (180) day grace period to permit members of the Nation to complete and submit designated beneficiary forms.

(d) A parent or legal guardian may complete and submit a beneficiary designation form on behalf of their minor child or ward.

(e) Funeral expenses shall be paid directly to the funeral home upon submission of a valid invoice, up to the limit of the Oneida Life Insurance Plan benefits, even if a designated beneficiary has not been designated.

1004.5-3. *Notice of Death.* The Oneida Trust Enrollment Department shall be notified within one (1) year of the member of the Nation's death in order to distribute the Oneida Life Insurance Plan benefits to the beneficiary. Oneida Life Insurance Plan claims made beyond the first anniversary of the decedent's death shall not be processed for distribution.

1004.5-4. *Oversight.* The Trust Enrollment Department shall be delegated the oversight and management of the Oneida Life Insurance Plan.

1004.6. Beneficiary Claim Process and Distribution

1004.6-1. *Evidence as to Passing or Status.* In proceedings under this law, the following rules relating to determination of death and status are applicable:

(a) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie proof of the fact, place, date and time of death, and the identity of the decedent;

(b) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, of a decedent's death; and

(c) A person who is absent for a continuous period of seven (7) years, during which they have not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead. Their death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

1002.6-2. *Effect of Homicide on Beneficiary Designation.* A designated beneficiary who criminally and intentionally causes the death of the decedent shall not be entitled to any benefits passing under this law.

1002.6-3. *Distribution.* Oneida Life Insurance Plan benefits shall be distributed in the following order:

- (a) Funeral expenses shall be paid to the funeral home pursuant to receipt of a valid invoice therefrom;
- (b) Residual benefits shall be paid to the designated beneficiary;
- (c) Residual benefits shall escheat to the Nation if the decedent did not designate a beneficiary for the Oneida Life Insurance Plan benefits in accordance with this law.

1004.7. Funding

1004.7-1. *Funding Source.* The Oneida Life Insurance Plan shall be contingent on funding through the Nation's annual budget.

End.

Emergency Adopted – BC-09-28-22-C
Emergency Extension – BC-03-22-23-C