

**POLICY: ELEVATED LONGEVITY, DISABILITY/HEALTH
EXPENSE REALIGNMENT STIPEND
(“ELDER Stipend”)**

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I. Purpose:

The purpose of this general tribal welfare program is to increase overall tribal health and educational attainment and to ameliorate the negative effects of termination on tribal individuals, families and the Tribe as a whole, by providing a payment that can be used to offset the additional expenses associated with persons over the age of fifty-five who have suffered personal, family, or tribal injury as a result of termination, because the Tribe looks to these persons to lead our progress. This policy hereafter refers to the program as the “ELDER Stipend” Program.

II. Findings:

The Siletz Tribal Council makes the following findings:

1. All Siletz Tribal members and/or descendants who were living during termination were negatively impacted by termination, whether as an individual, a family member, and/or tribal community member.
2. These included impacts to health, educational attainment, increased debt and decreased opportunity;
3. The entire Tribe is impacted by lingering effects of termination;
4. When a tribal member reaches the age of fifty-five (55), their disability and/or health costs increase (including costs of medical, dental, nutritional, transportation, personal care and wellness), creating need that impacts the individual, their families, and the Tribe, and overall Tribal health and educational attainment.

III. How the Program works:

1. Eligibility for the ELDER Stipend is not dependent on income, but on elevated need.
2. On or before November 15th of each year, the Enrollment Department will issue a certified report that lists the following:
 - a. All the tribal members who have attained the age of fifty-five (55) years and older, but who have not yet attained the age of sixty-two (62); and
 - b. All the tribal members who have attained the age of sixty-two (62) years and older, but who have not yet attained the age of seventy (70); and
 - c. By month, all the tribal members that will turn fifty-five (55) during the upcoming year; and
 - d. By month, all the tribal members in category (a) who will reach sixty-two (62) years of age during the upcoming year.
3. Prior to issuing the report, the Enrollment Department will review the materials on file to confirm that the persons listed will be eligible to receive the ELDER Stipend. The report may be issued in conjunction with, or combined with, any list required under any other Tribal Program.
4. The Enrollment Department will provide the report to the Tribal Council, the General Manager, and the Elders Program Coordinator, and they may provide it to other tribal employees

for official reasons only. The certified report will be treated as confidential and subject to the provisions of the Tribal Personnel Manual, Section 612, Confidential/Privileged Information.

5. The Elders Program Coordinator will review the Date of Birth information provided by Enrollment and verify the month of the participant's eligibility.

6. The Tribe will issue monthly payments to eligible participants in the amounts directed by Tribal Council resolution, adding newly eligible participants each month as the participants become eligible. Tribal Council may, by resolution, select to provide different participant levels based on objective, non-discriminatory eligibility criteria.

7. Eligibility for the ELDER Stipend is prospective, not retroactive.

8. Monthly payments will be mailed on the 1st day of each month. If the 1st day of the month falls on a week-end or Tribal holiday, payment will be mailed on the preceding workday.

9. All payments will be mailed to eligible participants at the address on file with the Enrollment Department, a participant may choose to have their payment made by direct deposit to their financial institution, or a participant may choose to have payments made directly to the Siletz Tribal Housing Department (STHD) for the sole purpose of maintaining a current residence. Payments will not be available for pick-up or for any other form of distribution except mailing, direct deposit, or vendor pay to STHD. All participants must provide the Enrollment Department with a valid address. If a participant chooses direct deposit or vendor pay, the participant must complete the form developed for that purpose and submit the form to the Elders Program Coordinator for processing. The forms may be obtained from the Elders Program Coordinator and the forms will also be available on the CTSI web-site.

10. If a participant fails to claim an ELDER Stipend payment within 180 days, the funds shall be moved to an Unclaimed Funds account. The Elders Program Coordinator shall cause the names of participants with funds in the Unclaimed Funds account to be published in the Elder's Newsletter quarterly, and in the Siletz News twice a year. Upon receipt of a complete notarized application requesting distribution of the funds to the participant, the Tribe shall disburse the funds, which will consist of the principal amounts deposited into the Unclaimed Funds account, but not including any interest thereon, to the participant. Any person with knowledge of a participant's whereabouts, health status, or need for guardianship assistance, may provide that information to the Tribal Trust Officer, in writing or by telephone contact. If unclaimed funds are not claimed within one year of the date they were distributed, such funds will be forfeited.

IV. Who Is Eligible?

1. A participant is eligible only if:
 - a. The participant is an enrolled Siletz Tribal member;
 - b. The participant has a copy of a valid Social Security card on file with the Enrollment Department;
 - c. The participant is not a beneficiary of any other Siletz tribal stipend based on elder status; and

- d. The participant is living and at least fifty-five (55) years of age on or before the last day of the month before a payment will be made;
- *Example: If Mary turns fifty-five on February 7th, then she will be eligible for her first monthly distribution on March 1st. If Joe turns fifty-five on March 1st, then he is eligible for the April payment, but he will not be eligible for the March payment.*

AND

- e. The participant was impacted by termination, whether as an individual, a family member, and/or tribal community member, whether in the form of impacts to health, educational attainment, increased debt, and/or decreased opportunity;

AND

- f. The participant has any financial need as a result of the increased costs of medical, dental, nutritional, transportation, personal care and/or wellness, or if the participant's elevated health/disability costs have any financial impact on the participant's family or tribal resources.
2. Because Tribal Council has found that the criteria in sub-sections (e) and (f) have been met by any person living during termination who has reached the age of fifty-five years, an otherwise eligible participant must affirmatively opt-out of the program as described in Section VIII below if the participant wishes to rebut the presumption that they meet these two criteria.
3. All participants meeting the above criteria are eligible as Level I participants.
4. A participant meeting the following additional criterion is eligible as a Level II participant:
- a. The participant is living and at least sixty-two (62) years of age on or before the last day of the month before a payment will be made.
 - *Example: If Mary turns sixty-two on February 7th, then she will be eligible for her first monthly distribution as a Level II participant on March 1st. If Joe turns fifty-five on March 1st, then he is eligible as a Level II participant for the April payment, but he will only be eligible as a Level I participant for the March payment.*

V. How Do You Know When You Are Eligible, and What if the Tribe Overlooks You?

1. **Tribal Notification of Eligibility:** Before November 30th of each year, the Tribe will send a notice to each tribal elder who will become an eligible participant during the upcoming year to inform the elder of the month that the monthly payments will begin, their participant level, and to remind them of the eligibility requirements and need for a valid address.
2. **Alternative Application:** If you do not receive notice of your upcoming eligibility, or if you otherwise question whether your eligibility has been overlooked or your participant level miscalculated, you should notify the Elders Program Coordinator as soon as possible, because ELDER Stipend payments are not retroactive. The Elders Program Coordinator will inform you in writing within ten (10) days:
- a. If you are eligible, the month, participant level, and an approximate time frame that the payment will be available; OR
 - b. If you are not eligible, a clear explanation of why you are ineligible and how you can appeal the decision.

VI. What if A Participant Cannot Take Care of Their ELDER Stipend Payments Themselves?

1. As a rule, the Tribe presumes that every participant is entitled to directly receive their ELDER Stipend, but if the Tribe receives credible evidence from any person with a legitimate concern that a participant is “under a legal disability,” which means the participant would not be capable of receiving, preserving or reasonably expending the ELDER Stipend if such funds were directly disbursed to the participant, then the Elders Program Coordinator, or such other person as the General Manager may appoint, may investigate by asking the participant, Tribal Employees, and/or other witnesses for relevant information, including documentation.
2. If the investigation shows that the participant is, or may be, under a legal disability, then the Elders Program Coordinator shall, within five (5) days, petition the Tribal Court to adjudge the participant as subject to a legal disability.
3. The Tribal Court may determine that a participant is subject to a legal disability upon finding, by a preponderance of evidence, that the participant would be unable to receive, preserve or reasonably expend ELDER Stipend payments if such funds were directly disbursed to the participant.
 - a. The Court may take judicial notice of a court order from any court of competent jurisdiction that has placed the participant in the legal custody of a guardian, conservator or institution because of a legal disability and treat such order as *prima facie* evidence of the participant’s legal disability; or
 - b. The Court may take judicial notice of the designation of a guardian, conservator or other form of trustee made by a federal or state agency for purposes of distribution of funds for the benefit of an adult who is subject to a legal disability and may treat such designation as *prima facie* evidence of the participant’s legal disability.
 - c. Upon a finding of legal disability, and unless it finds good cause to the contrary, the Tribal Court shall issue an order that the participant’s ELDER Stipend may be:
 - (1) Paid to an appropriate guardian, conservator or legal custodian, subject to the guardian’s duty to account annually to the Court.
 - (2) The Court may take a properly executed Durable Power of Attorney or similar document as *prima facie* evidence that payment should be made directly to the guardian.
 - (3) If the Court finds extraordinary good cause, the Court may order that a participant’s ELDER Stipend may be placed in a trust account under the Tribal Trust Officer’s supervision. Monies held in trust may be disbursed only for extraordinary purposes and upon petition and order by the Tribal Court.
 - d. Monies paid to the guardian pursuant to (c)(1) may be disbursed to the benefit of the participant according to the discretion of the guardian and subject to the guardian’s duty to account annually to the Court.
 - e. The Tribal Court shall order any guardian directly receiving ELDER Stipend payments to file an annual accounting with the Court showing that the guardian has disbursed those funds to the benefit of the participant. For purposes of the accounting, a participant is benefited by any disbursement of funds that supports a healthy and happy lifestyle and meets the participant’s needs.

- f. If a court of competent jurisdiction determines that a participant is no longer subject to a legal disability and releases the participant from the custody of a guardian, conservator or institution, any ELDER Stipend funds being held for the benefit of that participant will be disbursed directly to the participant, and all further payments will be paid directly to the participant. The participant shall submit the Order that released the participant from disability, along with a notarized application, to the Elders Program Coordinator who will have ten (10) days to review and process the application.

VII. What if A Participant Passes Away?

1. Any participant who is alive on the cut-off date for an ELDER Stipend payment (the last day of the month prior to that month's payment) is entitled to disbursement of the ELDER Stipend payment for that month. The participant will not be eligible for the next month's payment and the payments will end.
 - *Example: If John passes away on March 31st, then he will not be eligible for the April payment. If Susan passes away on May 15th, she will be eligible for the May payment she already received, but she will not be eligible for the June payment.*
2. If the Tribe makes an ELDER Stipend payment after a participant is deceased, it should be returned to the Elders Program Coordinator.
3. In the event an eligible participant dies between the eligibility cut-off date and the date when the ELDER Stipend payment is mailed, that participant's ELDER Stipend payment shall be disbursed to the participant's legal heirs according to applicable probate law, or if all the legal heirs agree in writing on some alternative disbursement, then as agreed.
 - a. It shall be the responsibility of the heirs to provide sufficient proof to the Elders Program Coordinator for the Tribe to prepare a petition to Tribal Court to determine who should receive the deceased participant's ELDER Stipend payment(s).
 - b. The Elders Program Coordinator may adopt regulations approved by Tribal Council to carry out the requirements of any tribal trust program to facilitate carrying out this section.
 - c. The Tribe may petition the Tribal Court for a determination of heirs, and shall disburse the deceased member's distribution monies to the person or persons identified in the Tribal Court's order.
 - d. In the event a deceased tribal member's estate is subject to a probate proceeding, or other legal proceedings have been initiated by creditors or other persons or entities seeking to obtain the deceased member's assets, the Tribe may pay the ELDER Stipend payment(s) which would have been disbursed to that eligible participant into the court for disbursement as the court determines.

VIII. What If You DO NOT Want to Receive the ELDER Stipend payment?

If you (or your Guardian, Conservator, or other Trustee) do not want to receive the ELDER Stipend payment, for any reason, submit a letter in writing to the Elders Program Coordinator. The Elders Program Coordinator will route copies of your letter to the Program Manager, the Tribal Trust Officer, the Accounting Department, and to Tribal Court, if you have a

guardianship. You will not receive any more payment checks, and will only receive a 1099 Tax Form for any funds already received during that year.

If you change your mind and want to receive the ELDER Stipend again, you (or your Guardian, Conservator, or other Trustee) should put your request in writing and submit it to the Elders Program Coordinator, using the same process described under Section IV(2) above.

X. Appeals.

Any applicant or participant who is negatively and materially affected by a decision pertaining to the ELDER Stipend may appeal the decision in writing within twenty (20) days after the date of the decision to the Program Manager. The Program Manager shall review the appeal, schedule and conduct a hearing, if necessary, within ten (10) days. The hearing may take place at a central location or by telephone conference. In the event the participant disagrees with the Program Manager's decision, the participant may, within ten (10) days, appeal to the General Manager. The General Manager shall have ten (10) days to review the administrative record and render a final decision.