

***POLICY: HONORED ELDERS STIPEND
("HES")***

TABLE OF CONTENTS

I.	PURPOSE.....	2
II.	HOW THE PROGRAM WORKS.....	2
III.	WHO IS ELIGIBLE?	3
IV.	HOW DO YOU KNOW WHEN YOU ARE ELIGIBLE, AND WHAT IF THE TRIBE OVERLOOKS YOU?.....	3
V.	WHAT IF A PARTICIPANT CANNOT TAKE CARE OF THEIR PAYMENTS THEMSELVES?	3
VI.	WHAT IF A PARTICIPANT PASSES AWAY?	4
VII.	WHAT IF YOU <u>DO NOT</u> WANT TO RECEIVE THE HONORED ELDERS STIPEND?	5
VIII.	APPEALS.....	5

I. Purpose:

The purpose of this benefit program is to afford Tribal elders who have reached the age of seventy (70) years, identified as “honored elders,” support for a healthy and happy lifestyle and to begin to meet the needs of these elders by providing a monthly stipend. The stipend is hereafter referred to as the Honored Elders Stipend (“HES”).

II. How the Program works:

1. Eligibility for the HES is not dependent on income.
2. On or before November 15th of each year, the Enrollment Department will issue a certified report that lists:
 - a. All the tribal members who have attained the age of seventy (70) years and older; and
 - b. By month, all the tribal members that will turn seventy (70) 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 HES.
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 elder’s eligibility.
6. The Tribe will issue monthly payments to eligible participants in the amount directed by Tribal Council resolution, adding newly eligible participants each month as the participants become eligible.
7. Eligibility for HES payments is prospective, not retroactive.
8. Monthly payments will be distributed 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 made 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 a monthly payment 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 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 HES payment within 180 days, the funds shall be moved to an Unclaimed Distribution Funds account. The Elders Program Coordinator shall cause the names of participants with funds in the Unclaimed Distribution 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. If such funds are not claimed within one year of the date they were distributed, such funds will be returned to the Tribe for redistribution.

III. 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; and
 - c. The participant is living and at least seventy (70) years of age on or before the last day of the month before a payment will be made.
 - *Example: If Mary turns seventy on February 7th, then she will be eligible for her first monthly distribution on March 1st. If Joe turns seventy on March 1st, then he is eligible for the April payment, but he will not be eligible for the March payment.*

IV. 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 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, you should notify the Elders Program Coordinator as soon as possible, because HES payments are not retroactive. The Elders Program Coordinator will inform you in writing within ten (10) days:
 - a. If you are eligible, the month 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.

V. What if A Participant Cannot Take Care of Their HES Payments Themselves?

1. As a rule, the Tribe presumes that every participant is entitled to directly receive their HES payments, 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 HES payments 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 HES 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 HES payments 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 HES payments 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 HES 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 HES 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.

VI. What if A Participant Passes Away?

1. Any participant who is alive on the cut-off date for a HES payment (the last day of the month prior to that month's payment) is entitled to disbursement of the HES payment for that month. The participant will not be eligible for the next month's HES 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 a HES 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 HES payment is mailed, that participant's HES 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 HES 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 HES payment(s) which would have been disbursed to that eligible participant into the court for disbursement as the court determines.

VII. What If You DO NOT Want to Receive the Honored Elders Stipend?

If you (or your Guardian, Conservator, or other Trustee) do not want to receive the Stipend, 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 stipend checks, and will only receive a 1099 Tax Form for any stipend funds received during that year.

If you change your mind and want to receive the stipend funds 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.

IX. Appeals.

Any applicant or participant who is negatively and materially affected by a decision pertaining to the HES 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.