

General Welfare Assistance Program for Band Members Who Are Age 65 or Older and Band Members Who Are Blind or Have a Disability

Office of Management and Budget

*(Note: Program Payments to ABD Band Members Only Occur If Funded Through The Appropriations Process)
(Effective September 1, 2024)*

§ 1. Purpose.

- (a) The purpose of this program is to assist living enrolled members of the Band who are Age 65 or Older, and Band Members who are Blind or have a Disability (ABD Band Members) to maintain their health, well-being, independence, and quality of life. The Band has a responsibility to protect and promote the general welfare interests of the ABD Band Members and to assist in providing for their supplemental needs .
- (b) This program is designed to provide general welfare assistance to ABD Band Members for services, activities, and needs, including medical expenses; housing and utility expenses; energy assistance; health and wellness activity expenses; social services expenses; cultural, spiritual and educational expenses; and other related expenses as described herein. It is the Band’s intent that the assistance provided pursuant to this chapter will meet the criteria set forth in Revenue Procedure 2014-35, including any subsequent Internal Revenue Service guidance, and the Tribal General Welfare Exclusion Act of 2014, and Internal Revenue Code Section 139D (together, Tribal GWE) for treatment as a tax-exempt benefit. The Band further intends that the assistance provided pursuant to this chapter will meet the criteria for “assistance based on need” for purposes of determining eligibility for SSI.

§ 2. Authority.

This program is established pursuant to the authority vested in the Band Assembly by Title 3, Section 3 (a) of Mille Lacs Band Statutes (MLBS), to enact laws which promote the general welfare of the people; and pursuant to the Tribal General Welfare Exclusion Act of 2014, codified under Internal Revenue Code Section 139E, which excludes from gross income, for income tax purposes, the value of general welfare assistance that may be provided to an ABD Band Member.

§ 3. Definitions.

- (a) **“ABD Band Member”** means a living enrolled member of the Band 18 years of age and older, on the date any benefit is awarded, who (1) satisfies any of the following: (i) is Age 65 or Older, (ii) is Blind, or (iii) has a Disability; (2) is eligible for SSI or has annual gross income of less than \$55,000; and (3) is not otherwise excluded from receiving any benefit of the program, per Band law.
- (b) **“Administrator”** means the Band’s Office of Management and Budget which is responsible to execute administrative functions related to this Program.
- (c) **“Age 65 or Older”** means a living enrolled member of the Band who turns 65 years old in the month benefits under this Program are to be provided.
- (d) **“Band”** means the Non-Removable Mille Lacs Band of Ojibwe.
- (e) **“Beneficiary”** means the ABD Band Member who receives needs-based general welfare assistance payments pursuant to this Program.
- (f) **“Blind”** means a living enrolled member of the Band who has been certified as blind by either the Social Security Administration (SSA) or the Minnesota State Medical Review Team (SMRT).
- (g) **“Dependent”** means a child or individual who is legally dependent for the fiscal year, within the meaning of Internal Revenue Code §152, as modified by Section 139E.
- (h) **“Disability”** means a medically determinable physical or mental impairment, which results in marked and severe functional limitations that can be expected to result in death or which have lasted or can be expected to last for a continuous period of not less than 12 months. A Beneficiary shall not be considered to have a Disability if he or she engages in substantial gainful activity. A living enrolled member of the Band who has been certified as disabled by either SSA or SMRT shall qualify as having a Disability under this Program.
- (i) **“Eligible cost documentation”** means documentation that substantiates the monthly assistance paid to a Beneficiary of this Program pursuant to Section 5 of this program.
- (j) **“Fiscal year”** means the 12-month period commencing October 1 and ending September 30 of each year.
- (k) **“Health and wellness”** means nutritionist support and counseling for the purposes of weight loss, diabetes prevention, heart disease, and other health risks, including for families; fitness training, facility membership fees, and coaching fees, including for

families; therapeutic massage, wellness programs, and counseling for diabetes, heart disease, and other health risks, including for families; substance abuse programs and counseling, including for families; and mental health programs and counseling, including for families.

- (l) **“Housing”** means the cost for a principal residence up to the amounts that must be paid each month for rent or mortgage payments, including principal, property taxes, private mortgage or hazard insurance, and homeowners’ association dues.
- (m) **“In-home services”** means assistance provided by a family member or licensed, third-party care provider that includes, but is not limited to, preparation of meals, housekeeping, shopping, assistance with personal care, assistance with bookkeeping and bill paying, and handyman services.
- (n) **“Incapacitated member”** means any Beneficiary who has been declared legally incompetent by any tribal, state, or federal court with the legal authority to do so.
- (o) **“Monthly Assistance”** shall mean the total amount of Program assistance that may be paid to a beneficiary pursuant to Section 5 of this program.
- (p) **“Other medical assistance”** includes assistance for medical expenses and needs that are not otherwise covered by insurance or covered through other tribal, state, or federal benefits, including, but not limited to, in-home professional care from nurses, therapists or licensed care givers; extended nursing home stays; day care; hospice care; vision care; dental care; durable medical equipment; non-prescription drugs; transportation, meals and lodging for medical care away from home; and insurance co-pays and deductibles.
- (q) **“Principal residence”** means a primary residence which is occupied by the Beneficiary for more than a majority of the time during a fiscal year and is used exclusively as his or her principal home. Principal residence may also be determined based on the location of the ABD Band Member’s spouse and children, the ABD Band Member’s driver’s license, the address used for federal and state income tax purposes, where the ABD Band Member is registered to vote, and other legal indicia of residency. The residence may be real estate property in which the beneficiary has right, title or interest held by fee simple, by leasehold, including residential land leases and assignments, by tenancy in common, by tenancy in entirety, by joint tenancy, by fractional interest, or other certified legal right of use and occupancy. Qualifying residences include, but are not limited to, a single-family home, apartment, condominium, townhome, or other cooperative or fractional-ownership unit, and assisted living facilities.

- (r) **“Program”** means the General Welfare Assistance Program for Band Members Who Are Age 65 or Older and Band Members Who Are Blind or Have a Disability.
- (s) **“Shelter costs”** include costs associated exclusively with living in the ABD Band Member’s principal residence, including but not limited to, rent payments, damage or advance deposits on rental property, payments on mortgages secured by the ABD Band Member’s principal residence, payments related to reverse mortgages secured by the ABD Band Member’s principal residence, payments on trailers or mobile homes, including the property on which they rest, if utilized as the member’s principal residence, utility payments, mortgage insurance and related fees, homeowner’s insurance, rental insurance, personal property insurance for property located within and about the principal residence, property taxes, condominium and homeowner’s association fees, charges for regular maintenance and repair to make the principal residence habitable, unexpected or emergency repairs which are not reimbursed by insurance, and costs for replacing or repairing essential items of property for maintaining a habitable home.

§ 4. ABD Band Member Assistance Eligibility.

To be eligible for assistance pursuant to this Program, a Beneficiary must be an ABD Band Member. The Administrator shall take reasonable steps to identify ABD Band Members so that they can receive benefits under this Program.

§ 5. Monthly Assistance Limits.

Limitation. Monthly Assistance provided pursuant to this Program is available to any ABD Band Member, subject to appropriation of funds by the Band Assembly and ratification by the Chief Executive. The Monthly Assistance limit is subject to change from time to time, through the appropriation process. Monthly Assistance shall reflect a determination by the Administrator that this amount reasonably represents some or all of the additional financial assistance needs of its ABD Band Member population, for the types of costs of living reflected in Section 6 of this program, in order to support and maintain their general welfare as set forth in Section 1.

- (a) **Disbursement limits.** Disbursements of Monthly Assistance to an ABD Band Member under this Program will only be made in accordance with eligible cost documentation provided by the Administrator to the Band Assembly pursuant to Section 7 of this chapter.

- (b) **Non-Discrimination.** Monthly Assistance provided under this Program shall not discriminate in favor of any person, including any member of the governing body of the Band.
- (c) **Limitation on Liability.** Any agreement or contract for work performed in connection with this Program is solely between the ABD Band Member and a third party. The Band shall not be liable for any loss or damages whatsoever resulting from services performed in connection with assistance provided to a ABD Band Member under this Program, and no legal relationship shall be created between the Band and a third party on behalf of an ABD Band Member. Satisfaction of any monetary duty or obligation to a third party shall be owed and remain at all times with the ABD Band Member.
- (d) **Non-Compensation.** The benefits provided under the Program shall not be granted as compensation for services.

§ 6. Eligible Program Assistance.

Program assistance is limited to the following types of costs:

- (a) **Other Medical Assistance.** Assistance payments will only be authorized for services and equipment deemed medically necessary by a licensed care provider or medical expenses allowable under Tribal GWE that the Beneficiary is required to pay under Minnesota state law. Disbursement will be authorized only for licensed care providers, medical equipment providers, medical facilities, or as otherwise may be required under Minnesota state law, with the exception that payment for traditional Indian medicines may be made to a recognized Tribal Elder, official, or spiritual leader.
- (b) **In-Home Services.** If due to health issues the Beneficiary is having trouble with any two of the daily living tasks from the following list, the Beneficiary is eligible to receive financial assistance for in-home services:
 - (1) bathing;
 - (2) eating;
 - (3) transportation;
 - (4) cooking;
 - (5) dressing;
 - (6) walking;

- (7) light household chores;
 - (8) heavy housework; and
 - (9) organizing business affairs.
- (c) **Cultural, Social, Religious, Community and Educational Activities.** Substantiated expenses for transportation, food, lodging, and admission fees associated with the following activities and programs are eligible for assistance payments:
- (1) Attending or participating in educational, cultural, social, religious, or community programs and activities such as pow-wows, ceremonies, and traditional dances offered by the Band or any other tribe or tribal organization; and
 - (2) Visiting sites that are culturally or historically significant to the Band.
- (d) **Delivered Meals.** Assistance payments will only be authorized for licensed catering or community and tribal service organizations for the costs associated with preparing and delivering meals to the Beneficiary's primary residence. This category is limited to Beneficiaries with mobility issues.
- (e) **Housing, Repair and Rehabilitation Assistance.** Actual costs incurred by the Beneficiary for housing, basic repairs, and rehabilitation of his or her principal residence, including labor and materials for the following:
- (1) essential improvements;
 - (2) energy-related improvements;
 - (3) removal of lead-based paint hazards;
 - (4) improvements for handicapped accessibility;
 - (5) replacement of major housing systems;
 - (6) demolition costs, when part of a rehabilitation project;
 - (7) site improvements and utility connections;
 - (8) physical enhancements for crime prevention;

- (9) mold remediation;
 - (10) roof repair or replacement;
 - (11) removal of building code deficiencies;
 - (12) exterior or interior painting;
 - (13) installation or repair of water, sewage, and septic systems;
 - (14) heating or cooling systems;
 - (15) plumbing;
 - (16) flooring; and
 - (17) other basic housing repairs as reasonable in relation to the above listed facilities.
- (f) **Utility Assistance.** Assistance payments for actual costs incurred by the Beneficiary for utility company charges related to the use of services in his or her principal residence. Eligible utility company charges include those for landline and cellular phone services, electricity, gas, propane, internet, cable, water, sewer, and waste services.
- (g) **Dependent Care Assistance.** Assistance payments are authorized for dependent care as work-related expenses for children under the age of 13 or a spouse or relative that is not physically or mentally able to care for himself or herself.
- (h) **Health and Wellness Assistance.** Assistance payments are authorized for health and wellness expenses.
- (i) **Emergency Assistance.** Assistance payments are authorized for the following types of emergency and exigent circumstances:
- (1) to provide assistance to individuals in exigent, including but not limited to the cost of food, clothing, shelter, transportation, auto repair bills, and similar expenses, or to assist victims of abuse;
 - (2) to pay costs for temporary relocation and shelter for individuals displaced from their homes, including but not limited to situations in which a home is destroyed by a fire or natural disaster; and

- (3) to provide assistance for transportation emergencies in the form of return transportation costs, including a hotel room and meals during return travel.

§ 7. Documentation.

The Administrator shall verify eligibility for assistance paid to a Beneficiary and maintain eligible cost documentation to substantiate assistance limits established each fiscal year under this Program.

- (a) **Eligibility Determination.** The Administrator shall confirm the eligibility of each Beneficiary who receives assistance under this Program through information from the Band's Enrollments Department and the Band's Department of Health & Human Services.
- (b) **Monthly Assistance Limit.** For purposes of periodically testing the propriety of the assistance provided under this Program, at least once every two (2) years, the Administrator shall conduct due diligence research into the average monthly costs which an ABD Band Member may expect to incur for the types of eligible assistance costs reflected in Section 6 of this chapter. The monthly assistance limit shall always be less than or equal to the average monthly costs established through the due diligence process.

§ 8. Program Funds Disbursement Process.

- (a) Subject to Section 5 of this program, a Beneficiary is eligible to receive the maximum monthly assistance each month of the fiscal year that the program is approved.
- (b) Program assistance will be disbursed to or on behalf of the Beneficiary as follows:
 - (1) **Monthly Assistance Payment.** The Administrator will disburse the total Monthly Assistance amount to each Beneficiary on the first Thursday of the calendar month in accordance with the biennial budget approved by the Band, and any additional appropriations or continuing resolutions. Should it be necessary to change the date of payment due to unavoidable scheduling conflicts, OMB may change the date with prior notice.
 - (2) **Form of Payment.** The payment of Monthly Assistance shall be in the form of a direct deposit, or other electronic form of payment as approved by the Administrator, or by check payable to the Beneficiary, except in the case of an incapacitated member. Checks shall be mailed to the latest known address of the ABD Band Member.

§ 9. General Administrative Procedures.

- (a) **Record Maintenance.** The Administrator shall maintain the following files:
 - (1) for each Beneficiary, appropriate eligibility information including enrollment list from the Band's Enrollments Department and proof of disbursement of Program funds;
 - (2) for the Program, record of all due diligence research conducted to support the Monthly Assistance limit, including but not limited to the Minnesota Department of Employment and Economic Development Cost of Living data, and or any other Cost of Living data as may be available to the Band, pursuant to Section 7; and
 - (3) an annual ledger recording payment of Program assistance provided to a Beneficiary during the applicable calendar or fiscal year, as reasonably appropriate per accounting software systems. All ledgers shall be retained for a period of no less than seven (7) years.

- (b) **Audit.**
 - (1) Beneficiaries may be required to submit documentation demonstrating use of Monthly Assistance in accordance with the permitted uses as articulated in the Program or to attest or certify that the assistance is being used in accordance with this Program.
 - (2) Beneficiaries are required to use Program assistance exclusively for the purposes stated herein. In the event that assistance payments are used or pledged for a purpose inconsistent with the purposes set forth in this Program, the Administrator shall categorize the person as ineligible and immediately discontinue payments.

- (c) **Appeal Procedure.** Should the Administrator revoke eligibility of any ABD Band Member to the Program, the ABD Band Member may appeal the decision to the Band's Court of Central Jurisdiction.

§ 10. Miscellaneous.

- (a) **Severability.** If any provision of this program, or the application thereof to any person or circumstance, shall be held unconstitutional or invalid by the Band, only the invalid

provision shall be severed and the remaining provision and language of this program shall remain in full force and effect.

- (b) **No Waiver of Immunity.** All inherent sovereign rights of the Band as a federally recognized Indian tribe with respect to provisions authorized by this program are hereby expressly reserved, including sovereign immunity from unconsented suit. Nothing in this program shall be deemed or construed to be a waiver of the Band's sovereign immunity from unconsented suit.
- (c) **Effective.** This Program shall become effective and remain valid only to the extent that it is duly funded through the appropriation process.

Mel Towle, Commissioner of Finance

September 25, 2024

Date