



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #MOH-17-019

TITLE: Requesting Agencies to Comply with the Tribal General Welfare Exclusion Act, PL 113-168, by Recognizing the Treatment of Income for Purposes of Benefits Eligibility

EXECUTIVE COMMITTEE

PRESIDENT
Brian Cladoosby
Swinomish Tribe

FIRST VICE-PRESIDENT
Fawn Sharp
Quinault Indian Nation

RECORDING SECRETARY
Aaron Payment
Sault Ste. Marie Tribe of Chippewa Indians of Michigan

TREASURER
W. Ron Allen
Jamestown S'Klallam Tribe

REGIONAL VICE-PRESIDENTS

ALASKA
Jerry Isaac
Native Village of Tanacross

EASTERN OKLAHOMA
Joe Byrd
Cherokee Nation

GREAT PLAINS
Larry Wright
Ponca Tribe of Nebraska

MIDWEST
Roger Rader
Pokagon Band of Potawatomi

NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Mel Sheldon, Jr.
Tulalip Tribes

PACIFIC
Jack Potter, Jr.
Redding Rancheria

ROCKY MOUNTAIN
Darrin Old Coyote
Crow Nation

SOUTHEAST
Larry Townsend
Lumbee Tribe

SOUTHERN PLAINS
Liana Onnen
Prairie Band of Potawatomi Nation

SOUTHWEST
Joe Garcia
Ohkay Owingeh Pueblo

WESTERN
Bruce Ignacio
Ute Indian Tribe

EXECUTIVE DIRECTOR
Jacqueline Pata
Tlingit

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, under the Tribal General Welfare Exclusion Act of 2014, Pub.L. 113-168, 128 Stat. 1883 (codified at 26 U.S.C. § 139E) (the “Act”), Congress immunized certain benefits provided by federally-recognized Indian tribes to their citizens or members from federal income taxation; and

WHEREAS, the Act enables Tribes to provide certain benefits to its citizens either directly or in the form of financial support, in order to meet basic living needs such as meals, housing, and education, as well as support for elders to ensure that their basic housing, utility and medical needs are met, among others; and

WHEREAS, the IRS issued additional guidance making it clear that general welfare benefits provided by a tribal government are not to be included as income for the tribal citizen who receives the benefit (Revenue Procedure 2014-35); and

WHEREAS, other state and federal programs, such as the Washington State Health Care Authority and its MAGI Medicaid Program Requirements; the Centers for Medicare and Medicaid Services and its MAGI calculations; and a recent Social Security Administration ALJ Decision (dated April 25, 2016), all serve to exclude from income certain payments to tribal citizens for federal benefit eligibility purposes; and

WHEREAS, the Social Security Administration (“SSA”) recently denied a tribe’s request to acknowledge the Tribal General Welfare Exclusion Act treatment of income for purposes of benefit eligibility despite the SSA ALJ Decision; and

WHEREAS, the State of Michigan Department of Health and Human Services has recently interpreted federal regulations governing the SNAP program (food stamps), with the authorization of the Department of Agriculture, to deny a tribe's request to recognize the Tribal General Welfare Exclusion Act's exclusion from income for food stamp benefits provided to its citizens.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) hereby calls on all Federal Departments to recognize and acknowledge the Tribal General Welfare Exclusion Act treatment of income for purposes of benefit eligibility; and

BE IT FURTHER RESOLVED, that, if necessary to remedy the problem, NCAI supports the enactment of federal legislation to amend the Tribal General Welfare Exclusion Act to exclude tribal general welfare benefits from income for federal program benefits purposes; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2017 Midyear Session of the National Congress of American Indians, held at the Mohegan Sun Convention Center, June 12 to June 15, 2017, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary