

TITLE 52. MASHANTUCKET PEQUOT MINOR BENEFITS PROGRAM

52 M.P.T.L. § 1

§ 1. Findings, Purpose and Authority

a. The Tribe finds that:

- i. As enrolled Tribal Member youth transition to adulthood, it is important to provide financial assistance to help them become self-supporting whether through education, job or skills training or establishing a household; and
- ii. It is the policy of the Tribe to assure the essential welfare of its members by providing financial assistance to meet its members' needs at various stages of life; and
- iii. While the Tribe has programs directed toward financial assistance for Elders and adult Tribal Members, it presently does not have a program directed to Tribal Member youth and their transition to adulthood.

b. The purpose of this law is to provide Indian General Welfare Benefits to Tribal Member youth pursuant to the Mashantucket Pequot Minor Benefits Program. This program is administered under specified guidelines that do not discriminate in favor of the governing body of the Tribe and are available to every enrolled Tribal Member who meets the guidelines. These Indian General Welfare Benefits are for the promotion of general welfare, are not lavish and extravagant, and are not compensation for services.

c. The Tribe enacts this law pursuant to its inherent authority and responsibility to regulate public health, well-being and safety within its territory and for its membership.

52 M.P.T.L. § 2

§ 2. Definitions

a. "Administrator" means the Chief Financial Officer of the Mashantucket Pequot Tribe or their Designee, or such other officer as may subsequently be appointed by the Tribal Council to make determinations of eligibility under this law.

b. "Good Standing" means not banished, and this includes any form of banishment such as temporary, suspension, or permanent.

c. "Minor Benefits" means non-taxable benefits provided to Participants pursuant to this law, directly or indirectly, by payment or reimbursement, in cash or in property or provision of services, which meet the requirements set forth in 26 U.S.C. Section 139E (Non-Taxable Benefit). The total amount of the Minor Benefits, shall be determined by the Mashantucket Pequot Tribal Council, from time to time and shall be in an amount to promote general welfare and not lavish and extravagant. Minor Benefits paid due to the death of a Participant

pursuant to Section 6 of this law consist of the monies paid into the Restricted Fund on the Participant's behalf up to the date of Participant's death.

d. "Participant" means an enrolled Tribal Member of the Mashantucket Pequot Tribal Nation in Good Standing who is under the age of eighteen (18).

e. "Restricted Fund" means an account established by the Mashantucket Pequot Tribal Council to hold funds, which have been deposited annually, in an amount determined by the Mashantucket Pequot Tribal Council for each Participant.

f. "Tribal Court" means the Mashantucket Pequot Tribal Court established by 1 M.P.T.L. Ch. 1 § 1.

g. "Tribe" means the Mashantucket (Western) Pequot Tribe also known as the Mashantucket Pequot Tribal Nation.

h. "Youth Benefit Distribution Form" means a form created by the Administrator to be filled out by Participant and submitted to the Administrator in order to receive their Minor Benefits distribution.

52 M.P.T.L. § 3

§ 3. Eligibility

a. All enrolled members of the Mashantucket Pequot Tribal Nation in Good Standing who are under the age of eighteen (18) may participate in this Minor Benefits Program.

b. The Mashantucket Pequot Tribal Clerk shall notify the Administrator of newly enrolled minors, their date of birth and date of enrollment, as they become enrolled.

c. The Mashantucket Pequot Tribal Clerk will notify the Administrator of newly banished Tribal Members and those who have been reinstated, as they are banished or reinstated.

d. The Administrator is authorized to request and receive additional information from the Tribal Clerk or the Tribal Elders Council as may be required to verify eligibility under this law.

e. In the event that the Administrator determines an individual is not eligible to be a Participant in this Minor Benefits Program under this Section, the Administrator shall provide a written explanation of the determination setting forth the reason(s) for the determination to the parents or legal guardian of the minor Tribal Member, and if they do not agree with such determination, an appeal of the Administrator's decision may be filed with the Finance Committee of the Mashantucket Pequot Tribal Council, which will review the Administrator's determination and decide whether to uphold, reverse, or modify the determination. The Finance Committee can only reverse or modify the Administrator's determination of ineligibility if there is clear and convincing evidence that the minor is a Tribal Member in Good Standing and under the age of eighteen (18). The Finance Committee shall set forth its Final Decision in writing. If an individual is aggrieved by the Final Decision of the Finance Committee, an appeal may be filed in the Tribal Court in accordance with Section 4 of this law.

§ 4. Tribal Court Review of Finance Committee's Decision

a. Right to Appeal.

The Final Decision issued by the Finance Committee may be appealed to the Tribal Court in accordance with 40 M.P.T.L. ch. 3. A written appeal on a form provided by the Tribal Court Clerk must be submitted to the Tribal Court. Claims shall be brought only against the Tribe, and there shall be no separate cause of action against any division, agency, committee, office, entity or instrumentality of the Tribe, or against any officer, agent, servant or employee of the Tribe. All appeals under this law shall be heard by the court, not a jury. A fifty dollar (\$50.00) filing fee is required to be paid to the Tribal Court for such an appeal. No costs shall be taxed against the Tribe.

b. Tribal Court Standard of Review.

The Tribal Court shall review the Final Decision of the Finance Committee pursuant to the standards set forth in 40 M.P.T.L.

c. Court of Appeals.

Pursuant to the 40 M.P.T.L., decisions by the Tribal Court may be appealed to the Mashantucket Pequot Court of Appeals. Any decision of the Court of Appeals shall be final.

§ 5. Payment of Minor Benefits, Forfeiture of Benefits, Recovery of Excess Payments

a. Payment of Minor Benefits.

The Administrator, unless provided otherwise herein, shall ensure that Minor Benefits are annually set aside in the Restricted Fund for every eligible Participant. Payment of Minor Benefits shall be made as follows:

- i. The Administrator shall disburse Minor Benefits under this law through such means as may be feasible and efficient in their sole discretion.
- ii. A Participant who is eligible for Minor Benefits under this law will receive the Minor Benefits held in the Restricted Fund when they reach the age of twenty-five (25) upon submission of the Youth Benefit Distribution Form to the Administrator. The Administrator shall make available to all members the Youth Benefit Distribution Form and shall send a notice to Participants who reach the age of 25 concerning this requirement.
- iii. The Participant shall have five (5) years and one day from their 25th birthday to submit the Youth Benefit Distribution Form to the Administrator and request distribution of Minor Benefits.
- iv. If the Participant fails to submit a Youth Benefit Distribution Form to the Administrator in accordance with Section 5(a)(iii)

above, their Minor Benefits will be forfeited in accordance with Section §5(b) below.

- v. In the event that a Participant is no longer in Good Standing, any Minor Benefits will only consist of monies paid into the Restricted Fund on their behalf for the time they were a Participant in Good Standing. In the event that an individual is not in Good Standing during the payment period provided in Section 5(a)(iii) above, the Minor Benefits will be forfeited in accordance with Section 5(b)(ii) below.

b. Forfeiture of Benefits.

- i. If a properly executed Youth Benefit Distribution Form is not received by the Administrator within the period provided in Section 5(a)(iii) above, the Administrator shall notify the Tribal Council and shall send a notice to the Participant's address on file with the Tribal Clerk's office giving them three (3) additional months to submit the Youth Benefit Distribution Form prior to forfeiture. If a properly executed Youth Benefit Distribution Form is not received by the Administrator within this period, the Minor Benefits will be forfeited, and the Administrator shall send a second notice informing the Participant that the Minor Benefits have been forfeited.
- ii. If a Participant is not in Good Standing during the payment period provided in Section 5(a)(iii) above, the Administrator shall notify the Tribal Council and shall send a notice to the Participant's address on file with the Tribal Clerk's office informing them that their Minor Benefits have been forfeited.
- iii. An individual subject to forfeiture may, within thirty (30) days of notice of forfeiture, challenge the forfeiture by filing an appeal with the Finance Committee of the Mashantucket Pequot Tribal Council, which will review the Administrator's actions as required by this Section and decide whether to uphold, reverse, or modify forfeiture of benefits. The Finance Committee can only reverse or modify a forfeiture pursuant to Section 5(b)(i) above if there is clear and convincing evidence that a Youth Benefit Distribution Form was properly and timely submitted or that the Administrator failed to comply with the notice requirements of Section 5(b)(i) above. The Finance Committee can only reverse or modify a forfeiture pursuant to Section 5(b)(ii) above if there is clear and convincing evidence that the individual was in Good Standing during the payment period provided in Section 5(a)(iii) above, provided evidence of such Good Standing to the Administrator prior to the notice of forfeiture, and was not permitted to timely and properly submit a Youth Benefit Distribution Form. The Finance Committee shall set forth its Final Decision in writing.
- iv. If an individual is aggrieved by the Final Decision of the Finance Committee, an appeal may be filed in the Mashantucket Pequot Tribal Court in accordance with Section 4 of this law.

c. Recovery of Excess Payments.

In the event that the Administrator determines that a Participant has received Minor Benefits under this law in excess of the amount to which such Participant

was properly entitled, the Administrator shall make demand for return of such excess payment and unless such demand is satisfied within thirty (30) days of notice to the Participant, the Administrator may:

- i. offset such excess payments against any future benefits that may be payable to the Participant from the Tribe, or
- ii. commence an action in Tribal Court to recover such excess payment.

52 M.P.T.L. § 6

§ 6. Death of Participant

a. The Participant may, upon reaching the age of eighteen (18) or thereafter, complete and file with the Administrator a Benefit Successor Form to designate a beneficiary and identify contingent beneficiaries to receive their Minor Benefits in the event that said Participant dies before requesting distribution of their benefits. The Minor Benefits consisting of the monies that had been paid into the Restricted Fund on the Participant's behalf up to the date of Participant's death or their 18th birthday, whichever first occurs, shall be paid to the designated beneficiary upon the death of a Participant.

b. If Participant who is over the age of eighteen (18) fails to complete and file a Benefit Successor Form and the Participant is married at the time of death, the Minor Benefits shall be paid to the spouse of the Participant upon the Participant's death.

c. If a Participant is unmarried at the time of their death, over the age of eighteen (18), and has failed to file a Benefit Successor Form, their Minor Benefits shall be added to the Participant's eldest enrolled tribal child's Minor Benefits to be paid out in accordance with §5 above. In the event the Participant does not have any enrolled tribal children, it shall be deposited in the Tribe's General Fund.

d. The Minor Benefits shall be paid to the parents or legal guardians of the Participant upon the death of a Participant under the age of eighteen (18) with the following exceptions:

- i. If the parents are divorced, the Minor Benefits shall be paid to the custodial parent or guardian.
- ii. If the parents are divorced and the parents share joint custody, they shall be paid to the parent who is a Tribal Member. In the event that both parents are Tribal Members, the Minor Benefit shall be split equally between both Tribal Member parents.
- iii. In the event that the Participant was in foster care at the date of death, the funds shall be deposited in the Tribe's General Fund.

e. All Minor Benefits paid under this Section 6 may be subject to tax and will be reported on Internal Revenue Form 1099 or similar form.

§ 7. Penalties for Fraud

a. Any person who provides false information to establish eligibility for Minor Benefits under this law, or to obtain financial assistance from any other Tribal Program, shall be subject to denial of eligibility for Minor Benefits under this law. The Administrator shall notify in writing any individual subject to denial of eligibility. Such denial shall be considered a Final Decision subject to review by the Tribal Court in accordance with Section 4 of this law.

b. The Administrator shall refer to the Tribal Police for possible arrest and prosecution of any person who obtains Minor Benefits for themselves or on behalf of another by willfully providing false information to establish eligibility for Minor Benefits. Whoever is convicted of such offense shall be punished by incarceration for up to one year in jail and/or a fine of not more than \$5,000.

§ 8. Administration

The Program Administrator shall adopt and amend, as necessary, Minor Benefits Program policies and procedures to ensure the effective application of this law.

Historical & Statutory Notes

Derivation.

Effective July 1, 2023, TCR060823-02 of 10, Enacted 52 M.P.T.L. "Mashantucket Pequot Minor Benefits Program".