



# 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**

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**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