



OSAGE NATION CONGRESS
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MEMBERS OF CONGRESS
ELI POTTS – JOE TILLMAN- JOHN MAKER

JOINT STATEMENT- FOR IMMEDIATE RELEASE
Health Benefit Oversight
1/7/2021 11:00AM

The Osage Nation- Osage law requires that “an external audit of a Health Benefit Plan shall be conducted annually through the Treasurer’s office and reported to the Osage Nation Congress by no later than July 15 following the most recent completed calendar year.” 16 ONC § 3-106 (Q).

Despite the mandate for an annual audit of the health benefit plan fund being in law since at least October 31, 2017, Congress has never received a documented audit.

In October of 2020, Congress passed legislation to establish a deadline to apply for annual health benefits in addition to severely limiting the People’s access to critical health care funds in the midst of a pandemic by eliminating the “rollover” benefits.

Prior to the passage of ONCA 20-83 and ONCA 20-79, the Osage People were allowed to accrue unused benefits from prior fiscal years and sign up at any point throughout the year to receive the health benefit.

Osage Law now reads: “Unused benefits from a given calendar year are forfeited and shall not accrue to the next calendar year.” 16 ONC § 3-106 (H).

However, the Executive Branch is interpreting the law as follows:

“Spending Rollover Funds

A major difference from previous years that comes with this recent change in the law is regarding rollover funds. As of January 2021, future funds will **not** rollover, however the funds from 2019 and 2020 will be allowed for use in the following manner:

- 2021 — you have access to 2021 funds and any 2020 and 2019 rollover amounts.
- 2022 — you have access to 2022 funds and any 2020 rollover amounts, if available.
- 2023 — you have access to 2023 funds.”

*According to the Nation’s website. <https://www.osagenation-nsn.gov/member-services/health-benefits-information>
As of 1/6/2021.

While beneficial to the administration to take such a generous interpretation of Osage law, it is a clear violation of the plain text meaning of Osage law. No such “phase out” was approved or contemplated by ONCA 20-83.

“Access to quality healthcare is a right, and the Congress took steps to limit funds available to the Osage People at the worst time. These funds could have been used for wellness checks, to assist with any potential out-of-pocket vaccination costs, or to assist with any unforeseen medical costs that may arise from complications with the COVID-19 Pandemic. What we did was wrong.” Said Congressman Potts.

He continued, “Now we find ourselves in a position of having no better information than before, failure to receive legally mandated audits specifically regarding the Health Benefit Funds, and we have Osage People who need access to funds to help pay with medical costs and they are being denied, it’s that simple.”

CONGRESSMAN ELI POTTS: 918.949.0354
CONGRESSMAN JOE TILLMAN: 918.277.2538
CONGRESSMAN JOHN MAKER: 918.740.5484



OSAGE NATION CONGRESS
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MEMBERS OF CONGRESS
ELI POTTS – JOE TILLMAN- JOHN MAKER

“Let me be clear about this too- even one Osage who is in need of the Health Benefit Funds who has been denied is one too many. The larger the number of Osages being denied Health Benefits during a pandemic, the more egregious this unnecessary deadline becomes.” he continued.

“I hope that Congress will reconsider this deadline during the coming 2021 Hun-Kah Session once we have real data about how many Osage People have been negatively impacted by ONCA 20-79.” Potts concluded.

The legal question remains. Congressman Tillman said “I understand that the Chief would want to phase this out, it’s hard to tell people you’ve signed a bill to immediately reduce their benefits, but that’s what happened when he signed ONCA 20-83, it should have received a veto, that’s why I voted against it.”

ONCA 20-83 became effective “upon signature of the Principal Chief” on October 5th, 2020.

That left constituents with questions regarding the availability of “rollover” funds that had accrued from previous fiscal years. Now even more uncertainty presents itself, “What happens to constituents who spent, what they believed were lawfully accrued, benefits between October 5th, 2020 and today?” Congressman Tillman continued, “I certainly hope the plan isn’t to ask constituents to repay the funds, spent on medically approved expenditures, in the middle of a pandemic, we’re better than that. This situation represents a total failure to accurately implement Osage Law and the Osage People should not be made to suffer the consequences.”

“It’s been brought to my attention that there is a problem regarding the rollover and how those are supposed to be handled. My hope is that we follow the law and do our best to serve the Osage People, and if that means removing that deadline and putting the rollover back in law, then we should at least consider it” said Congressman Maker.

The Congressmen agreed, “We don’t want to see anyone lose access to money they need to help cover their medical expenses. That is why we voted against ONCA 20-83 and ONCA 20-79 in the first place. But we must follow the law that ended the “rollover” when the Chief signed the bill, and where we believe the law is wrong, we have to try and make it right.”

This release is in response to numerous inquiries and concerns from multiple constituents who have reached out to these Members of Congress.

CONGRESSMAN ELI POTTS: 918.949.0354
CONGRESSMAN JOE TILLMAN: 918.277.2538
CONGRESSMAN JOHN MAKER: 918.740.5484

1 OSAGE NATION CONGRESS

2
3 1st Session of the 7th Congress

4
5 BILL NUMBER ONCA 20-79

6
7 ENROLLED

8
9 September 23, 2020

10
11 SPONSOR: Jodie Revard

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13 **An Act**

14 To amend the Osage Nation Health Benefit Act, 16 ONC § 3-105;
15 and to establish an alternate effective date.

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17 *Be it enacted by the Congress of the Osage Nation:*

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19 **SECTION 1. AMENDING 16 ONC §3-105**

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21 16 ONC §3-105 shall be amended to read as follows:

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23 **§ 3-105. Eligibility to Access Fund Benefits**

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25 A. All persons allowed benefits from the fund, whether adult or minor, must
26 be an enrolled member of the Osage Nation.
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28 B. Any member whether adult or minor, parent or legal guardian, must submit
29 a completed application/enrollment form annually as stipulated in a plan
30 document to access benefits between October 1st and December 15th for the
31 following calendar year. Applications may be accepted past the enrollment
32 deadline upon applicant experiencing a life event of the birth of a child, the
33 legal adoption of a child or being named a guardian of another person by a
34 court of law;
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36 C. Over sixty-five (65) members enrolled in medigap coverage will
37 automatically be extended coverage from one year to the next unless the
38 provider is notified of death or desire to discontinue the coverage in the
39 method designated by the provider.
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41 D. Members who have been convicted in the Osage Courts of fraudulent use
42 of benefits from the Health Benefit Fund are ineligible to access benefits for
43 the period described in the judgment.

45 E. Each enrolled member shall have an individual account established. The
46 account shall reflect the current year's balance as well as rollover balances.

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48 **SECTION 2. ALTERNATE EFFECTIVE DATE**

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50 This bill is effective upon signature of the Principal Chief or upon signature of the
51 Speaker of the Osage Nation Congress following legislative override.

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65 ENACTED by the Osage Nation Congress on this 23rd day of September 2020.

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69 IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has
70 hereto attached her signature.

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73 Angela M. Pratt, Speaker
74 Osage Nation Congress
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77 I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE
78 EXTRACT FROM THE MINUTES OF THE Osage Nation Congress comprised of
79 twelve members and one ex-officio member with 12 members attending this meeting on
80 the 23rd day of September, 2020, and that the above is in conformity with the provisions
81 therein adopted by a vote of 8 in favor, 4 against, and 0 absent.

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|-----------------|-----|
| Scott BigHorse | yes |
| Alice Goodfox | yes |
| Billy Keene | yes |
| Brandy Lemon | yes |
| John Maker | no |
| Eli Potts | no |
| Angela M. Pratt | yes |
| Jodie Revard | yes |

91	Pam Shaw	yes
92	Paula Stabler	yes
93	Joseph Tillman	no
94	R.J. Walker	no

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Said bill has not been rescinded or amended in any way and the above is the signature of the Speaker of the Osage Nation Congress.

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Shana Robedeaux, Clerk
Osage Nation Congress

EFFECTIVE DATE CERTIFICATION


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I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING EFFECTIVE DATE was approved by a two-thirds vote of the Osage Nation Congress in accordance with the Constitution of the Osage Nation Article VI, Section 13. This provision was adopted by a vote of 11 in favor, 1 against, 0 abstentions, and 0 absent.

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Scott BigHorse	yes
Alice Goodfox	yes
Billy Keene	yes
Brandy Lemon	yes
John Maker	yes
Eli Potts	no
Angela M. Pratt	yes
Jodie Revard	yes
Pam Shaw	yes
Paula Stabler	yes
Joseph Tillman	yes
R.J. Walker	yes

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Shana Robedeaux, Clerk
Osage Nation Congress

APPROVAL

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I, the Principal Chief of the Osage Nation, hereby affix my signature this 25th
day of September, 2020, to the above Bill No. ONCA 20-79 authorizing it to
become a law under the Constitution of the Osage Nation.



Geoffrey M. Standing Bear, Principal Chief
Osage Nation

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OSAGE NATION CONGRESS

1st Session of the 7th Congress

BILL NUMBER ONCA 20-83

ENROLLED

September 30, 2020

SPONSOR: Paula Stabler

An Act

To amend the Osage Nation Health Benefit Act at 16 ONC § 3-106 to prohibit the accrual of unused health benefits; and to establish an alternate effective date.

Be it enacted by the Congress of the Osage Nation:

SECTION 1. AMENDING 16 ONC §3-106

16 ONC §3-106 shall be amended to read:

§ 3–106. Limited Health Benefit Plan Requirements

- A. The Osage Nation Attorney General is charged with approving a Plan or Plans which outline the limited Health Benefit provided for all eligible members which complies with the purpose and provisions of this Act.
- B. A Plan shall have the following components:
 - 1. An annual benefit for each eligible Member of the Osage Nation under age sixty-five (65) not to exceed \$500; and
 - 2. An annual benefit for each eligible Member of the Osage Nation age sixty-five (65) and over of \$1,000.
- C. A Plan shall provide for applications, establishment of individual accounts, annual notification to enrolled members of pertinent information including how to access account balances, how to submit claims for processing and appeal the denial of benefits, change of benefit forms and shall be made available throughout the calendar year to the Members of the Osage Nation via web access, and upon request by email and mail.
- D. The authorized benefits may be reimbursed or paid through a health benefit card issued to eligible recipients.

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- E. A Plan shall provide for administration through a third-party administrator (Plan Administrator), excepting services described in Paragraph (F)(1) of this Section.

- F. A Plan and any contract entered into with a third-party administrator to administer benefits described in Paragraph (B) of this Section shall provide an Osage member may apply online and access benefits, if desired, via the use of an encoded card. Debit cards issued pursuant to a plan shall offer real-time substantiation by adoption of an Inventory Information Approval System (IIAS) as described in IRS Notice 2006-69, found in Internal Revenue Bulletin 2006-31, published July 31, 2006, and thereby limit approved purchases to those which qualify as medical expenses under current IRS rules. This requirement shall be in addition to other features which limit purchases, including those which restrict purchases to merchants operating under particular MCC codes.
 - 1. All expenses that are otherwise eligible but cannot be processed at the point of purchase will require the member to submit a claim form in order to initiate the reimbursement process.
 - 2. Every plan shall provide for a means of tracking account fund balances and describe how the enrolled member accesses that information.

- G. A minor or dependent Osage Nation member may have their Health Benefit Plan balances held in a family account managed by the member's custodial parent or guardian who shall be authorized to expend funds out of the account for the benefit of the minor or dependent member.

- H. Unused benefits from a given calendar year are forfeited and shall not accrue to the next calendar year. No accrual value shall apply to those individuals receiving the Medicare supplemental coverage.

- I. A Plan Administrator is authorized to employ administrative processes to increase convenience for individuals and families with minors, provided such processes do not conflict with the provisions of this Act.

- J. Should a Plan Administrator conduct benefits enrollment, the applicant, the parent or legal guardian of a minor child or legal dependent, must sign a consent/release form authorizing membership information to be transmitted to an administrator of a Health Benefit Plan by the Osage Nation.

- K. The Osage Nation and a Plan Administrator are prohibited from imposing any other eligibility requirements on Osage Nation members applying for

91 benefits according to this Act unless approved by the Osage Nation
92 Congress.

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94 L. A Plan Administrator shall be required to administer a plan in and for the
95 best interest of the beneficiaries, and interpret eligible expenses in a light
96 most favorable to the beneficiaries.

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98 M. Members of the Osage Nation sixty-five (65) years of age and older may
99 opt out of a health benefit plan and elect to participate into the Medicare
100 supplemental coverage benefit provided through the third-party
101 administrator.

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103 N. Changes to a plan document that change the benefit amounts to be made
104 available to members, or delay payments for approved claims shall be
105 presented for approval by the Osage Nation Congress.

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107 O. A Plan shall contain a description of an appeal process to consider denied
108 claims. Following completion of the appeal process, the decision of a third-
109 party administrator shall be final.

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111 P. A Plan Administrator shall submit quarterly financial and benefit use
112 reports to the Principal Chief and the Osage Nation Congress.

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114 Q. An external audit of a Health Benefit Plan shall be conducted annually
115 through the Treasurer's office and reported to the Osage Nation Congress
116 by no later than July 15 following the most recent completed calendar year.

117
118 **SECTION 2. ALTERNATE EFFECTIVE DATE**

119
120 This bill is effective upon signature of the Principal Chief or upon signature of the
121 Speaker of the Osage Nation Congress following legislative override.

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ENACTED by the Osage Nation Congress on this 30th day of September, 2020.

IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has hereto attached her signature.

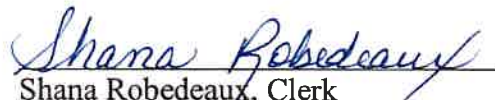


Angela M. Pratt, Speaker
Osage Nation Congress

I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE EXTRACT FROM THE MINUTES OF THE Osage Nation Congress comprised of twelve members and one ex-officio member with 12 members attending this meeting on the 30th day of September, 2020, and that the above is in conformity with the provisions therein adopted by a vote of 8 in favor, 4 against, and 0 absent.

Scott BigHorse	yes
Alice Goodfox	yes
Billy Keene	yes
Brandy Lemon	yes
John Maker	no
Eli Potts	no
Angela M. Pratt	yes
Jodie Revard	yes
Pam Shaw	yes
Paula Stabler	yes
Joseph Tillman	no
R.J. Walker	no

Said bill has not been rescinded or amended in any way and the above is the signature of the Speaker of the Osage Nation Congress.




Shana Robedeaux, Clerk
Osage Nation Congress

EFFECTIVE DATE CERTIFICATION

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I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING EFFECTIVE DATE was approved by a two-thirds vote of the Osage Nation Congress in accordance with the Constitution of the Osage Nation Article VI, Section 13. This provision was adopted by a vote of 12 in favor, 0 against, 0 abstentions, and 0 absent.

Scott BigHorse	yes
Alice Goodfox	yes
Billy Keene	yes
Brandy Lemon	yes
John Maker	yes
Eli Potts	yes
Angela M. Pratt	yes
Jodie Revard	yes
Pam Shaw	yes
Paula Stabler	yes
Joseph Tillman	yes
R.J. Walker	yes


Shana Robedeaux, Clerk
Osage Nation Congress

APPROVAL

I, the Principal Chief of the Osage Nation, hereby affix my signature this 5th day of October, 2020, to the above Bill No. ONCA 20-83 authorizing it to become a law under the Constitution of the Osage Nation.


Geoffrey M. Standing Bear, Principal Chief
Osage Nation

