
OLD AGE ASSISTANCE CLAIMS SETTLEMENT ACT GUIDELINES
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OLD AGE ASSISTANCE CLAIMS SETTLEMENT ACT GUIDELINES
General

1. GENERAL

1.1 Purpose. The purpose of this manual is to provide a reference to the Secretary's statutory authority governing settlement compensation for unauthorized payments from Indian trust estates as reimbursement for old age assistance and other welfare claims; to define areas of responsibility; to furnish guidelines and procedures to personnel responsible for identifying qualified estates, determining persons entitled to compensation, determining their respective shares and making payments; and to accomplish the timely payment of settlement compensation.

1.2 Authority. The Old Age Assistance Claims Settlement Act of October 19, 1984, 98 Stat. 2317, Public Law 98-500, as amended by the Act of November 5, 1987, 101 Stat. 886, Public Law 100-153, authorizes and directs the Secretary of the Interior to pay entitled individuals their portions of compensation for certain unauthorized disbursements made from trust estates of deceased Indians. These disbursements were made to states, or political sub-divisions of states, as reimbursement for old age assistance and/or welfare payments which had been provided to deceased Indians, before death. The payments were made in violation of Federal laws governing Indian trust property.

1.3 Responsibilities. The responsibilities of various officials are listed below.

A. Area Director. The Area Director is responsible for the identification of all trust estates from which the unauthorized disbursements were made by the Secretary of the Interior to the states or political subdivisions.

(1) The Aberdeen and Billings Area Directors are responsible for searching the records of the Bureau of Indian Affairs, and other sources, in order to identify living Indian and non-Indian individuals who are entitled to payment, and to ascertain the exact portion of the unauthorized disbursements, plus interest, to which each of the individuals would be entitled.

(2) The Area Directors are also responsible for providing payment to all entitled individuals and for submitting semi-annual reports to the Central Office.

(a) The Billings Area Director is responsible for implementation of the Act for the Portland, Billings, and Anadarko Area Offices.

(b) The Aberdeen Area Director is responsible for implementation of the Act for the Minneapolis and Aberdeen Area Offices.

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(c) No claims exist in the remaining Area Offices.

B. Superintendent. The Agency Superintendent is responsible for furnishing available probate data, current addresses, family history information and other documentary evidence, upon request of the Area Directors designated to implement the Old Age Assistance Settlement Act, as amended.

C. Office of the Solicitor. The Office of the Solicitor is responsible for examination of specific case files, upon the request of the Area Director, and for providing technical assistance and legal advice in implementing the Act.

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2. PROCEDURES

2.1 Qualified Estates. All estates qualifying for compensation under the Act, as amended, are listed in the FEDERAL REGISTERS of April 17, 1985; November 13, 1985; March 31, 1986; and April 16, 1986.

2.2 Payment Criteria. Records within and outside of the Bureau of Indian Affairs shall be searched to identify individuals who are entitled to payment, and to ascertain the portion of the unauthorized disbursement to which each of the individuals would be entitled. Any payment under the Act shall include simple interest at a rate of five percent per annum from the date on which unauthorized disbursement was made from the trust estate of the deceased Indian. The Act provides that no payment shall be made with respect to any unauthorized disbursement from the trust estate of a deceased Indian if the total amount of such unauthorized disbursement was less than \$50.

2.3 Distribution of Compensation.

A. Listed and Subsequent Decedents. In the case of the listed decedent, for that portion of the OAA Claim paid from money in the trust account at the time of death; and in the case of any subsequent decedent, for all money to which he/she would have been entitled; and where either died

(1) Testate, distribute to the legatees or (if deceased) to their estates, according to the will, unless the will was "not approved" or "disapproved" by the Department's Administrative Law Judge (ALJ), Examiner of Inheritance.

(2) Intestate, and

(a) If the state of domicile* can be ascertained from the Departmental probate, distribute according to the inheritance laws (governing personalty) of that state which were in effect at the time of death.

(b) If the state of domicile cannot be ascertained from the Departmental probate, then distribute according to the inheritance laws (governing personalty) of the state in which decedent was resident** at the time of death as evidenced by the Departmental probate, said laws being those that were in effect at the time of death.

* True, fixed, and permanent home, to which there is an intention of returning when absent.

** Factual place of abode. This may differ from domicile in that an individual may have two places of residence, as in the city and country, but only one domicile.

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(c) If neither the state of domicile nor the state of residence can be determined from the Departmental probate, then distribute according to the inheritance laws (governing personalty) of the state of the decedent's home reservation, said laws being those that were in effect at the time of death.

B. Listed Decedents Only. For the listed decedent only, where old age assistance and/or other welfare claims were paid from trust funds accruing to the trust estate after death,

(1) But prior to Departmental probate, and

(a) If such amount can be identified separately from the money in the trust account at the time of death, then

(i) Distribute according to the interests inherited from the decedent in the land from which such funds were derived, or

(ii) If lands from which such funds were derived cannot be identified, then distribute according to 2.3A.

(b) If such amount cannot be identified separately from the money in the trust account at the time of death, then distribute according to 2.3A.

(2) And after Departmental probate, then distribute according to 2.3B(1)(a).

2.4 Unique or Complex Claims. Any unique or complex claims should be referred to the Field Solicitor for consultation and legal guidance.

2.5 Files. Independent case files should be maintained for each listed estate, each subsequent decedent and each living heir. These files should be designated for permanent retention pursuant to 15 BIAM Supplement 3.

A. Listed Estate and Subsequent Decedents. The case file for the listed estate should be identified by the listed estate number, and the case files for each subsequent decedent should be identified by the listed estate number plus an alpha character. Each case file should contain:

(1) Copy of Departmental probate, if available.

(2) Copy of county probate if no Departmental probate is available.

(3) Family history outline and supporting documents, (i.e., letters, affidavits, agency records, etc.).

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- (4) Decedent check list. See Illustration 1.
- (5) Copy of any last will and testament.
- (6) Copy of death certificate and transcript from probate hearing where available.
- (7) Case files for listed estates only should contain the following additional documentation:
 - (a) Source documents supporting:
 - (i) Dates and amounts of old age assistance and/or other welfare disbursements.
 - (ii) Amount of money applied to old age assistance and/or other welfare claims from trust funds on deposit at time of death.
 - (iii) Amount of money applied to old age assistance and/or other welfare claims from trust funds accruing to estate account after death, and sources of such funds, by allotment number or land description.
 - (b) Inheritance chart reflecting all living persons entitled to compensation. See Illustration 3. (Identify each subsequent decedent by his/her case file number.)
 - (c) Names of all living persons entitled to compensation from the listed estate and the amount of compensation (not including interest) due each of them. These amounts should add up to the total disbursement made from the listed estate.
 - (d) All computations supporting amounts due each decedent and his/her heirs.
 - (e) Dated addresses of all living heirs.

B. Living Heirs. Files for each living heir should contain:

- (1) Current address.
- (2) Reference to all listed estates in which involved.
- (3) Copies of notice letters sent. See Illustration 2.
- (4) Correspondence.
- (5) Voucher copies, etc., for compensation paid.
- (6) IIM number, if assigned and available.

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2.6 Reports. Status reports shall be submitted by the Aberdeen and Billings Area Directors to the Deputy to the Assistance Secretary - Indian Affairs (Trust and Economic Development), with copies to the Anadarko, Minneapolis and Portland Area Directors, no later than June 30 and December 31 every year until the Act has been fully implemented. See Illustration 4.

Form BIA-5473
Issued 2/2/88

Listed Estate Name _____

Listed Estate No. _____

DECEDENT CHECK LIST

Source Document:

1. Decedent's Name and ID Number: _____

ID Number (from Land Title & Records Office), if available: _____

2. Indian _____, Non-Indian _____ (Answer with X)

3. Date of death: _____

4. Name of reservation with which enrolled or affiliated: _____

5. State of domicile at time of death: _____

6. State of residence at time of death: _____

7. State in which above reservation is located: _____

8. State of applicable inheritance laws governing personality in the
estate account at the time of death: _____

9. Date of Probate: _____

10. Departmental probate number: _____

_____ County (State) probate number: _____

Listed Estate Name _____

Listed Estate No. _____

Source Document

Page 2 Decedent's Name and ID Number: _____

11. Testate _____, Intestate _____ (Answer with X)

12. IIM number: _____

13. For the listed estate only, indicate the total amount of old age assistance paid: \$ _____ (from Federal Register)

Dates paid: _____ Amounts paid: \$ _____

14. Indicate amount of money applied to old age assistance payments from trust funds on deposit at the time of death: \$ _____ If this check list is for an heir/legatee/devisee dying subsequent to the death of the listed decedent, this amount will be the sum of his/her dollar shares of the old age assistance payment, as reflected in Item 16 of all the predecessors' check lists.

On Attachment I, list heirs/legatees to these proceeds according to State inheritance laws governing personality. For each, list fractional and dollar shares.

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Listed Estate Name _____

Listed Estate No. _____

Page 3 Decedent's Name and ID Number: _____

Source Document:

15. For the listed estate only, indicate the amount of money applied to the old age assistance payment from funds accruing to the estate account after the death of the individual whose estate was listed in the Federal Register:

\$ _____

Origin of these proceeds by legal description:

State:

Amounts Accrued and applied to OAA:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

On Attachment II, list heirs/devisees to each of these lands according to existing probate or State inheritance laws governing realty.

For each individual, indicate the fractional share of the land inherited from the decedent. Based on such fractional share, calculate each individual's dollar share of the OAA proceeds originating from each tract.

Listed Estate Name _____

Listed Estate No. _____

Page 4 Decedent's Name and ID Number: _____

16. On attachment III, for each heir/legatee/devisee of the decedent, determine portion due by adding his/her dollar shares of the OAA payment originating (1) in funds on deposit at the time of the decedent's death and (2) in funds accruing to the estate account after the decedent's death. (In the case of a listed decedent, the sums for each heir/legatee/devisee should total the decedent's listed old age assistance payment.) For each heir/legatee/devisee, indicate whether Indian or non-Indian, date of birth if living, and denote probate number or "Estate" if deceased.

Name of heir/legatee/devisee	Indian/Non-Indian	Date of Birth or denote probate number/"Estate"	Portion Due:
_____	_____	_____	\$ _____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Total			\$ _____

Decedent's portion of
Listed OAA payment

Five percent simple interest on each living individual's portion of the listed OAA payment will be computed from the dates payments were made on the old age assistance claim in the above listed estate to the date of reimbursement.

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Supp. 10, Release 1, 2/5/88

Listed Estate Name _____
Listed Estate No. _____

Page 5 Decedent's Name and ID Number: _____

17. For each living heir/devisee/legatee, indicate date that the notice letter was--

- a. Sent to individual _____
- b. Sent to next of kin _____
- c. Sent to tribe _____
Name of tribe _____
- d. Published in newspaper _____

Name and address of newspaper

18. Additional information or explanation

SAMPLE LETTER

(DRAFT)

Dear :

On October 19, 1984, President Reagan signed the Old Age Assistance Claims Settlement Act, P.L. 98-500. This Act authorizes the Secretary of the Interior to provide compensation where funds from the trust estates of Indians were used to pay state and county old age assistance claims. These claims were listed in the Federal Register on (date) , and (date).

The principal amount of \$ _____, plus interest, represents your share of the total amount of \$ _____, paid from in the estate of _____.

According to the Act, when this disbursement is made, acceptance, as indicated by your signature on the check, will be a full discharge of your share of the claim relating to the old age assistance paid from the estate. This means that no further action can be brought against the United States or any state or political subdivision of a state for that share.

The Act also assures that these funds shall not be considered as income or resources, nor otherwise used as the basis for denying or reducing the financial assistance or other benefits to which you or your household, or member, would otherwise be entitled under the Social Security Act, or, (except for per capita shares in excess of \$2000) any federal or federally assisted program.

If you have any questions, you may contact the _____ Area Office, Bureau of Indian Affairs, (address) (phone:) for additional information.

Sincerely,

SAMPLE LETTER (for use when comingled funds cannot be segregated)

(DRAFT)

Dear :

On October 19, 1984, President Reagan signed the Old Age Assistance Claims Settlement Act, P.L. 98-500. This Act authorizes the Secretary of the Interior to provide compensation where funds from the trust estates of Indians were used to pay state and county old age assistance claims. These claims were listed in the Federal Register on (date), and (date) .

The principal amount of \$ _____, plus interest, represents your share of the total amount of \$ _____ paid from the estate of _____ based on a search of existing records. Because the records are incomplete as to the origin of some of the funds from which old age assistance payments were made from this estate, the calculation of your share could be changed by the discovery of additional evidence. If you have any additional information which might change this calculation, you may appeal the determination of your share in accordance with the procedures at 25 CFR Part 2. If no appeals in this estate are received within 30 days from the receipt of this letter, the Bureau will process payments as calculated.

According to the Act, when this disbursement is made, acceptance, as indicated by your signature on the check, will be a full discharge of your share of the claim relating to the old age assistance paid from this estate. This means that no further action can be brought against the United States or any state or political subdivision of a state for that share.

The Act also assures that these funds shall not be considered as income or resources, nor otherwise used as the basis for denying or reducing the financial assistance or other benefits to which you or you household, or member, would otherwise be entitled under the Social Security Act, or, (except for per capita shares in excess of \$2000) any federal or federally assisted program.

If you have any questions, you may contact the _____ Area Office, Bureau of Indian Affairs, (address) (phone:) for additional information.

Sincerely,

Form BIA-5475
 Issued 2/2/88

Supp. 10, Release 1, 2/5/88

SAMPLE INHERITANCE CHART

NAME OF HEIR (AND CASE FILE NO.) WHO TAKES FROM DECEDENTS NAMED AT TOP OF COLUMNS	CHARLES E. JONES P13-203-0020 DIED 6-27-47	ELIZABETH I. SMITH P13-203-0020A DIED 8-27-47	EDWARD JONES P13-203-0020B DIED 5-30-54	JOSEPH ROBERT JONES P13-203-0020B DIED 1-21-58	AGGREGATE SHARE TAKEN BY LIVING HEIRS
Elizabeth I. Smith Jones P13-203-0020A	(All)				
Edward Jones P13-203-0020B	(1/3)				
Cecelia Jones Carter	1/3	1/6			1/2 or 2/4
Joseph Robert Jones P13-203-0020C	(1/3)				
Jos. Robert Jones, Jr.		1/12	1/6		1/4
Dorothy Mae Jones		1/12	1/6		1/4

() Indicates that fractional interest has been subsequently inherited.

SAMPLE: SEMIANNUAL REPORT

BILLINGS AREA OFFICE
 OLD AGE ASSISTANCE
 SEMI-ANNUAL REPORT - 6/1 - 12/31/87

PAID

	PREVIOUSLY REPORTED	THIS REPORTING PERIOD	TOTAL TO DATE	READY FOR PAYMENT
DOLLARS	\$150,000.00	\$100,000.00	\$250,000.00	\$5,000.00
NO. CASES	500	10	510	15
NO. LIVING HEIRS	7,500	150	7,650	750
AVG. NO. HEIRS/CASE	15	15	15	50
AVG. DOLLARS/CASE	\$300.00	\$10,000.00	\$490.20	\$333.33

AGENCY	TOTAL CASES IDENTIFIED	TOTAL CASES PAID	TOTAL DOLLARS DIST.	CASES READY FOR PAYMENT	REMAINING CASES (A-B)
CROW	57	45	\$872.25	3	12
COLVILLE	90	60	\$1,128.39	12	30
FORT HALL					0
NORTHERN IDAHO					0
OLYMPIC PENINSULA					0
UMATILA					0
WARM SPRINGS					0
PUGET SOUND					0
YAKIMA					0
SPOKANE					0
FLATHEAD					0
TOTALS	147	105	\$2,000.64	15	42

	PREVIOUSLY EXPENDED	THIS REPORTING PERIOD	TOTAL TO DATE
EXPENSES:			
SALARIES (WITH EBC)	\$32,500.00	\$18,000.00	\$50,500.00
TRAVEL	\$1,500.00	\$1,000.00	\$2,500.00
SPECIAL EQUIPMENT	\$7,000.00	\$1,000.00	\$8,000.00
SUPPLIES	\$500.00	\$500.00	\$1,000.00
TOTALS	\$41,500.00	\$20,500.00	\$62,000.00