

1 supervision of the Trial Court of the Nation. Trust assets of such CTF's shall be invested in a reasonable
2 and prudent manner which protects the principal and seeks a reasonable return. The trust assets of each
3 such account maintained for a minor shall be disbursed to the Member-beneficiary thereof upon the
4 earlier of (I) said Member beneficiary meeting the dual criteria of (a) reaching the age of eighteen (18)
5 and (b) producing evidence of personal acquisition of a high school diploma or an HSED or a GED, if
6 and only if, the Member's state of residence does not offer a more comprehensive testing alternative
7 (hereinafter defined as "equivalent academic credential") to the Enrollment department, or evidence that
8 a diploma could not be obtained due to a handicap or learning disability notwithstanding the minor's
9 diligent effort to complete high school and obtain a diploma or (ii) the Member reaches the age of
10 twenty-one (21); provided that this provision shall not operate to compel disbursement of funds to
11 Members legally determined to be incompetent. In the event a Member, upon reaching the age of
12 eighteen (18) does not produce proof of personal acquisition of a high school diploma or equivalent
13 academic credential, or evidence of substantial disability and diligent effort to complete high school,
14 such Member's per capita funds shall be retained in the CTF account and shall be held on the same
15 terms and conditions applied during the Member-beneficiary's minority until the earliest to occur of (x)
16 the Member produces the required diploma or equivalent academic credential; (y) the Member reaches
17 the age of twenty-one (21); or, (z) the Member is deceased. Notwithstanding the continuation of the
18 CTF up to the Member reaching age twenty-one (21), the Member failing to meet the graduation
19 requirement shall be entitled to directly receive all per capita distributions as and when made to all
20 qualified adult Members after said Member's eighteenth (18) birthday, unless determined to be legally
21 incompetent and therefore subject to a CTF.

22 (b) Funds in the CTF of a minor or legally incompetent member may be available for the benefit of a
23 beneficiary's health, education and welfare when the needs of such person are not being met from other
24 Tribal funds or other state or federal public entitlement program, and upon a finding of special need by
25 the Ho-Chunk Nation Trial Court. In order to request such funds, (1) a written request must be
26 submitted to the Nation's Trial Court by the beneficiary's parent or legal guardian detailing the purpose
27 and needs for such funds; and, (2) the parent or legal guardian shall maintain records and account to the
28 Trial Court in sufficient detail to demonstrate that the funds disbursed were expended as required by this
Ordinance and any applicable federal law; and, (3) any other standards, procedures and conditions that
may be subsequently adopted by the Legislature consistent with any applicable federal law shall be met.

FINDINGS OF FACT

1. Samantha Dyan Beale is the member of the Ho-Chunk Nation, member no. 439A004813. Her
date of birth is January 5, 1981. She was 18 years old at the time of the hearing.

2. Ms. Beale requested money from her CTF to obtain a vehicle ostensibly to attend school to
complete her GED. She specifically desired to purchase a 1998 Isuzu Rodeo for the full retail price of
\$19,568.

3. Ms. Beale filed her request on August 5, 1999 after previously receiving more than \$6,000 in per
capita income since reaching her 18th birthday. There were Tribal distributions of more than \$2,000 on

1 February 1, May 1 and August 1, 1999.

2 4. Ms. Beale apparently financed her vehicle with a down payment of \$1,000 cash and a check
3 from one Quinton D. Holliday of \$8,000. Mr. Holliday's check was written on a closed account
4 possibly violating Colorado law. Mr. Holliday's relationship to Ms. Beale is unknown.

5 **DECISION**

6 The Court declines to grant the plaintiff's request. Ms. Beale failed to appear despite approval to
7 appear by telephone. This may be due to the improper time listed on the *Notice*. Failure to appear is
8 alone sufficient grounds to deny the request. *See HCN R. Civ. P. 44(c)*. However, as the *Notice* was
9 deficient on its face the dismissal here will be without prejudice.

10 Second, the plaintiff failed to prove the request was necessary for the stated goals. Ms. Beale
11 provided no proof of enrollment in any course of study leading to the acquisition of a High School
12 diploma or GED. She provided no progress report or letter of attendance from any school administrator
13 stating that she was in attendance in school. Therefore, the Court must find that she failed to prove an
14 essential element of her claim that the requested money would advance her health, education or welfare.

15 Third, the plaintiff failed to show that the requested vehicle was a reasonable and prudent
16 purchase. The Court finds that if the true need is for basic transportation to and from class in an area of
17 the Denver metropolitan area without night bus service the amount of the request is excessive. Ms.
18 Beale should have considered getting transportation within her means and income. If Ms. Beale proved
19 she really needed the money to go to school, then she should have tried to buy a safe reliable used
20 vehicle she could afford.

21 Ms. Beale did not get a good deal on this vehicle. The vehicle is not a moderately priced used
22 vehicle but an essentially overpriced vehicle with more emphasis on looks than just getting around.
23 Although, Ms. Beale is now in trouble with a collection agency, that is due to her own imprudent desire
24 to purchase a fancy vehicle she could not afford.

25 The Court cannot condone the invasion of a CTF fund for the purchase of a new vehicle. When

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1 Ms. Beale has reached the age of 21 or graduated from a GED course of study she can make whatever
2 choices she wishes regarding vehicle purchases. However, this Court does not feel that allowing the
3 purchase of a new vehicle for a young adult who failed to qualify for it by meeting the education
4 requirements would in essence undermine the entire Legislative goal of encouraging Ho-Chunk
5 students to get an education and graduate from high school. If the Court were to allow this purchase
6 nearly every 18 year old who dropped out of school rather than graduate on time would be demanding
7 access to their CTF money to buy a new car.

8 Based on the evidence submitted the Court denies the request for funds to purchase a new
9 vehicle.

10 All parties have the right to appeal a final judgment or order of the Trial Court. If either party is
11 dissatisfied with the decision of this Court, they may file a *Notice of Appeal* with the Ho-Chunk
12 Supreme Court within thirty (30) calendar days from the date this Court renders such final judgment or
13 order. The *Notice of Appeal* must show service was made upon the opposing party prior to its
14 acceptance for filing by the Clerk of Court. The *Notice of Appeal* must explain the reason the party
15 appealing believes the decision appealed from is in error. All appellate pleadings to the Ho-Chunk
16 Supreme Court must be in conformity with the requirements set by the Ho-Chunk Supreme Court in
17 accordance with the Ho-Chunk *Rules of Appellate Procedure*.

18 **IT IS SO ORDERED** this June 14, 2007 from within the sovereign lands of the Ho-Chunk
19 Nation.

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Hon. Mark Butterfield
23 HCN Chief Trial Judge

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