

INSTRUCTIONS FOR PETITION FOR RELEASE OF PER CAPITA DISTRIBUTION

These instructions are only intended to provide information on how to fill out this form. It is not intended to substitute legal advice. There may be additional documents and procedures for your particular type of civil action. If you have any legal questions regarding the specific facts of your case, please consult with an attorney.

For other questions, you may contact the Trial Court at (715) 284-2722. In addition, copies of the applicable law can be found on the Nation's website located at <https://ho-chunknation.com/government/legislative-branch/ho-chunk-nation-laws/> or by contacting the Ho-Chunk Nation Legislature at (715) 284-9343 or (800) 294-9343.

Do not include these instruction sheets when you file the completed form.

A petition is an initial pleading that starts an action and states the basis for the court's jurisdiction, the basis for the petitioner's claim(s), and the demand for relief.

The petitioner is the party who brings the action to court i.e. the person who fills out the petition and is seeking to have the decedent's non-trust property probated.

Instructions:

- **Page 1, Lines 7-8:** Enter the name of the Ward/Minor Child on the line provided under "Beneficiary". You do not need to write a case number. A case number will be assigned by the Court.
- **Page 1, Line 18:** Enter your full, legal name on the line.
- **Page 1, Lines 21-25:** Check the boxes that apply. Either you are petitioning on behalf of yourself as an Adult CTF Beneficiary, or on behalf of minor child/ward as that person's guardian.
- **Page 2, Lines 1-11:** Provide your address, telephone number, email address, social security number, and tribal enrollment number.
- **Page 2, Lines 13-16:** Provide the address of the minor child/ward if they live at a different address than you.
- **Page 2, Lines 18-25:** Provide the information for the parent who is not petitioner if applicable.
- **Page 3, Lines 1-16:** The applicable law is the Ho-Chunk Nation Per Capita Distribution Ordinance. You can ask a Staff Attorney for a copy of the law or go to: <https://ho-chunknation.com/government/legislative-branch/ho-chunk-nation-laws/>.

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- **Page 3, Lines 17-27:** Jurisdiction is the court's power to exercise authority over all persons and things within its territory and to hear and decide a case or issue in dispute.
- **Page 4, Lines 1-10:** This section reminds you to include important documentation when filing your petition.
- **Page 4, Lines 12-28:** Provide the information regarding the amount you are requesting, the vendor that will be providing the service, and a description of the goods/services.
- **Page 5, Lines 2-15:** A release from a per capita trust fund account must be for the education, health, and/or welfare of the minor child/ward. State what is the educational, health or welfare benefit.
- **Page 5, Lines 16-27:** You must demonstrate that the request is being made for a need of the minor child/ward. A release cannot be made only because the beneficiary desires it. State specifically the need that this money would cover.
- **Page 6, Lines 1-13:** Provide an explanation as to why this need is not able to be financially covered by other means.
- **Page 6, Lines 14-27:** State whether other methods of funding have been exhausted.
- **Page 6, Line 6:** State the number of additional pages used, if any.
- **Page 6, Lines 8-21:** Be sure to read the statement that precedes your signature. If you are self-represented, you must date and sign the document. If you are represented by a lawyer, the lawyer must date and sign the document.

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My current address is:

Address [State physical address after P.O. Box if needed]

City State Zip Code

My telephone number is:

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Home Work [if available]

My fax number is (if any):

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My email address (if any):

My social security number:

My Ho-Chunk Nation tribal enrollment number (if any) is:

Tribal ID No. 439A00 ____ _
[Four Numbers]

The minor child/ward presently reside(s) at: *(if different from above)*

Physical address

City State Zip Code

Non-petitioner parent(s)

_____ reside(s) at:

Physical address

City State Zip Code

The Ho-Chunk Nation tribal enrollment number (if any) of the non-petitioner parent(s) is:

Tribal ID No. 439A00 ____ _
[Four Numbers]

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APPLICABLE LAW

The applicable law governing the petition for release of per capita funds is the HO-CHUNK NATION PER CAPITA DISTRIBUTION ORDINANCE, 2 HCC § 12 (2003). Pursuant to Paragraph 8c of the HO-CHUNK NATION PER CAPITA DISTRIBUTION ORDINANCE, monies held in the Trust Fund of a minor or legally incompetent member may be available for the benefit of a beneficiary’s health, education and welfare when the needs of such person are not met through other Tribal funds or other state or federal public entitlement programs, and upon a finding of special need by the Ho-Chunk Nation Trial Court. By the authority of the HO-CHUNK NATION PER CAPITA DISTRIBUTION ORDINANCE, Paragraph 8c, I provide this written request to the Court for the release and disbursement of funds on behalf of the minor child/ward listed in this petition. I understand that access to my minor child/ward trust fund is restricted and swear that this is a last resort in providing for the care and needs of my minor child/ward.

JURISDICTION & PETITIONER RESPONSIBILITY

I, as the parent or legal guardian of the minor child/ward listed above, do hereby, on behalf of the minor child/ward, recognize and consent to the jurisdiction of the Court. I request that the Court enter an *Order* for the release of per capita funds based on this petition satisfying the requirements of the HO-CHUNK NATION PER CAPITA DISTRIBUTION ORDINANCE, Paragraph 8c. I pledge that the funds, if released, will be used for the benefit of the minor or legally incompetent tribal member. I understand that as the parent or legal guardian, I shall maintain and produce records sufficient to demonstrate that the funds disbursed were expended as required by the HO-CHUNK NATION PER CAPITA DISTRIBUTION ORDINANCE and any applicable federal law.

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Below is a set of questions which require a short, plain and explanatory answer in order to determine the merits of your request. Failure to answer each question may result in the return or dismissal of this *Petition*. The petitioner must also include documentation supporting each answer. Examples of supplemental documentation may include proof of medical insurance, bank accounting statements or invoices, a copy of a court order awarding custody to the petitioner, class schedules, school enrollment, proof and/or verification of disability or chronic medical condition by a physician, estimated household budgets, public assistance checks or vouchers, or denial of services by federal, state or tribal programs, etc.

Nature of Request:

Provide the name and contact information of the proposed vendor and a brief statement explaining the requested use of monies released from the Children's/Incompetent's Trust Fund account(s). If seeking funds payable to more than one vendor, please attach additional pages containing the following information for each request.

Amount Requested: \$ _____

Vendor Information: _____

Name

Address [State physical address after P.O. Box if needed]

City State Zip Code

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Phone Fax (if applicable)

Goods Purchased/Services Performed: _____

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Education, Health & Welfare:

The request shall benefit the health, education and/or welfare of the minor child/ward in the following manner, e.g., the minor child/ward is/are physically or learning disabled, the minor child/ward attends school that is insufficient to meet educational goals, the minor child/ward have/has special needs requiring care above and beyond that of a typical child (attach additional pages, if necessary):

Necessity vs. Want or Desire:

The minor child/ward need(s) these funds for the following reasons (attach additional pages, if necessary):

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Financial Hardship:

I am financially unable to provide, in whole or in part, for the identified needs of the minor child/ward based upon the following, e.g., unemployment, limited household income, absence of child support or financial contribution of any type from the non-custodial parent(s) (attach additional pages, if necessary):

Exhaustion of all other methods of funding:

Available tribal, state and federal resources and/or entitlements are not sufficient to meet the current needs of the minor child/ward based upon the following, e.g., denial of education assistance by the HCN Education Department, expulsion from the local public school system, denial of assistance from any HCN program such TERO or Labor, denial of assistance from the HCN Legislature, denial of services from local, county social services programs such as medical care or child care (attach additional pages, if necessary):

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For the reasons stated above, and with the supporting documentation attached, the petitioner requests that the Court enter an *Order* directing the Nation to release funds to the recognized parent or legal guardian of the above named minor child/ward.

NUMBER OF ADDITIONAL PAGES USED: _____

RESPECTFULLY SUBMITTED this _____ day of _____, 20____.
Month Year

Signature: _____

Signature of Counsel (if any): _____

Address of Counsel: _____
Street address or P.O. Box

City State Zip code

Phone Number of Counsel: (____) _____

Fax Number of Counsel: (____) _____

Ho-Chunk Bar Number of Counsel: _____

If not a member of the Ho-Chunk bar, a *Motion to Appear Pro Hac Vice* has been attached in accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 16(B),² and/or I have applied for membership in the Ho-Chunk bar in accordance with the *Ho-Chunk Nation Rules for Admission to Practice*.

² Parties can obtain a copy of the *Ho-Chunk Nation Rules of Civil Procedure* by contacting the Ho-Chunk Nation Judiciary at (715) 284-2722 or (800) 434-4070 or visiting the judicial website at www.ho-chunknation.com/?PageID=123.