

Bureau of Indian Affairs, Interior

§ 115.425

(b) A list of the amounts, purposes, and dates for which disbursements will be made;

(c) The name(s) of the person(s) to whom disbursements may be made, including, as applicable:

(1) A custodial parent;

(2) A legal guardian;

(3) The person who has been recognized by the BIA as having control and custody of the minor and the address of that person;

(4) An emancipated minor; and/or

(5) Any third parties and the address(es) of the third parties to whom the direct payment will be made for goods or services provided to the minor and supported by an invoice or bill of sale, where applicable;

(d) The date that the disbursement plan was approved and the expiration date of the distribution plan; and

(e) The date and signature of the BIA official approving the plan with a certification that the plan is in the best interest of the account holder.

§ 115.422 As a custodial parent, the legal guardian, the person who BIA has recognized as having control and custody of the minor, or an emancipated minor, what are your responsibilities if you receive trust funds from a minor's supervised account?

If you are a custodial parent, the legal guardian, the person who BIA has recognized as having control and custody of the minor, or an emancipated minor who receives funds from a minor's supervised account, you must:

(a) Consult with the social service provider on the development of an evaluation;

(b) Sign an acknowledgment that you have reviewed the evaluation;

(c) Follow the terms of a distribution plan approved by the BIA;

(d) Follow any applicable court order;

(e) Provide receipts to the social services provider in accordance with terms of the evaluation for all expenses paid out of the minor's IIM funds;

(f) Review the statements of performance for the supervised account for discrepancies, if applicable;

(g) File tax returns on behalf of the account holder, if applicable; and

(h) Notify the social service provider of any change in circumstances that

impairs your performance of your obligations under this part or inform the social service provider of any information regarding misuse of a minor's trust funds.

§ 115.423 If you are a custodial parent, a legal guardian, or an emancipated minor, may BIA authorize the disbursement of funds from a minor's supervised account without your knowledge?

At the Secretary's discretion, the BIA may authorize the disbursement of funds from a minor's supervised account for the benefit of the minor.

§ 115.424 Who receives a copy of the BIA-approved distribution plan and any amendments to the plan?

The BIA-approved distribution plan will be provided to:

(a) The custodial parent; or

(b) A legal guardian; or

(c) At the Secretary's discretion, in unusual circumstances, to a family member who has been recognized as having control and custody of the minor; or

(d) An emancipated minor; and

(e) OTFM.

§ 115.425 What will we do if we find that a distribution plan has not been followed or an individual has acted improperly in regard to his or her duties involving a minor's trust funds?

If we find that a distribution plan has not been followed or that a custodial parent, a legal guardian, or the person who has been recognized by the BIA as having control and custody of the minor has failed to satisfactorily account for expenses or has not used the minor's funds for the primary benefit of the minor, we will:

(a) Notify the individual; and

(b) Take action to protect the interests of the minor, which may include:

(1) Referring the matter for civil or criminal legal action;

(2) Demanding repayment from the individual who has improperly expended trust funds or failed to account for the use of trust funds;

(3) Liquidating a bond posted by the legal guardian, where applicable, to recover improperly expended trust funds up to the amount of the bond; or

§ 115.426

25 CFR Ch. I (4–1–05 Edition)

(4) Immediately modifying the distribution plan for up to sixty days, including suspending the authority of the individual to receive further disbursements.

§ 115.426 What is the BIA's responsibility regarding the management of a minor's supervised account?

The BIA's responsibility in regard to the management of a minor's supervised account is to:

- (a) Review and approve the evaluation and the distribution plan;
- (b) Authorize OTFM to disburse IIM funds in accordance with an approved distribution plan; and
- (c) Conduct annual reviews of case records for minors' supervised accounts to ensure that the social service providers have managed the accounts in accordance with the approved evaluation and distribution plan.

§ 115.427 What is the BIA's annual review process for a minor's supervised account?

A BIA social worker with an MSW will conduct an annual review of minors' supervised accounts by:

- (a) Verifying that all receipts for disbursements made under a distribution plan were collected in accordance with the terms specified in the evaluation;
- (b) Reviewing the receipts for disbursements made from a minor's supervised account to ensure that all expenditures were made in accordance with the distribution plan;
- (c) Reviewing all case worker reports and notes;
- (d) Reviewing account records to insure that withdrawals and payments were made in accordance with the distribution plan;
- (e) Verifying current addresses, including the address of record, the address of the minor's residence, and the disbursement address; and
- (f) Deciding whether the distribution plan needs to be modified.

§ 115.428 Will you automatically receive all of your trust funds when you reach the age of 18?

No, we will not automatically send your trust funds to you when you reach the age of 18.

§ 115.429 What do you need to do when you reach 18 years of age to access your trust funds?

You must contact OTFM to request withdrawal of any or all of your trust funds that may be available to you. OTFM may require certain information from you to verify your identity, etc. prior to the release of your trust funds. All signatures must be notarized by a notary public or witnessed by a DOI employee. In addition, if you choose to have a check mailed to you, you must provide us with your address of record. If you choose to have your trust funds electronically transferred to you, you must provide your financial institution account information to OTFM.

§ 115.430 Will your account lose its supervised status when you reach the age of 18?

Your account will no longer be supervised when you reach the age of 18 unless statutory language or a tribal resolution specifies an age other than 18 years of age for access to specific trust funds. However, if a court of competent jurisdiction has found you to be non-compos mentis, under legal disability, or the BIA has determined you to be an adult in need of assistance, your account will remain supervised and you will be notified in accordance with subpart E.

§ 115.431 If you are an emancipated minor may you withdraw trust funds from your account?

If you are an emancipated minor, you may have access to some or all of your trust funds as follows:

- (a) For judgment per capita funds: you may not make withdrawals from your account until you have reached the age specified in the judgment. Exceptions are only granted upon the approval of an application made under Public Law 97-458. See 25 CFR 1.2.
- (b) Tribal per capita funds: access to these funds will be determined by tribal resolution.
- (c) Other trust funds: You may be able to have supervised access to some or all of your funds, but the BIA must approve all requests for withdrawals from your account. You must work with the BIA to develop a distribution