

§4.210

(c) A renunciation filed in accordance with this section will be considered accepted when implemented in an order by a deciding official and will be irrevocable thereafter.

(d) All disclaimers or renunciations previously filed with and implemented in an order by a deciding official are hereby ratified as valid and effective.

COMMENCEMENT OF PROBATE
PROCEEDINGS

SOURCE: 70 FR 11815, Mar. 9, 2005, unless otherwise noted.

§4.210 Commencement of probate.

(a) The probate of a trust estate before a deciding official will commence when the probate specialist files with OHA all information shown in the records relative to the family of the deceased and his or her property.

43 CFR Subtitle A (10–1–06 Edition)

(1) The information must include the complete probate package described in 25 CFR 15.203 and any other relevant information.

(2) If OHA determines that the probate package is not complete, it may request the missing information from BIA or return the case to BIA for further processing.

(b) The agency must promptly transmit to the deciding official any creditor's or other claims that are received after the case is transmitted to OHA, for a determination of their timeliness, validity, priority, and allowance under §§4.250 and 4.251.

§4.211 Assignment to deciding official.

Within 30 days after OHA receives the complete probate package, OHA will assign the case to an attorney decision maker, administrative law judge, or Indian probate judge, as shown in the following table:

The case will be assigned to . . .	for . . .	if . . .	and if . . .
(a) An attorney decision maker	summary processing under §§ 4.212 and 4.214.	as of the date of the decedent's death, the estate contained only trust cash assets of less than \$5,000.	the case meets the other criteria in § 4.212(a).
(b) An attorney decision maker	an informal hearing and decision under §§ 4.213 and 4.214.	as of the date of the decedent's death, the estate contained trust cash assets of \$5,000 or more or other trust property.	the case meets the other criteria in § 4.213(a).
(c) An administrative law judge or Indian probate judge.	a formal hearing and decision under §§ 4.216 through 4.240.	the case does not meet the criteria in paragraphs (a) or (b) of this section.	
(d) An administrative law judge or Indian probate judge.	Summary or informal processing under §§ 4.212 through 4.214.	no attorney decision maker is available to handle a case under paragraphs (a) or (b) of this section.	

SUMMARY AND INFORMAL PROBATE
PROCEEDINGS

SOURCE: 70 FR 11815, Mar. 9, 2005, unless otherwise noted.

§4.212 Summary process for estates containing only trust cash estates of less than \$5,000.

(a) A decedent's estate may be processed summarily by an attorney decision maker if:

(1) The estate contained only trust cash assets of less than \$5,000 as of the date of the decedent's death;

(2) The case does not meet the criteria in § 4.202(b);

(3) Federal law or a tribal inheritance code approved by the Secretary does not provide otherwise.

(b) Any interested party may request a formal hearing before an administrative law judge or Indian probate judge to determine the proper distribution of the trust cash assets. This request for a formal hearing, if desired, must be made before the attorney decision maker renders a decision. Upon receiving a request for a formal hearing, OHA will assign or transfer the case to an administrative law judge or Indian probate judge.

(c) Within 60 days after OHA receives the complete probate package, if no interested party has requested a formal hearing before an administrative law judge or Indian probate judge, the attorney decision maker to whom the case has been assigned will:

(1) Provide notice equivalent to that required for a formal hearing under §§4.216-4.217;

(2) Assemble the probable heirs and beneficiaries; and

(3) Hold an informal hearing to determine the distribution of the trust cash assets.

(d) The attorney decision maker may schedule a supplemental informal hearing as necessary, in accordance with §4.235.

(e) Within 30 days after the informal hearing, if no interested party has requested a formal hearing before an administrative law judge or Indian probate judge, the attorney decision maker will issue a written order in accordance with §4.214.

(f) Any interested party may seek de novo review of the case following the decision of the attorney decision maker in accordance with §4.215.

(g) If de novo review has not been sought within 60 days of the date of the written order, the attorney decision maker must submit:

(1) The complete original record to the LTR0;

(2) A complete duplicate copy of the record to the agency that prepared the probate package; and

(3) A copy of any relevant portions of the record to any other affected agency.

§4.213 Informal process for cases that do not require a formal hearing.

(a) A decedent's estate may be processed informally by an attorney decision maker if:

(1) The estate contained trust cash assets of \$5,000 or more as of the date of the decedent's death or contained other trust property;

(2) The case does not meet the criteria in §4.202(b);

(3) Federal law or a tribal inheritance code approved by the Secretary does not provide otherwise.

(b) Any interested party may request a formal hearing before an administra-

tive law judge or Indian probate judge to determine the proper distribution of the estate. This request for a formal hearing, if desired, must be made before the attorney decision maker renders a decision. Upon receiving a request for a formal hearing, OHA will assign or transfer the case to an administrative law judge or Indian probate judge.

(c) Within 120 days after OHA receives the complete probate package, if no interested party has requested a formal hearing before an administrative law judge or Indian probate judge, the attorney decision maker to whom the case has been assigned will:

(1) Provide notice equivalent to that required for a formal hearing under §§4.216-4.217;

(2) Assemble the probable heirs and beneficiaries; and

(3) Hold an informal hearing to determine the distribution of the trust assets.

(d) The attorney decision maker may schedule a supplemental informal hearing as necessary, in accordance with §4.235.

(e) Within 60 days after the informal hearing, if no interested party has requested a formal hearing before an administrative law judge or Indian probate judge, the attorney decision maker will issue a written order in accordance with §4.214.

(f) Any interested party may seek de novo review of the case following the decision of the attorney decision maker in accordance with §4.215.

(g) If de novo review has not been sought within 60 days of the date of the written order, the attorney decision maker must submit:

(1) The complete original record to the LTR0;

(2) A complete duplicate copy of the record to the agency that prepared the probate package; and

(3) A copy of any relevant portions of the record to any other affected agency.

§4.214 Written decision of attorney decision maker.

Following the informal hearing in §4.212 or 4.213, the attorney decision maker will issue a written decision that: