

Bureau of Indian Affairs, Interior

§ 115.418

file to see if we can attest to the individual's identity. If we cannot establish the identity of the individual, we will not accept the request.

§ 115.412 Will child support payments be accepted for deposit into a minor's supervised account?

The Secretary will not accept child support payments for deposit into a minor's supervised account.

§ 115.413 Who may receive funds from a minor's supervised account?

A custodial parent, a legal guardian, a person who has been recognized by the BIA as having control and custody of the minor, or an emancipated minor may be eligible to withdraw funds from a minor's supervised account if there is an authorized disbursement request that is based upon the terms of a BIA-approved distribution plan.

§ 115.414 What is an authorized disbursement request?

An authorized disbursement request is the form or letter that must be approved by the BIA that specifies the funds to be disbursed from an IIM account. The authorized disbursement request may not be issued to disburse funds from a minor's supervised account unless an approved distribution plan exists, the amount to be disbursed is in conformity with the distribution plan and the disbursement will be made to an individual or third party specified in the plan.

§ 115.415 How will an authorized disbursement from a minor's supervised account be sent?

OTFM will make an authorized disbursement based on the approved distribution plan from a minor's supervised account by:

- (a) Making a direct deposit to a specified account at a financial institution (a direct deposit into the specified account will eliminate lost, stolen or damaged checks and will also eliminate delays associated with mailing the check);
- (b) Mailing a check to the address of record or to a specified disbursement address; or
- (c) Mailing a check to a specified third party's address.

§ 115.416 Will the United States post office forward mail regarding a minor's supervised account to a forwarding address left with the United States post office?

(a) Federal law does not allow the United States post office to forward checks that are issued by the federal government. Therefore, a check from a minor's supervised account will not be forwarded to an address left with the United States post office. The new address of record must be provided directly to BIA.

(b) Where a forwarding address has been provided to the United States post office, the United States post office will forward a statement of performance and general correspondence regarding a minor's supervised account that is mailed to the minor's address of record for a limited time period. However, it is the responsibility of a custodial parent, legal guardian, or emancipated minor to give BIA the new address of record for the minor's supervised account.

§ 115.417 What portion of funds in a minor's supervised account may be withdrawn under a distribution plan?

Trust money in a minor's supervised account will not be distributed without a review of other resources that may be available to meet the needs of the minor. Any trust funds of a minor that are distributed must be used for the direct benefit of the minor and in accordance with any additional limitations (*e.g.*, statutory, court order, tribal resolution, etc.) placed on the use of specific trust funds. Allowable uses may include health, education, or welfare when based upon a justified unmet need. The BIA will require receipts for expenditures of funds disbursed from a minor's account to a custodial parent, legal guardian, person who has been recognized by the BIA as having control and custody of the minor, or an emancipated minor.

§ 115.418 What types of trust funds may a minor have?

A minor may have one or more of the following types of trust funds:

- (a) Judgment per capita funds: Withdrawals may only be made upon BIA

§ 115.419

25 CFR Ch. I (4-1-08 Edition)

approval of an application made under Public Law 97-458. See 25 CFR 1.2.

(b) Tribal per capita funds: Withdrawals may only be made under a BIA approved distribution plan and in accordance with the terms of the tribe's per capita resolution/document.

(c) Other trust funds: Withdrawals may only be made under a minor's BIA-approved distribution plan that is based on a justified unmet need for the minor's health, education, or welfare.

(d) Funds from other federal agencies (e.g., SSA, SSI, VA) received for the benefit of the minor: Withdrawals must be made only under a BIA-approved distribution plan that must be consistent with the disbursing agency's (e.g., SSA, SSI, VA) allowable uses for the funds.

§ 115.419 Who develops a minor's distribution plan?

A social service provider will develop a minor's distribution plan for approval by the BIA after evaluating the needs of the minor in consultation with a custodial parent, a legal guardian, the person who has been recognized by the BIA as having control and custody of the minor, or emancipated minor. A minor's distribution plan may only provide for those expenditures outlined in part § 115.417.

§ 115.420 When developing a minor's distribution plan, what information must be considered and included in the evaluation?

When developing a minor's distribution plan, the following information must be considered and included in the evaluation:

(a) Documentation which establishes who has physical custody of the minor (e.g., home visits, school records, medical records, etc.);

(b) A copy of any custodial orders or guardianship orders from a court of competent jurisdiction;

(c) The name(s) of the person and his or her relationship to the minor, if any, who make a request for a disbursement from the minor's account;

(d) An evaluation of other resources, including parental income, that may be available to meet the unmet needs of the minor;

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

(f) The name(s) of the person 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;

(4) An emancipated minor; and/or

(5) Any third parties to whom the BIA will make direct payment for goods or services provided to the minor and supported by an invoice or bill of sale;

(g) The date(s) (at least every six months) when the custodial parent, the legal guardian, the person who has been recognized by the BIA as having control and custody of the minor, or the emancipated minor must provide receipts to the BIA to show that expenditures were made in accordance with the approved distribution plan;

(h) Additional requirements and justification for those requirements, as necessary to ensure that any distribution(s) will benefit the minor;

(i) The dates the disbursement plan was developed, approved, and reviewed, and the date for the next scheduled review;

(j) The date(s) the distribution plan was amended and an explanation for any amendment(s) to the distribution plan, when an amendment is necessary;

(k) The signature of the BIA official approving the plan with the certification that the plan is in the best interest of the account holder; and

(l) The signature(s) of the custodial parent, legal guardian, with date(s) signed, certifying that he or she has been consulted and has agreed to the terms of the evaluation and the distribution plan.

§ 115.421 What information will be included in the copy of the minor's distribution plan that will be provided to OTFM?

A minor's distribution plan must contain the following:

(a) A copy of any custodial order or guardianship order from a court of competent jurisdiction;