

§ 115.426

25 CFR Ch. I (4-1-08 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

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plan to access the funds in your account. In no instance will the BIA allow an emancipated minor to make unsupervised withdrawals.

(d) For funds from other federal agencies (*e.g.*, SSA, SSI, VA), you may be able to receive funds directly, but you must contact and make arrangements with the other federal agency. Direct receipt of funds from another federal agency will not change the supervised status of an emancipated minor's trust account.

Subpart D—IIM Accounts: Estate Accounts

§ 115.500 When is an estate account established?

An estate account is established when we receive notice of an account holder's death.

§ 115.501 How long will an estate account remain open?

An estate account will remain open until the funds have been distributed in accordance with the distribution and/or probate order.

§ 115.502 Who inherits the money in an IIM account when an account holder dies?

At the end of all probate procedures, funds remaining in a decedent's estate account will be distributed from the decedent's estate account and paid directly to or deposited into an IIM account of the decedent's heirs, beneficiaries, or other persons or entities entitled by law to receive the funds, where applicable. See 25 CFR part 15.

§ 115.503 May money in an IIM account be withdrawn after the death of an account holder but prior to the end of the probate proceedings?

(a) If you are responsible for making the funeral arrangements of a decedent who had an IIM account and you have an immediate need for emergency assistance to pay for funeral arrangements prior to burial, you may make a request to the BIA for up to \$1,000 from the decedent's IIM account if the decedent's IIM account has more than \$2,500 in the account at the date of death.

(b) You must apply for this assistance and submit to the BIA an original

itemized estimate of the cost of the service to be rendered and the identification of the service provider.

(c) We may approve reasonable costs up to \$1,000 that are necessary for the burial services.

(d) We will make payments directly to the providers of the service(s).

§ 115.504 If you have a life estate interest in income-producing trust assets, how will you receive the income?

If you have a life estate interest in income-producing trust assets, which is earning income, OTFM will open an IIM-life estate account for you and funds will be distributed after BIA has certified ownership of the trust funds.

Subpart E—IIM Accounts: Hearing Process for Restricting an IIM Account

§ 115.600 If BIA decides to restrict your IIM account under § 115.102 or § 115.104, what procedures must the BIA follow?

If under § 115.102 or § 115.104, the BIA has decided to limit your access to your IIM account (*i.e.*, decided to supervise the IIM account), or if the BIA has decided to pay creditors with funds from your IIM account, including creditors with judgments from Courts of Indian Offenses for which preliminary procedures are prescribed in 25 CFR 11.208, the BIA must notify you or your guardian, as applicable, to provide you or your guardian, as applicable, with an opportunity to challenge the BIA's decision to restrict your IIM account as specified in subpart E.

§ 115.601 Under what circumstances may the BIA restrict your IIM account through supervision or an encumbrance?

(a) The BIA may restrict your IIM account through supervision if the BIA:

(1) Receives an order from a court of competent jurisdiction that you are non-compos mentis; or

(2) Receives an order or judgment from a court of competent jurisdiction that you are an adult in need of assistance because you are "incapable of