

## Bureau of Indian Affairs, Interior

## § 115.601

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#### § 115.503 May money in an IIM account be withdrawn after the death of an account holder but prior to the end of the probate proceedings?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

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managing or administering property, including your financial affairs;” or

(3) Determines through an administrative process that you are an adult in need of assistance based on a finding by a licensed medical or mental health professional that you are “incapable of managing or administering property, including your financial affairs;” or

(4) Receives information from another federal agency that you are under a legal disability and that the agency has appointed a representative payee to receive federal benefits on your behalf.

(b) The BIA may restrict your IIM account through an encumbrance if the BIA:

(1) Receives an order from a court of competent jurisdiction awarding child support from your IIM account; or

(2) Receives from a third party:

(i) A copy of the original contract between you and the third party in which you used your IIM funds as security/collateral for the transaction;

(ii) A copy of the document showing that the BIA approved in advance the use of your IIM funds as security/collateral for the contract;

(iii) Proof of your default on the contract according to the terms of the contract; and

(iv) A copy of the original assignment of IIM income as security/collateral for the contract that is signed and dated by you and is notarized;

(3) Receives a money judgment from a Court of Indian Offenses pursuant to 25 CFR 11.208 or under any tribal law and order code;

(4) Is provided documentation showing that BIA or OTFM caused an administrative error which resulted in a deposit into your IIM account, or a disbursement to you, or to a third party on your behalf; or

(5) Is provided with proof of debts owed to the United States pursuant to § 115.104 of this part.

**§ 115.602 How will the BIA notify you or your guardian, as applicable, of its decision to restrict your IIM account?**

The BIA will notify you or your guardian, as applicable, of its decision to restrict your IIM account by:

(a) United States certified mail to your address of record;

(b) Personal delivery to you or your guardian, as applicable, or to your address of record;

(c) Publication for four consecutive weeks in your tribal newspaper if your whereabouts are unknown and in the local newspaper serving your last known address of record; or

(d) United States certified mail to you in care of the warden, if you are incarcerated. The BIA may send a copy of the notification to your attorney, if known.

**§ 115.603 What happens if BIA’s notice of its decision to place a restriction on your IIM account that is sent by United States certified mail is returned to the BIA as undeliverable for any reason?**

If BIA’s notice of its decision to place a restriction on your IIM account that is sent by United States certified mail is returned to the BIA as undeliverable for any reason, the BIA will remove the restriction on your account, which was placed five days after the notice was mailed, and will publish a notice in accordance with § 115.602(c) and § 115.605(b).

**§ 115.604 When will BIA authorize OTFM to place a restriction on your IIM account?**

BIA will authorize OTFM to place a restriction on your IIM account after providing OTFM with supporting documentation (i.e., receipts, notice of publication, etc.) of the following: