

## § 117.4

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

### § 117.4 Disbursement of allowance funds.

Except as provided in § 117.5, all allowance funds shall be disbursed to the Indian owner unless the Indian owner directs otherwise in writing. At the request of the Indian owner, such funds may be retained by the superintendent as voluntary deposits subject to withdrawal or other disposition upon demand or direction of the Indian owner. The superintendent may recognize a power of attorney executed by the Indian and may disburse the allowance funds of the Indian in conformity therewith so long as the power of attorney remains in force and effect.

### § 117.5 Procedure for hearings to assume supervision of expenditure of allowance funds.

(a) Whenever the superintendent has reason to believe that an adult Indian is wasting or squandering his allowance funds the superintendent may cause an investigation and written report of the facts to be made. If the report indicates that the Indian is wasting or squandering his allowance funds the following notice shall be served upon the Indian, in person or by registered mail, and a copy thereof shall likewise be served upon his guardian if the Indian is under guardianship:

Section 1 of the act of February 27, 1925 (43 Stat. 1008) provides in part as follows:

"All payments to adults not having certificates of competency, including amounts paid for each minor, shall, in case the Secretary of the Interior finds that such adults are wasting or squandering said income, be subject to the supervision of the Superintendent of the Osage Agency: . . ."

Enclosed is a copy of a report which has been made to me concerning your handling and management of the income paid to you through the Osage Agency. This report indicates that you have been wasting and squandering your payments.

You are hereby notified that a hearing will be held in the Osage Indian Agency, Pawhuska, Oklahoma, at \_\_\_\_ m., on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before the Superintendent, for the purpose of taking testimony and evidence to be submitted to the Commissioner of Indian Affairs for his consideration in determining whether your payments shall be subject to the supervision of the Superintendent.

You are requested to be present at the hearing at the time and place designated above. You may introduce at the hearing

such testimony and evidence as you deem appropriate to show that you are not wasting or squandering your payments and that your payments should continue to be made to you without supervision for your unrestricted use.

You are entitled to employ an attorney to assist you in this matter. Upon your request the employees of the Osage Agency will furnish you with any information you desire concerning your accounts at the Osage Agency or any of your transactions handled through the Osage Agency.

Date.

Superintendent.

(b) A hearing shall be held pursuant to the notice, the date of which shall be not less than 30 days after the date of the notice. For good cause shown to exist the superintendent may continue the hearing to a later date.

(c) A record of the proceedings, consisting of the superintendent's preliminary report, the notice and proof of service, all testimony and evidence introduced at the hearing, and all briefs and letters filed by the Indian or his attorney shall be submitted to the Commissioner, together with a recommendation from the superintendent.

(d) Upon a finding by the Commissioner that the Indian is wasting or squandering his income, his allowance funds shall thereafter be subject to the supervision of the superintendent. Notice of the decision of the Commissioner shall be furnished all interested parties.

### § 117.6 Allowance for minors.

The superintendent may disburse from the surplus funds of an Indian under 21 years of age not to exceed \$300 quarterly for the support and maintenance of the minor. Disbursement may be made to the parent, guardian, or other person, school or institution having actual custody of the minor, or, when the minor is 18 years of age or over, disbursement may be made direct to the minor.

### § 117.7 Disbursement or expenditure of surplus funds.

Except as provided in the regulations in this part, no disbursement or expenditure of surplus funds of Indians shall be made without the consent of

the Indian owner and until authorization has been obtained from the Commissioner. Application by an Indian or his legal guardian, or if he is a minor, by his parent or legal guardian, for the expenditure of surplus funds shall be presented to the Commissioner, fully justified with the appropriate attachments such as court orders, decrees or other papers. Such application shall contain full information regarding the individual including his cash balance, the sum invested, the number of shares in the Osage mineral estate, total income from all sources including that paid on behalf of minors, the family status and the occupation or industry of the applicant. When request is made for payment to the individual without supervision, the record of said individual and his ability to handle such funds shall be shown.

**§ 117.8 Purchase of land.**

Upon written application of an adult Indian, the superintendent may disburse not to exceed \$10,000 from the surplus funds of such Indian for the purchase of land, the title to which has been examined and accepted by the special attorney for the Osage Indians or other legal officer designated by the Commissioner. In all cases title must be taken by deed containing a clause restricting alienation or encumbrance without the consent of the Secretary of the Interior or his authorized representative.

**§ 117.9 Construction and repairs.**

Upon written application by an adult Indian, the superintendent may disburse not to exceed \$1,000 during any one fiscal year from the surplus funds of such Indian to make repairs and improvements to restricted real property and in addition not to exceed \$300 for new construction. When such expenditures are being made on property producing an income, reimbursement shall be required from such income unless otherwise directed by the Commissioner. When an Indian refuses to make application for funds to defray the cost of repairs necessary to preserve restricted property, the superintendent may, when authorized by the Commissioner, expend the surplus funds of the Indian for such repairs.

**§ 117.10 Purchase of automotive equipment.**

The superintendent may disburse from the surplus funds of an adult Indian not to exceed \$2,000 for the purchase of automotive equipment when the Indian agrees in writing to carry property and liability insurance on the automotive equipment and to reimburse his surplus funds account from allowance funds within 24 months. No disbursement of surplus funds for the purchase of automotive equipment shall be made if the fulfillment of the reimbursable agreement will endanger the payment of taxes, insurance or other obligations, or result in the inability of the Indian to meet his current living expenses from allowance funds.

**§ 117.11 Insurance.**

The superintendent may obtain policies of insurance covering the restricted property, real or personal, of minor Indians and pay the premiums thereon from the funds of the minors. Upon application by an adult Indian the superintendent may procure insurance on any restricted property, real or personal, owned by the applicant and pay the necessary premiums from his surplus or allowance funds. When authorized by the Commissioner, the superintendent may also procure insurance on restricted property, real or personal, of any adult Indian who neglects or refuses to take out such insurance.

**§ 117.12 Costs of recording and conveyancing.**

The superintendent may expend the surplus funds of an Indian to make direct payment of recording fees and costs, of conveyancing, including abstracting costs, which are properly payable by the Indian.

**§ 117.13 Telephone and telegraph messages.**

The superintendent may expend the surplus funds of an Indian to make direct payment for telephone and telegraph messages sent by the agency or received at the agency at the instance of the Indian or his guardian or attorney.