code of federal regulations

Indians

25

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§ 117.35 Appeals.

Any decision by the superintendent may be appealed to the area director, any decision by the area director may be appealed to the Commissioner, and any decision by the Commissioner may be appealed to the Secretary.

PART 118—JUDGMENT FUNDS, SHOSHONE TRIBE OF THE WIND RIVER RESERVATION, WYOMING

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AUTHORITY: Sec. 2, 53 Stat. 1128; 25 U.S.C. 572.

SOURCE: 22 FR 10557, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

NOTE: For declaration of policy in disbursement of the judgment fund of the Shoshone Tribe of the Wind River Reservation, Wyo., see 4 FR 4797, Dec. 8, 1939.

§ 118.1 Program required; purposes for which expenditures may be made.

Pro rata shares of the Shoshone Judgment Fund shall be expended in accordance with an approved program and for: Furchase of land; improvement of land to be acquired or already held by the Indian; erection and improvement of suitable homes; education; purchase of building material, farming equipment, livestock, feed, food, seed, grain, tools, machinery, implements, household goods, bedding, clothing, and any other equipment, supplies, or training necessary to enable the Indian to fit himself for or to engage in farming, livestock raising, industry, or such other pursuits or vocations as will enable him to become self-supporting.

§ 118.2 Family programs.

The funds of a husband and wife, and of any other adults in a family group, may be used in the execution of a family program: *Provided,* The written consent of each individual is filed with the superintendent of the Wind River Indian Agency, Wyoming, hereafter in this subpart referred to as the superintendent. The available funds of a minor may be used in the execution of such family program, only on condition that (a) the funds of such minor are used solely in the development, repair or maintenance of real or personal property owned by said minor or held in trust for him, or in the creation development or completion of a project or undertaking or in the production of a gain or profit which will inure directly to the benefit of such minor, (b) title to any real property or fixtures, purchased wholly or in part with his money shall, except with the approval of the Commissioner of Indian Affairs, be held in trust for him, or (c) the adults convey to the United States in trust for such minor sufficient real or personal property to assure, insofar as is possible, that the minor upon attaining majority will have, in lieu of the money, property of a value equal to that of his funds used in the execution of the program. The superintendent shall not approve a family program which involves the transfer to a minor, in exchange for his funds, of assets of a nature which will not be useful to him. The written consent of a minor who is 16 years of age or over, duly witnessed by at least two disinterested persons, shall accompany any family program which involves the use of said minor's funds.

§ 118.3 Scope of programs.

Programs shall contemplate the eventual use of the entire pro rata share or definitely provide for the conservation of a portion of such share, but in no case, except as hereinafter provided in this part, shall a program

provide for the expenditure in the first year, after its approval, of more than $1,350 for each adult or more than $500 for each minor contributing to the program, and the program shall recognize that future use and expenditures for such program fter the first year shall depend upon the proper use of the funds initially authorized to be expended: *Provided*, That the program of an adult may, with the approval of the Commissioner of Indian Affairs, provide for the expenditure in the first year after its approval of more than $1,350 when required for its most effective development. Expenditures of a minor's funds under this subpart shall not exceed a total sum of $500 and the remaining $1,850 of each minor's share shall be held intact until his majority, as required in section 2 of the act of July 27, 1939 (53 Stat. 1128).

§ 118.4 Authority to withhold funds.

The superintendent may stop disbursement of funds in the execution of an approved program upon evidence that the Indian is not complying with the program or that the continuation of the program or expenditures thereunder will not result in benefit to the Indian, and he may require either further justification for carrying out the program theretofore approved or the submission of a new program.

§ 118.5 Approval of programs.

The superintendent, subject to the limitations described in this subpart, shall approve or disapprove all programs submitted by Indians for the use and disbursement of pro rata shares of the Shoshone Judgment Fund. The Shoshone business council may act, or designate a committee of Indians to act, in an advisory capacity in the preparation and consideration of programs. Programs shall be prepared upon an approved form,[1] which shall be filled out in duplicate, one copy to be filed at the Wind River Indian Agency and one copy to be retained in the possession of the Indian.

[1] Forms shall be made available at the Wind River Indian Agency.

§ 118.6 Right of appeal.

Indians shall have the right of appeal through the superintendent, to the Area Director, Billings Area Office, Bureau of Indian Affairs (referred to in this part as the Area Director) (a) from an action of the superintendent in withholding funds under § 118.4 and (b) from an action of the superintendent in disapproving a program under § 118.5. Appeals must be filed within 60 days with the superintendent who shall promptly forward the appeal, together with a statement of the facts in the case and of his reasons for the action taken by him, to the Area Director. An appeal will lie within a like period from the action of the Area Director to the Commissioner of Indian Affairs.

§ 118.7 Individual land purchases.

Before approving a program which includes an individual land purchase, the superintendent shall determine that such purchase will not conflict with the tribal land program of land purchase, consolidations and use authorized by the act of July 27, 1939 (53 Stat. 1128). No purchase of land by individuals using restricted funds shall be made within the ceded or opened portion of the Wind River Reservation.

§ 118.8 Issuance of purchase orders.

In the discretion of the superintendent, expenditures from pro rata share accounts, other than for the purchase of real property, may be made either by purchase order or by cash disbursement to the individual for the execution of an approved program.

§ 118.9 Purchase of real property.

Except as otherwise provided in § 118.18 payment shall be made by the superintendent, payment for the purchase of real property shall be made by the superintendent and such payment shall be made only after the title has been found satisfactory by the Area Director.

§ 118.10 Trust status of property.

Title to all real property to be acquired with restricted funds, when such property is situated within the

diminished portion of the Wind River Reservation, shall be taken in trust for the individual. Title to personal property acquired pursuant to a purchase order shall be taken in trust. Livestock purchased and the offspring thereof shall be marked or branded with the individual brand of the owner. The provisions of this section are subject to the provisions of § 118.18.

§ 118.11 Allowances for support.

The superintendent may, upon proper showing, approve expenditures for the maintenance and support of the aged, infirm, decrepit, and incapacitated, whether adults or minors, and expenditures from that part of an adult's pro rata share which exceeds $1,450 for the support of an individual who has proved to be incapable of conducting a productive enterprise. The manner of disbursement and the amount of funds to be used for such purposes shall be determined by the superintendent, subject to the expenditure limitations set forth in § 118.3.

§ 118.12 Medical treatment.

The superintendent may approve the expenditure from that part of an adult's pro rata share which exceeds $1,450 to cover medical, dental, surgical, or hospital treatment, including nursing services. No part of a minor's pro rata share shall be expended for such purposes.

§ 118.13 Education.

The superintendent may authorize the expenditure of funds from any minors account for clothing because of school needs, and in addition, from the account of any minor who is in the ninth grade or higher for his tuition and other necessary expense in a government, private, public, or mission school.

§ 118.14 Transfer of funds.

When an Indian who is entitled to a pro rata share of the Shoshone judgment fund is a resident within the jurisdiction of another Indian agency, the superintendent may transfer to the superintendent of such other agency, to the credit of such Indian, the share of the Shoshone judgment fund to which such Indian is entitled. All funds so transferred shall be expended in accordance with this subpart.

§ 118.15 Repayment of loans.

Before approving a porgram, the superintendent shall make certain that provision has been made therein for the repayment of any amounts due on any loan, evidenced by a written agreement, from the United States or from the Shoshone Tribe.

§ 118.16 Funds not available for payment of certain debts.

Debts, except those to the United States and the Shoshone Tribe, incurred by Indians prior to July 27, 1939, shall not be paid from any funds made available from the Shoshone Judgment Fund. Debts of Indians will not be paid from the funds to be disbursed under this subpart unless previously authorized by the superintendent, except in emergency cases necessitating medical treatment or in the payment of last illness or funeral expenses,[2] as authorized in this subpart, and any other exceptional cases where specific authority is granted by the Commissioner of Indian Affairs.

§ 118.17 Disposition of funds in event of death.

Prior to the determination of heirs, the superintendent may disburse whatever amount he deems necessary and proper for the support of the widow of the decedent and for each minor child of the decedent. Before making the disbursement, the superintendent shall be reasonably satisfied that actual need for assistance exists and that the value of the estate is sufficient to justify such payments considering all proper claims. A complete record of all disbursements shall be reported by the superintendent to the examiner of inheritance and by the latter considered and included in his report of probate proceedings. After payment of all proper claims against the funds, including reimbursable or other debts due the United States or the Shoshone Tribe and excluding any

[2] Comptroller General Ruling A-62264, dated July 25, 1935.

claims arising out of debts incurred prior to July 27, 1939, the balance shall be transferred to the individual accounts of the heirs of the decedent in accordance with the approved heirship findings. Expenditures from inherited funds shall be made for purposes authorized in this part.

§ 118.18 Fee patent Indians.

For the purposes of this part, a "fee patent Indian" shall be an adult Indian who has received a patent in fee to his allotment. Fee patent Indians shall be required to submit a program, the approval of which shall be in conformity with §§ 118.1 through 118.6. Fee patent Indians shall not be required to make purchases through purchase orders, but shall have funds disbursed to them direct by the superintendent for such purchases. Funds of minor children of fee patent Indians may be included in an approved family program, but their expenditure shall be subject to the same provisions as cover the expenditure of the funds of minor children of Indians other than fee patent Indians. Fee patent Indians shall be required to conform to the provisions of § 118.9 only when the purchase of real property involves property situated within the diminished portion of the Wind River Reservation. Payments by fee patent Indians for real property outside the diminished portion of the Wind River Reservation may be made by them with funds disbursed to them by the superintendent. Except as otherwise provided in this section, fee patent Indians shall conform to all the provisions of this part.

§ 118.19 Nonresident Indians.

The provisions of § 118.18 pertaining to fee patent Indians shall also apply to Indians other than fee patent Indians who habitually reside away from the Wind River Reservation and have, to all intents and purposes, severed their affiliation with the tribe, and who shall furnish to the superintendent in writing a statement that they intend to continue to reside away from the reservation and evidence, satisfactory to the superintendent, of their competency and ability to support themselves and manage their own affairs.

§ 118.20 Definition of "adult" and "minor."

The term "adult" shall include all members of the tribe 18 years of age or over, and the term "minor" shall include all members of the tribe less than 18 years of age.

PART 119—DISTRIBUTION OF JUDGMENT AWARDED THE CHEROKEE NATION OR TRIBE OF INDIANS

Sec.

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119.2 Purpose.
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119.4 Payment of shares to living enrollees.
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119.7 Assignment of shares.
119.8 Power of attorney.
119.9 Shares of deceased heirs.
119.10 Disposition of unclaimed and unpaid shares.

AUTHORITY: Sec. 8, 76 Stat. 776, 25 U.S.C. 998.

SOURCE: 27 FR 10321, Oct. 23, 1962, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 119.1 Definitions.

(a) "Director" means the Area Director, Bureau of Indian Affairs, Federal Building, Muskogee, Oklahoma, or his authorized representative.

(b) "Tribe" means the Cherokee Nation or Tribe of Indians of Oklahoma.

(c) "Enrollee" means a person whose name appears on the rolls of the Cherokee Nation which rolls were closed and made final as of March 4, 1907, pursuant to the Act of April 26, 1906, and subsequent additions thereto.

(d) "Distribute" means to apportion or divide into shares the proportional shares of deceased heirs or legatees.

(e) "Minor" means any person under twenty-one years of age.

(f) "Act" means the Act of Congress approved October 9, 1962.

[27 FR 10321, Oct. 23, 1962, as amended at 28 FR 1253, Feb. 8, 1963. Redesignated at 47 FR 13327, Mar. 30, 1982]