Chapter 413

1957 REPLACEMENT PART

Old-age Assistance

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413.010 Definitions. As used in this chapter:

(1) "Applicant" means a person who has applied for old-age assistance.

(2) "Recipient" means a person who has received old-age assistance.

(3) "Income" means net income in cash or kind available to the applicant or recipient the receipt of which is regular and predictable enough to afford security in the sense that the applicant or recipient may rely upon it to contribute toward meeting his needs.

(4) "Resources" means any asset which may be applied toward meeting the needs of the applicant or recipient, including real and personal property holdings contributing to the maintenance of the applicant or recipient or representing investments or savings which may be drawn upon for maintenance purposes, excluding therefrom such personal property as may be determined by the State Public Welfare Commission to be necessary to the beneficiary's general welfare, considering the age, health, living conditions and such other matters as may be deemed pertinent, and as may be in compliance with federal rules and regulations applicable thereto, and personal effects, clothing, furniture and household equipment; provided, however, that ownership or possession of a home or place of residence of the beneficiary or his family shall not render such beneficiary ineligible to receive assistance.

(5) "Needy person" means a person who has attained the age of 65 years and who does not have income and resources sufficient to provide himself with food, clothing, shelter and such other essential needs as are necessary to afford a reasonable sustenance necessary to maintain life and compatible with decency and health; provided, that if the United States Government provides for a contribution to state old-age assistance payable to persons of an age less than 65 years, such lower age shall become the qualifying age of persons entitled to receive old-age assistance. The minimum amount of such income and resources considered sufficient is fixed at $50 per month.

413.020 Eligibility for assistance. Subject to the provisions of this chapter, old-age assistance shall be given to:

(1) Any needy person who has attained the qualifying age and who has been a resident of the State of Oregon for five years or more within the nine years immediately preceding application for assistance and for at least one year immediately preceding the date of application; provided, however, that such assistance shall not include payments to, or in behalf of, any individual who is an inmate of a public institution (except as a patient in a public medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases, or who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

(2) Any needy person who is not receiving adequate support from a husband or wife or child able and legally responsible under the laws of this state to furnish such support, or from any other source.

413.030 Medical assistance to aged. Subject to funds available, each person eligible for assistance under this chapter is entitled to receive medical, dental, surgical, hospital, nursing home or other care necessary to restore and maintain his health, all pursuant to accepted standards of medical practice and compatible with decency and reasonable comfort, subject, however, to the rules and regulations prescribed therefor by the State Public Welfare Commission. There may be included within the above:

(1) Medical, dental, optometrical and surgical care by a practitioner of any of the healing arts or the corrective art of optometry licensed by the State of Oregon.

(2) Nursing care and hospital care prescribed by applicant's doctor, including ambulance service, if necessary.

(3) Medicines, drugs, optical supplies, glasses, artificial limbs, crutches, hearing aids, dentures and such other corrective devices and appliances as may be prescribed and as are indicated by the medical condition of the recipient and are necessary for the decent well-being and comfort of the applicant.

413.040 Amount of assistance. (1) The amount of assistance which any eligible person shall receive shall be on the basis of need and shall be determined on a uniform state-wide basis, subject only to funds available.

(2) An amount of monthly old-age assistance should be added to income sufficient to equal at least $50 per month.

(3) When and during such times as the United States Government increases its contributions in assistance of the aged in this

state above the amount then being paid, the amount of old-age assistance provided by this chapter shall be increased by an amount equal to such increase.

413.050 State commission shall supervise old-age assistance administration. The State Public Welfare Commission shall supervise the administration of old-age assistance by the county public welfare departments and shall prescribe the form of, and furnish and supply to the county public welfare commissions all blank applications, reports, affidavits and such other forms as the state commission deems advisable.

413.060 Annual report of state commission. Within 90 days after the close of each fiscal year the State Public Welfare Commission shall make a report to the Governor for the preceding year stating:

(1) The total number of recipients.

(2) The total amount disbursed in cash.

(3) The total number of applications.

(4) The number of applications granted.

(5) The number of applications denied.

(6) The number of grants canceled during the year.

(7) Such other information as may be deemed advisable or required.

413.070 County departments shall keep prescribed records. The county public welfare departments shall keep such records and accounts in relation to old-age assistance as the State Public Welfare Commission prescribes.

413.080 County commissions shall make prescribed reports. The county public welfare commissions shall make reports in such detail as the State Public Welfare Commission from time to time requires. The state commission shall make reports in such detail as required of it by the Governor or by the United States Government.

413.090 Application for assistance; action thereon. Each person requesting old-age assistance shall make application therefor to the county public welfare commission of the county in which he is living or has his residence. The county commission shall receive all applications made in the county for old-age assistance, shall ascertain the facts supporting such applications, shall determine eligibility and fix the amount of assistance which any person shall receive, shall fix the date on which such assistance shall begin and shall obtain such other information required by the rules and regulations of the State Public Welfare Commission. All grants for old-age assistance shall be subject to approval of the state commission and when approved shall remain in full force and effect until modified or vacated. The county commissions may issue subpenas for witnesses and compel their attendance and the production of papers and writings and may examine witnesses under oath. [Amended by 1955 c.364 §7]

413.100 Appeal from failure to act on application or denial thereof or from modification or cancelation of assistance. If an application is not acted upon by the county public welfare commission within a reasonable time after the filing of the application or is denied in whole or in part, or if any grant of assistance is modified or canceled, the applicant or recipient may petition the State Public Welfare Commission for a fair hearing, which shall be held in the county when the appealing person so elects. Such hearing shall be conducted in accordance with the rules and regulations of the state commission. The findings and decision of the state commission are binding upon the county commissions.

413.110 Cancelation or reduction of assistance upon receipt of property or income. Whenever it is ascertained that the recipient or his or her spouse has become possessed of property or income sufficient properly to maintain the recipient, the assistance granted to such recipient shall, subject to the provisions of ORS 413.120, either be canceled or reduced to that amount which the county public welfare commission shall determine is sufficient for the required assistance. The recipient shall notify the county commission immediately of the receipt or possession of such property or income. [Amended by 1955 c.381 §1]

413.120 Reconsideration and change of amount of assistance. All old-age assistance granted under this chapter is subject to reconsideration from time to time and as frequently as is required by the rules and regulations of the State Public Welfare Commission; and is subject to change or cancelation when the circumstances have changed sufficiently to warrant such action. But within such limits as may be permitted by federal laws, the first $10 and one-third of additional moneys thereafter earned per month from employment obtained after the

determination of the amount of assistance to be granted to a recipient shall not be considered ground for change or cancelation of the assistance granted. [Amended by 1955 c.381 §2]

413.130 Assistance is inalienable. Old-age assistance is not transferable or assignable at law or in equity and none of the money paid or payable under the provisions of this chapter is subject to execution, levy, attachment, garnishment or other legal process.

413.140 Effect of removal by recipient to another county or state. Any recipient may move from one county in the state to another or to another state and on such removal is entitled to continue to receive old-age assistance in accordance with the rules and regulations of the State Public Welfare Commission.

413.150 Recipient shall not receive other public assistance. No person receiving old-age assistance shall during such time receive any other assistance on his or her own behalf from the state or any political subdivision thereof, except for medical, surgical or hospital care and assistance.

413.160 When assistance is paid to guardian or conservator. Whenever it is ascertained that any recipient is incapable of taking care of himself or of the funds granted, the county public welfare commission may direct the payment of the assistance granted him to any person or corporation that has been duly appointed his guardian or conservator if the payment does not result in the loss or reduction of federal matching moneys, if any, otherwise available. [Amended by 1957 c.56 §3]

413.170 Effect of transfer of real property on eligibility for assistance. (1) After November 30, 1950, any transfer of real property by an applicant for old-age assistance under this chapter, made within three years prior to such application or made during the period of a grant of assistance pursuant to any such application by the applicant or recipient, which transfer is made by such person to avoid or defeat any claim of the state or of any county against the estate of any such person for reimbursement for old-age assistance paid to such person, or to avoid or defeat any preferred claim of the state or of the county for reimbursement for such payments or to qualify the person making such transfer as a recipient for old-age assistance, shall disqualify the applicant making such transfer and such applicant shall be ineligible for any benefits under this chapter. A person found to be ineligible under this section shall be ineligible for such time as the State Public Welfare Commission shall determine with due consideration of the facts in the case and the recipient's current need for assistance. The burden shall be upon the applicant or recipient to satisfy the commission that any transfer made within such three-year period is or was not made with the intent that the transferor shall become or remain eligible for such assistance.

(2) After April 17, 1947, any transfer of property by an applicant for old-age assistance under the provisions of section 2, chapter 407, Oregon Laws 1935, made within three years before the filing of an application for a grant of such assistance by the person making such transfer to avoid or defeat any claim of the state or of any county against the estate of such person for reimbursement of old-age assistance paid to such person, or to avoid or defeat any lien of the state or county for reimbursement for such payments, or to qualify the person making such transfer as a recipient of old-age assistance, shall be and hereby is prohibited. No person violating the provisions of this section shall be granted public assistance. Any transfer of property made within such period in considering an application for public assistance shall be presumed to have been made with the intent and for the purposes specified in this subsection.

413.180 Recovery of assistance improperly granted. Should it be ascertained by either the State Public Welfare Commission or the county public welfare commission that any old-age assistance has been improperly granted, an investigation shall be made. If it appears as a result of such investigation that such assistance was improperly granted, either the state commission or the county commission may cancel the grant and the county commission by which the improper payment was authorized shall have cause of suit or action against the person who has received improper assistance. The action shall be instituted in the name of the county commission by the district attorney of such county to recover from such person the amount paid him, with interest thereon, to-

gether with the necessary costs of suit or action.

413.190 Burial of deceased recipient. In every case where the beneficiary dies and funeral expenses therefor have not been paid for in advance or the deceased leaves no real property or money sufficient to provide a decent burial, the State Public Welfare Commission shall provide such a burial out of funds available for carrying out the purposes of this chapter.

413.200 Liability of estate of deceased recipient for assistance granted. (1) The amount of any old-age assistance paid under this chapter is a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient, except such portion thereof as is set apart by order of the court or judge, as provided in ORS 116.010. The State Public Welfare Commission may present and file any such claim in the proceeding upon the administration of the estate of any deceased recipient of old-age assistance as a claim and in like manner as other claims of creditors are presented and filed therein. The state commission may compromise any such claim during the pendency of such proceeding by accepting other security therefor or in any manner deemed equitable or it may waive payment in any case in which it finds that the enforcement thereof in whole or in part would be inequitable and would tend to defeat the purpose of the public assistance laws.

(2) The state commission may petition any court of competent jurisdiction for the issuance of letters of administration or testamentary in the estate of any deceased recipient of old-age assistance; provided that the state commission shall in no instance become such petitioner until the expiration of at least 90 days after the date of the death of the decedent and then only in cases in which the estate is not otherwise being probated. [Amended by 1955 c.444 §4]

413.210 [Repealed by 1953 c.500 §12]

413.211 Ownership of insurance contract by old-age recipient or applicant. Notwithstanding the provisions of subsection (4) of ORS 413.010, ownership of insurance contracts having an aggregate face amount not in excess of $500 shall not render an applicant or recipient ineligible to receive old-age assistance if prior to the receipt of old-age assistance:

(1) The applicant enters into a written agreement with the State Public Welfare Commission that, unless he obtains the consent of the commission, he will not:

(a) Surrender the insurance contract for its cash value,

(b) Assign the insurance contract or its proceeds,

(c) Change the beneficiary under the insurance contract; and

(2) The beneficiary under the insurance contract enters into a written agreement with the State Public Welfare Commission that he will pay all costs necessary to provide a decent burial for the applicant unless his designation as beneficiary under the insurance contract is changed with the consent of the commission. [1957 c.705 §2]

413.220 Jurisdiction of violations of chapter. Justice of the peace courts and district courts have concurrent jurisdiction with the circuit courts of the state for all violations of this chapter.

413.230 Conflict of this chapter with federal requirements. If any plan of administration of this chapter submitted to the Federal Security Agency is found to be not in conformity with the Federal Social Security Act by reason of any conflict between any section, portion, clause or part of this chapter and the Federal Social Security Act, the conflicting section, portion, clause or part of this chapter is inoperative to the extent that it is so in conflict, and such finding or determination shall not affect the remainder of this chapter.

413.990 [Repealed by 1953 c.500 §12]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel