

Chapter 413

1961 REPLACEMENT PART

Old-age Assistance and Medical Assistance for the Aged

DEFINITIONS

413.005 Chapter definitions

OLD-AGE ASSISTANCE

413.009 Eligibility for old-age assistance
413.015 Medical assistance for old-age recipients
413.019 Amount of old-age assistance
413.025 Recipient of old-age assistance shall not receive other public assistance; exceptions
413.029 Burial of deceased old-age recipient
413.035 Ownership of insurance contract by old-age recipient or applicant

MEDICAL ASSISTANCE FOR THE AGED

413.039 Eligibility and certification for medical assistance for aged
413.045 Determination of standards and extent of medical assistance for aged
413.049 Actuarial standards govern extent of medical assistance for aged
413.055 Purchase of insurance or health service contracts by state commission to provide medical assistance to aged
413.059 Rates for insurance or health service contracts
413.065 Liability for costs in excess of state medical assistance payments.

ADMINISTRATIVE PROVISIONS

413.068 State commission shall supervise assistance administration

413.070 County departments shall keep prescribed records
413.080 County commissions shall make prescribed reports
413.090 Application for assistance; action thereon
413.100 Appeal from failure to act on application or denial thereof or from modification or cancellation of assistance
413.110 Cancellation or reduction of assistance upon receipt of property or income
413.120 Reconsideration and change of amount of assistance
413.130 Assistance is inalienable
413.140 Effect of removal by recipient to another county or state
413.160 When assistance is paid to guardian or conservator
413.170 Effect of transfer of real property on eligibility for assistance
413.180 Recovery of assistance improperly granted
413.200 Liability of estate of deceased recipient for assistance received; relatives of recipients of medical assistance not liable
413.220 Jurisdiction of violations of chapter
413.230 Conflict of this chapter with federal requirements
413.240 Rules and regulations

CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183
Allocation for old-age assistance purposes of proceeds of:
 Privilege tax on music and amusement devices, 320.100
 Privilege tax on manufacturers and importers of alcoholic and malt beverages, 473.210
Definitions for statutes relating to aid to the needy, 411.010
Discrimination in employment on account of age, 659.015
Statutes applicable to all forms of public assistance, Ch. 411
Surplus food distribution, 411.805 to 411.820
413.009
Duty of child to support parent, 109.010, 167.635
413.070
Notice to State Archivist before destroying records, 192.080
413.080
See Cross References for ORS 413.070
413.090
Investigations, subpoena power, 411.375 to 411.390
413.180
Survival of causes of action, 121.020
413.200
Notice of hearing on final accounting to Public Welfare Commission, 117.615
Order of payment of claims, 117.110

DEFINITIONS

413.005 Chapter definitions. As used in this chapter, unless the context requires otherwise:

(1) "Applicant" means a person who has applied for old-age assistance or medical assistance for the aged, or for whose benefit an application for such assistance has been made by another.

(2) "Recipient" means a person who has received old-age assistance or medical assistance for the aged.

(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.

(6) "Medical assistance for the aged" means so much of the following medical and remedial care, services and needs as may be prescribed by the state commission according to the standards established under ORS 413.049 and made available to individuals meeting the requirements of eligibility prescribed by ORS 413.039, the costs of which are payable wholly or partially out of public assistance funds:

- (a) Inpatient hospital services;
- (b) Skilled nursing home services;
- (c) Physicians' services including services by a person licensed to practice one or more of the healing arts within the limitations of his license;
- (d) Outpatient hospital or clinic services;
- (e) Home health care services;
- (f) Private duty nursing services;
- (g) Physical therapy and related services;
- (h) Dental and optometrical services;
- (i) Laboratory and X-ray services;
- (j) Prescribed drugs, eyeglasses, dentures and prosthetic devices;
- (k) Diagnostic, screening and preventive services; and
- (L) Any other medical care or remedial care recognized under state law.

Provided, however, that medical assistance for the aged shall not include care, services or needs for any person who is an inmate of a nonmedical public institution, or a patient in an institution for tuberculosis or mental diseases, or a patient in a medical institution as a result of a diagnosis of tuberculosis or psychosis, with respect to any period after such person has been a patient in such institution, as a result of such diagnosis, for 42 days.

(7) "Vendor" means any person, corporation, association, agency or institution providing to applicants or recipients any care, service or needs, the costs of which are payable wholly or partially out of public assistance funds.

[Formerly 413.010]

OLD-AGE ASSISTANCE

413.009 Eligibility for old-age 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.

[Formerly 413.020]

413.010 [Amended by 1961 c.620 §9; renumbered 413.005]

413.015 Medical assistance for old-age recipients. Subject to funds available, each person eligible for old-age 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 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.

[Formerly 413.030]

413.019 Amount of old-age assistance.

(1) The amount of old-age 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.

[Formerly 413.040]

413.020 [Renumbered 413.009]

413.025 Recipient of old-age assistance shall not receive other public assistance; exceptions. 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.

[Formerly 413.150]

413.029 Burial of deceased old-age 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.

[Formerly 413.190]

413.030 [Amended by 1961 c.620 §10; renumbered 413.015]

413.035 Ownership of insurance contract by old-age recipient or applicant. Notwithstanding the provisions of subsection (4) of ORS 413.005, 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.

[Formerly 413.211]

MEDICAL ASSISTANCE FOR THE AGED

413.039 Eligibility and certification for medical assistance for aged. (1) Subject to the provisions of this chapter and within the limits of funds available therefor, on and after October 1, 1961, medical assistance for the

aged, including some institutional and non-institutional care and services, shall be provided to an individual who:

- (a) Is 65 years of age or over;
- (b) Is a resident of this state;
- (c) Is not receiving old-age assistance;
- (d) Has an annual income of less than \$1,500 for a single person and \$2,000 for a married couple and has liquid assets, including but not limited to savings, stocks and bonds, of less than \$1,500 for a single person and \$2,000 for a married couple and has life insurance with a cash surrender value of \$1,000 or less.

(2) No payment from public assistance funds shall be made for medical or remedial care, services or needs provided to an applicant or recipient of medical assistance for the aged unless he is represented by a duly licensed practitioner of the healing arts, including optometry, to be in need of the type of medical or remedial care, services or needs prescribed by the state commission pursuant to this chapter, and unless no provision or payment is available by the enforcement of a legal obligation of a governmental or private agency, contractor or institution to provide or pay for such care, services or needs without regard to the financial circumstances of such individual, or which is not made available without cost to such individual from any governmental agency or institution other than the state commission or the county commissions.

(3) Subject to paragraph (d) of subsection (1) of this section with respect to any period, the minimum amounts of income and resources necessary for applicants or recipients to maintain themselves and to meet all the costs of their medical or remedial care, services or needs of a type provided for, prescribed and made available under this chapter shall be determined and fixed by the state commission in total dollar amounts. In determining the eligibility of each applicant or recipient for medical assistance for the aged, the amounts of his income and resources shall be evaluated and determined in accordance with paragraph (d) of subsection (1) of this section and with rules and regulations promulgated by the state commission.

[1961 c.620 §23]

413.040 [Amended by 1961 c.620 §11; renumbered 413.019]

413.045 Determination of standards and extent of medical assistance for aged. (1) With respect to medical assistance for the

aged to be provided during any period, and within the limits of funds available therefor, the state commission shall determine and fix, subject to ORS 413.049 and to such revisions as it may make from time to time:

(a) The types and extent of the medical or remedial care, services or needs to be provided to applicants and recipients;

(b) Statewide, uniform standards to be observed in the provision of such care, services and needs.

(2) With respect to medical assistance for the aged, the state commission may fix, subject to such revisions as it may make from time to time:

(a) The maximum number of days of medical or remedial care, services or needs toward the cost of which public assistance funds will be expended in the case of any applicant or recipient;

(b) Schedules of maximum fees, charges and daily rates at which public assistance funds will be applied toward meeting the costs of providing such care, services or needs to an applicant or recipient; and

(c) A total dollar amount of the cost of any such care, services or needs, with respect to any illness or injury sustained by an applicant or recipient, computed according to the schedules prescribed by paragraph (b) of this subsection, below which no payments will be made from public assistance funds.

(3) The types and extent of such care, services and needs and the amounts to be paid in meeting the costs thereof, as determined and fixed by the state commission, shall be the total medical assistance for the aged available to applicants and recipients and the total amounts from public assistance funds available to vendors in meeting such costs.

[1961 c.620 §22]

413.049 Actuarial standards govern extent of medical assistance for aged. The level of benefits to which any recipient of medical assistance for the aged shall be entitled under the provisions of this chapter shall not exceed the level of medical assistance available, as determined by an independent firm of actuaries, based on an expense rate of \$9 per month per recipient assuming a pool of 55,000 persons potentially eligible for such medical assistance.

[1961 c.620 §11b]

413.050 [Amended by 1961 c.620 §12; renumbered 413.068]

413.055 Purchase of insurance or health service contracts by state commission to provide medical assistance to aged. In lieu of providing medical assistance for the aged by direct payments to vendors thereof and in lieu of providing to any eligible recipient the medical or remedial care, services or needs prescribed and made available pursuant to the provisions of this chapter, the state commission may, in its discretion, on and after November 1, 1961, purchase out of public assistance funds available for medical assistance for the aged, policies of insurance or medical or hospital service contracts for the benefit of all such recipients if such policies of insurance or such contracts by their terms, or the insurers or hospital associations by written acknowledgement to the county commission or the state commission, guarantee:

(1) Provision of medical or remedial care, services and needs shall be of the type, to the extent and according to the standards prescribed under the provisions of ORS 413.045.

(2) Payment to vendors of such care, services and needs shall be to the extent of the maximum number of days and the maximum fees, charges and costs established under the provisions of ORS 413.045. However, this subsection shall not apply with respect to medical or hospital service contracts issued by a hospital association which employs a method of accounting or payment on other than a fee-for-service basis.

(3) Provision of such care, services and needs under such policies of insurance or contracts shall be in compliance with all laws, rules and regulations applicable to medical assistance to the aged.

(4) Cooperation with the state commission and the county commission to provide such statistical data, records and reports as may be required by the state commission relating to the provisions, administration and costs of providing such care, services and needs to recipients and as may be required by federal rules, regulations and requirements pursuant to title I of the Federal Social Security Act.
[1961 c.620 §25]

413.059 Rates for insurance or health service contracts. (1) Any payment out of public assistance funds for policies of insurance or service contracts referred to in ORS 413.055 shall be according to such uniform statewide maximum monthly rates as the

state commission shall have established and which it may revise as may be necessary and practical.

(2) No premium or other periodic charge on any policy of insurance or medical or hospital service contract shall be paid out of public assistance funds unless the insurer or hospital association issuing such policy or contract is by law authorized to transact business as an insurance company or hospital association in this state.
[1961 c.620 §§27, 28]

413.060 [Repealed by 1961 c.171 §4]

413.065 Liability for costs in excess of state medical assistance payments. A vendor who provides medical and remedial care, services or needs to a recipient of medical assistance for the aged, and who accepts or agrees to accept a payment out of public assistance funds or any of the proceeds of a policy of insurance or medical or hospital service contract, paid from public assistance funds, toward his total charges for such care, services or needs may recover the balance of such charges from the recipient or any other person legally liable therefor. However, if the provisions of this section render this state ineligible for federal grants-in-aid of medical assistance for the aged, the right to recover the balance of such charges shall be abrogated or limited to whatever extent is necessary to maintain the eligibility of this state for the receipt of such federal grants.
[1961 c.620 §29]

ADMINISTRATIVE PROVISIONS

413.068 State commission shall supervise assistance administration. The State Public Welfare Commission shall administer and supervise the administration of old-age assistance and medical assistance for the aged by the county 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.
[Formerly 413.050]

413.070 County departments shall keep prescribed records. The county departments shall keep such records and accounts in relation to old-age assistance and medical assistance for the aged as the state commission prescribes.
[Amended by 1961 c.620 §13]

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. (1) Except as otherwise provided in subsection (2) of this section, each person requesting old-age assistance or medical assistance for the aged shall make application therefor to the county 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 and medical assistance for the aged, shall ascertain the facts supporting such application, shall determine eligibility for and fix the date on which such assistance shall begin, shall fix the amount of old-age assistance which any person shall receive and shall obtain such other information required by the rules and regulations of the state commission. All grants for old-age assistance and medical assistance for the aged 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 subpoenas for witnesses and compel their attendance and the production of papers and writings and may examine witnesses under oath.

(2) If, for medical reasons, an applicant temporarily resides outside the county of his permanent residence, his application for such assistance may be made to the county commission in the county in which he permanently resides, through the county department of the county in which he temporarily resides.

[Amended by 1955 c.364 §7; 1961 c.620 §14]

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 Cancellation 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 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; 1961 c.620 §15]

413.130 Assistance is inalienable. Neither old-age assistance, medical assistance for the aged nor amounts payable to vendors out of public assistance funds are 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.

[Amended by 1961 c.620 §16]

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 or medical assistance for the aged in

accordance with the rules and regulations of the state commission.

[Amended by 1961 c.620 §17]

413.150 [Renumbered 413.025]

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 or medical assistance for the aged 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 or medical assistance for the aged 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 or medical assistance for the aged, 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.

[Amended by 1961 c.620 §18]

413.180 Recovery of assistance improperly granted. Should it be ascertained by either the state department or the county department that any old-age assistance or medical assistance for the aged 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, or the state commission 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, or in the name of the state commission by the Welfare Recovery Division of the Department of Justice or by attorneys assigned to the state commission, to recover from such person the amount paid him, with interest thereon, together with the necessary costs of suit or action.

[Amended by 1961 c.620 §19]

413.190 [Renumbered 413.029]

413.200 Liability of estate of deceased recipient for assistance received; relatives of recipients of medical assistance not liable.

(1) The amount of any old-age assistance or medical assistance for the aged 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. Provided, however, that there shall be no adjustment or recovery of any medical assistance for the aged correctly paid on

behalf of any individual under this chapter except after the death of such individual and his surviving spouse, if any.

(2) The amounts of medical assistance for the aged provided to a recipient shall not be recovered by any person or by the state commission under ORS 416.005 to 416.270. [Amended by 1955 c.444 §4; 1961 c.620 §20; subsection (2) enacted as 1961 c.620 §7]

413.210 [Repealed by 1953 c.500 §12]

413.211 [1957 c.705 §2; renumbered 413.035]

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 Department of Health, Education and Welfare 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. [Amended by 1961 c.620 §31]

413.240 Rules and regulations. The state commission shall promulgate and enforce rules and regulations for the provision and administration of old-age assistance and medical assistance for the aged, and as may be necessary to render this state eligible for the receipt of federal grants-in-aid of old-age assistance and medical assistance for the aged under the Federal Social Security Act. [1961 c.620 §30]

413.250 to 413.980 [Reserved for expansion]

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 1, 1961.

Sam R. Haley
Legislative Counsel