

Chapter 413

1965 REPLACEMENT PART

Old-age Assistance and Medical Care of 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 CARE OF THE AGED

- 413.039 Eligibility and certification for medical care
- 413.045 Determination of standards and extent of medical care
- 413.047 Eligibility for nursing home care
- 413.052 Limitations on nursing home care
- 413.055 Purchase of insurance or health service contracts by state commission to provide medical care
- 413.059 Rates for insurance or health service contracts

INDEMNITY PAYMENTS

- 413.061 Definitions for ORS 413.061 to 413.066
- 413.063 Use of indemnity payments
- 413.066 Effects of rights to indemnity for 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
- 413.165 Payments to representative payee authorized; establishment of guardianship
- 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 manufacturers and importers of alcoholic and malt beverages, 473.210
- Deferral of property taxes of elderly persons, 311.668
- Definitions for statutes relating to aid to the needy, 411.010
- Discrimination in employment on account of age, 659.015
- Medical assistance, 414.025 to 414.105
- Statutes applicable to all forms of public assistance, Ch. 411
- Surplus food distribution, 411.806 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 for whose benefit an application for such assistance has been made by another.

(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.

[Formerly 413.010; amended by 1965 c.556 §21]

Note: For text of ORS 413.005 prior to 1965 amendment, see ORS 413.005 (1963 Replacement Part). The 1965 amendment to ORS 413.005 and the repeal of ORS 413.039, 413.045, 413.047, 413.052, 413.055 and 413.059 take effect July 1, 1966. The amendment and repeal of those sections become operative when state and federal funds are available for use in the programs authorized by ORS 413.005. See 1965 c.556 §31.

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), but old-age assistance may be granted to a recipient 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; amended by 1965 c.556 §22]

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 CARE OF THE AGED

413.039 Eligibility and certification for medical care. (1) Subject to the provisions of this chapter and within the limits of funds available therefor, 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, provided that medical assistance for the aged shall be provided for a recipient of old-age assistance for the month in which he is admitted to or discharged from a medical institution; and

(d) Has an annual income of not more than \$1,750 for a single person and \$2,500 for a married couple and has liquid assets, including but not limited to savings, stocks and bonds, of not more than \$1,500 for a single person and \$2,000 for a married couple and has life insurance with a cash surrender value of \$1,500 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; 1963 c.609 §4; 1965 c.556 §23; repealed by 1965 c.556 §28]

Note: ORS 413.039 is repealed July 1, 1966. See note under ORS 413.005.

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

413.045 Determination of standards and extent of medical care. (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 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) State-wide, 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.

(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; 1963 c.609 §5; repealed by 1965 c.556 §28]

Note: ORS 413.045 is repealed July 1, 1966. See note under ORS 413.005.

413.047 Eligibility for nursing home care. Except with respect to short-term convalescent care which forms part of a medical care program adopted under authority granted in ORS 413.045, no payment from funds made available for medical assistance for the aged shall be made for care provided by a nursing home, as defined in ORS 678.510, except as to a recipient who:

(1) If unmarried, has liquid assets of not more than \$250, or an annual income which, together with the income of other individuals to whom he owes a legal duty of support and with whom he normally resides, is less than sufficient to meet the needs of himself and such other individuals, as determined according to standards established pursuant to ORS 411.070; or

(2) If married, has liquid assets which, together with those of his spouse, are not more than \$500, or an annual income which, together with the income of his spouse, and of other individuals to whom he or his spouse owe a legal duty of support and with whom the recipient normally resides, is less than sufficient to meet the needs of himself, his spouse and such other individuals, as determined according to standards established pursuant to ORS 411.070.

[1963 c.609 §2; repealed by 1965 c.556 §28]

Note: ORS 413.047 is repealed July 1, 1966. See note under ORS 413.005.

413.049 [1961 c.620 §11b; repealed by 1963 c.609 §6]

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

413.052 Limitations on nursing home care. Notwithstanding the provisions of any law, the state commission in its discretion and with respect to any period may provide by rule or regulation that payment from public assistance funds shall not be made for care provided by a nursing home, as defined in ORS 678.510, to any individual who is 65 years of age or over, except for such occasional or short-term nursing home care as may be prescribed by the state commission, unless such individual is a recipient of medical assistance to the aged. However, with respect to any month in which a recipient of old-age assistance is admitted to or dis-

charged from a medical institution, payment for medical care, including nursing home care, shall be made from funds available for medical assistance for the aged.

[1963 c.609 §3; 1965 c.556 §24; repealed by 1965 c.556 §28]

Note: ORS 413.052 is repealed July 1, 1966. See note under ORS 413.005.

413.055 Purchase of insurance or health service contracts by state commission to provide medical care. 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; repealed by 1965 c.556 §28]

Note: ORS 413.055 is repealed July 1, 1966. See note under ORS 413.005.

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; repealed by 1965 c.556 §28]

Note: ORS 413.059 is repealed July 1, 1966. See note under ORS 413.005.

413.060 [Repealed by 1961 c.171 §4]

INDEMNITY PAYMENTS

413.061 Definitions for ORS 413.061 to 413.066. As used in ORS 413.061 to 413.066:

(1) "Agency" means a public or private agency, contractor, institution or insurer, but does not include the state commission or the county commission.

(2) "Indemnity" means a sum of money payable in consequence of medical care provided to or for the benefit of an individual, including moneys payable under a policy of insurance, a health or hospital service contract, a contractual obligation of a public or private agency, or a statutory obligation of a public agency.

[1963 c.609 §9(4)]

413.063 Use of indemnity payments.

(1) To the extent that the provisions of ORS 413.061 to 413.066 conform to Title I of the federal Social Security Act, the right of a recipient of medical assistance for the aged, or of a vendor who provides such recipient with medical care, to receive an indemnity shall not preclude payment from public assistance funds for such medical care under this chapter if, subject to the rules and regulations of the state commission, the amount of such indemnity is applied as follows:

(a) To meet the costs of such medical care, to the extent that such costs are not payable from public assistance funds, or have not otherwise been paid.

(b) To meet the costs of any medical or remedial care, service or need of a type specified by the state commission which has

been provided to the recipient, but which is not made available to recipients of medical assistance for the aged pursuant to this chapter.

(2) Any remaining balance shall be paid to the state commission as a refund of any payment made by the state commission to the vendor for providing such medical care.

(3) The costs referred to in subsection (1) of this section shall be computed in accordance with schedules of maximum fees, charges and rates prescribed by the state commission.

[1963 c.609 §9(1), (2), (3)]

413.065 [1961 c.620 §29; repealed by 1963 c.609 §6]

413.066 Effects of rights to indemnity for medical assistance payments. (1) Subject to ORS 413.063, and except as otherwise provided by subsections (2) and (3) of this section, to the extent of any indemnity which is or may become payable to a recipient of medical assistance for the aged, or to a vendor who provides such recipient with medical care, neither the state commission nor the county commission is required under this chapter to provide or to pay for medical care furnished to such recipient.

(2) In the discretion of the state commission, and within the limits of the fees, charges and rates fixed pursuant to ORS 413.045, payment from funds made available for medical assistance for the aged may be made for medical care provided to recipients with respect to whom indemnities are or may become payable. However, such payments are subject to ORS 411.690 and to the following conditions:

(a) The vendor shall promptly obtain and furnish to the agency from which such indemnity is payable, such proper and timely assignments, notices of claim, proofs of loss and such documents and information as may be necessary in each case to invest the vendor with the right to receive the amount of such indemnity, either from the recipient or from the agency liable for its payment.

(b) Upon the vendor's receipt of any part of such indemnity or, if no such indemnity has been received by the vendor, within such time as may be prescribed by the state commission the vendor shall account for and refund or credit to the state commission, in accordance with and subject to ORS 411.690, the amount of any payment made by the state commission to the vendor for such medical care.

(c) The vendor shall comply with such other conditions and procedures as may be prescribed by the state commission.

(3) If the right of a recipient or a vendor to receive an indemnity is perfected by due performance of all conditions precedent to such right, such indemnity shall not be considered payable, for the purposes of this section, to the extent that suit or action is required to compel payment of the indemnity by the agency from which it is owing.

[1963 c.609 §8]

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 cancellation 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. (1) 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 cancellation when the circumstances have changed sufficiently to warrant such action.

(2) In the determination of eligibility and the amount of need, and in any reconsideration thereof, with respect to an applicant or recipient of old-age assistance, such amounts of income and resources may be disregarded as the state commission may prescribe by rules and regulations promulgated by it. The amounts to be disregarded shall be within the limits required or permitted by federal laws and by federal rules and orders thereto applicable.

[Amended by 1955 c.381 §2; 1961 c.620 15; 1965 c.43 §1]

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]

413.165 Payments to representative payee authorized; establishment of guardianship. (1) Money payments of old-age assistance with respect to a recipient may be made to a representative payee if it is determined by the state department or the county department that the recipient, by reason of physical or mental condition, has such inability to manage funds that making payments to him would be contrary to his welfare and that, therefore, it is necessary to provide such assistance through payments authorized by this section.

(2) The county department may designate as representative payee any responsible individual who is interested in or concerned with the welfare of the recipient and who is willing to act in such capacity.

(3) If it appears to the state department or the county department that the interests of the recipient would be best served thereby, the state commission may petition for the judicial appointment of a guardian or other legal representative of the recipient. If such person is appointed and duly qualified, money payments of assistance otherwise payable to the recipient, or representative payee, shall be paid to the qualified person until the state department determines that the conditions which would justify such protective payments no longer exist.

(4) Subject to funds made available to the state commission for administrative expenditures, the state commission may, with respect to any guardianship established pursuant to this section, pay all costs and fees, including any necessary bond premiums, reasonably incurred in the proceeding and in administering such money payments.

[1965 c.556 §26]

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 416.010 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 November 15, 1965.

Sam R. Haley
 Legislative Counsel

