

Chapter 412

1967 REPLACEMENT PART

Aid to the Blind and to the Disabled

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AID TO THE BLIND

412.005 Definitions for ORS 412.005 to 412.125. As used in ORS 412.005 to 412.125:

(1) "Aid" means money payments under ORS 412.005 to 412.125 to blind persons, or medical, surgical, hospital or other remedial care in behalf of such persons.

(2) "Applicant" means any person who has applied for aid under ORS 412.005 to 412.125.

(3) "Blind person" means any needy person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20 degrees, or who has an equivalent visual impairment, as determined by the state commission after examination by an ophthalmologist licensed to practice medicine and surgery in Oregon or by a duly licensed and practicing optometrist in Oregon, or by an ophthalmologist licensed to practice medicine and surgery or by an optometrist licensed and practicing in another state or territory of the United States having qualifications substantially similar to those of the State of Oregon.

(4) "County commission" means the county public welfare commission.

(5) "County department" means the county public welfare commission and personnel employed thereby.

(6) "Income" means receipts in cash or kind but does not include such amounts per month of earnings or other income as may be exempted in compliance with federal legislation and rules thereto applicable or premiums on life insurance policies whether paid by the applicant, recipient or other person.

(7) "Personal property" does not mean clothing, furniture, household equipment, a motor vehicle necessary for transportation or personal jewelry.

(8) "Real property" includes but is not limited to estates for more than one year, houses, boats, trailers or other habitation when used for the purpose of providing a home for the applicant or the proceeds from the conversion of any one of these if the amount retained is used within 12 months to provide a home for the applicant.

(9) "Recipient" means any person who has received or is receiving aid under ORS 412.005 to 412.125.

(10) "State commission" means the State Public Welfare Commission.

(11) "State department" means the State Public Welfare Commission, the State Public Welfare Administrator and such other personnel as are employed thereby.

[1961 c.633 §2; 1965 c.94 §1]

412.010 [Repealed by 1961 c.633 §14]

412.015 Purpose of ORS 412.005 to 412.125. (1) The Legislative Assembly recognizes that the needs of the blind are different in kind and degree from the needs of any other group and intends that consideration be given in the administration of the aid to the blind program to the peculiar needs incident to blindness.

(2) It is the intent of the Legislative Assembly to continue to accept the provisions and benefits of the Federal Social Security Act relating to grants-in-aid to the states for aid to the blind, and the provisions of ORS 412.005 to 412.125 shall be liberally construed in relation to the Federal Social Security Act so that the intent to comply therewith shall be made effectual.

[1961 c.633 §1]

412.020 [Repealed by 1961 c.633 §14]

412.025 Determination of eligibility. (1) In determining need, the state department shall take into consideration all income and resources of an applicant or recipient, as well as any expenses reasonably attributable to the earning of any such income. Subject to the provisions of this section, aid shall be granted on the basis of need but in any case only to the extent that funds are available.

(2) Subject to the rules of the state commission, the fact of ownership of real property used as a home by the blind person, receipt of free board and room from a relative, ownership of personal property of less than \$500 value by a single blind person or of less than \$1,000 value by a blind person and his or her spouse or receipt of a scholarship or grant-in-aid for educational purposes shall not be grounds for denying aid to an otherwise qualified blind person, although each fact shall be considered in determining need.

(3) In the determination of eligibility and the amount of need, and in any reconsideration thereof, with respect to an applicant or recipient of aid pursuant to ORS 412.005 to 412.125, 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. [1961 c.633 §5; 1963 c.446 §1; 1965 c.40 §1]

412.030 [Repealed by 1961 c.633 §14]

412.035 Residence requirements for eligibility. (1) Subject to the provisions of ORS 412.005 to 412.125, aid to the blind shall be given to any blind person who has become blind while a resident of this state or who has been a resident of this state for at least one year immediately preceding his application for such aid. Such a person need not be a United States citizen.

(2) For purposes of this section, neither the residence of the husband or wife shall be presumed the residence of the other. Each may have separate residence depending upon the proof of facts in each case.

(3) For purposes of this section, a minor shall be presumed to reside in this state during any period in which the minor is physically present in this state or during which his parent or parents reside in the state, or, if he has no living parent having custody who resides in the state, during which his legal guardian or conservator resides in this state.

[1961 c.633 §3; 1963 c.446 §2; 1967 c.204 §1]

412.040 [Repealed by 1961 c.633 §14]

412.045 Certain persons ineligible for aid. No blind person shall be eligible for aid while:

(1) He is an inmate of a public institution (except as a patient in a medical institution) or is a patient in an institution for tuberculosis or mental diseases, but aid may be granted to a recipient who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

(2) He publicly begs or otherwise solicits funds for his own benefit by wearing, carrying or exhibiting signs denoting blindness.

[1961 c.633 §4; 1965 c.556 §19]

412.050 [Repealed by 1961 c.633 §14]

412.055 Standard of need; amount of aid. (1) The needs of a blind person otherwise eligible under ORS 412.005 to 412.125, exclusive of medical, surgical and hospital care, are considered to be not less than \$98 per month. The amount of aid to which any blind person shall be entitled under ORS 412.005 to 412.125 is, exclusive of medical,

surgical and hospital care, that amount of aid which, when added to his income and resources, shall be not less than \$98 per month. However, the provisions of this subsection do not apply to assistance provided to an inpatient of a medical facility.

(2) If, under the standards of the state commission, a blind person requires more than \$98 per month to meet his needs, he shall be entitled to receive additional amounts of aid, subject to availability of funds, which, when added to his income and resources, shall be sufficient to meet his needs. [1961 c.633 §6; 1965 c.468 §1; 1967 c.116 §1]

412.060 [Repealed by 1961 c.633 §14]

412.065 Application for aid; investigation of applicant; commencement of aid; notice to applicant. (1) Each applicant for aid shall file with the county commission in the county where the applicant resides a signed and sworn application in writing or reduced to writing in the manner and upon the forms prescribed by the state department.

(2) All applications for aid shall be investigated promptly by the county commission, which shall certify as to eligibility or ineligibility. If the applicant is found eligible the county commission shall, subject to the approval of the state commission, grant aid in the amount determined as provided in ORS 412.025.

(3) In conducting the investigation to determine eligibility and need, the county and state commissions shall have the power to issue subpoenas for witnesses, compel their attendance, require the production of papers and writings and examine witnesses under oath.

(4) The county commission shall immediately inform the applicant in writing of its decision, and if the aid is denied in whole or in part, such notification shall state in particular the grounds for the denial.

[1961 c.633 §7; 1967 c.285 §1]

412.070 [Amended by 1955 c.364 §5; repealed by 1961 c.633 §14]

412.075 Appeal from failure to act on application or denial thereof or from modification or cancellation of aid. If an application is not acted upon by the county commission within a reasonable time after the filing of the application or is denied in whole or in part, or if any award of aid is

modified or canceled, the applicant or recipient may petition the state commission for review of the case. The state commission shall give the appellant an opportunity for a fair hearing and any appeal shall be held in the county the appellant elects. The findings and final decision of the state commission are binding upon the county commissions.

[1961 c.633 §8]

412.080 [Repealed by 1961 c.633 §14]

412.085 Request for restoration of aid. A former recipient of aid whose aid has been canceled for any cause may request restoration of aid within one year from the date of cancellation by reference to the application on file with the county department by which aid was granted. However, a former recipient of aid whose aid has been canceled for a period longer than one year may request restoration of aid by filing a new application.

[1961 c.633 §13; 1967 c.285 §2]

412.090 [Repealed by 1961 c.633 §14]

412.095 Recipient not to receive other public assistance; exceptions. No recipient shall at the same time receive any other public assistance as defined in ORS 411.010, except for child welfare services and services for crippled children, from the state or any political subdivision thereof and except for medical, surgical or hospital care.

[1961 c.633 §9]

412.100 [Repealed by 1961 c.633 §14]

412.105 Payment of aid to guardian or conservator. If the recipient or applicant is found incapable of taking care of himself or his money, the state commission may order payment of the aid to any legally appointed guardian or conservator, if the payment does not result in the loss or reduction of otherwise available federal matching monies.

[1961 c.633 §10]

412.108 Commission may petition for appointment of guardian; payment of costs. (1) If it appears to the state 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.

(2) Subject to funds made available to the state commission for administrative expenditures, the state commission may, with respect to any guardianship established pur-

suant to this section, pay all costs and fees, including any necessary bond premiums, reasonably incurred in the proceeding and in administering such money payments.

[1967 c.217 §3]

412.110 [Repealed by 1961 c.633 §14]

412.113 Payments to representative payee; qualifications of representative. (1) Subject to rules of the state commission, money payments of aid with respect to a recipient may be made to a representative payee, if it is determined by the state or 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) Upon prior notice to the recipient and opportunity to object to the representative designated, 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. If such person is appointed and duly qualified, money payments of assistance otherwise payable to the recipient shall be paid to the qualified person until the state department determines that the conditions which would justify such protective payments no longer exist.

[1967 c.217 §2]

412.115 Aid is inalienable. Aid is not transferable or assignable, nor is aid subject to execution, levy, attachment or garnishment.

[1961 c.633 §11]

412.120 [Repealed by 1961 c.633 §14]

412.125 Availability of laws, regulations and state plan. (1) All applicants and recipients of aid shall, upon request, be furnished by the state department free copies of state laws and administrative rules and regulations, or a digest thereof, pertaining specifically to aid to the blind.

(2) The state plan for aid to the blind as submitted to the Federal Government or a copy thereof, as it may be amended, shall be available for inspection by all interested persons at the offices of the state department during regular business hours.

[1961 c.633 §12]

412.130 [Repealed by 1961 c.633 §14]

412.140 [Repealed by 1961 c.633 §14]

412.150 [Repealed by 1961 c.633 §14]

412.160 [Amended by 1957 c.56 §1; repealed by 1961 c.633 §14]

412.170 [Amended by 1955 c.444 §3; repealed by 1961 c.633 §14]

412.180 [Repealed by 1953 c.500 §12]

AID TO THE DISABLED

412.510 Definitions for ORS 412.510 to 412.630. As used in ORS 412.510 to 412.630:

(1) "Aid" means money payments to, or payments for medical, surgical, hospital or other remedial care in behalf of, a disabled needy person.

(2) "Applicant" means a person who applies for aid under ORS 412.510 to 412.630.

(3) "Disabled" means having a bodily impairment that is both permanent and total. A permanent disability is one likely to continue without substantial improvement throughout life or for an indeterminate period. A total disability is one which prevents performance of substantially all the ordinary duties of occupations in which a disabled individual is capable of engaging, having due regard to his training, experience and circumstances.

(4) "Recipient" means a person who receives aid under ORS 412.510 to 412.630. [Amended by 1959 c.409 §1]

412.520 Eligibility for aid to disabled. Aid shall be granted to any needy person 18 years of age or older who is disabled and who:

(1) Has resided in the state for one year immediately preceding application for such aid.

(2) Is not an inmate of a public institution (except as a patient in a medical institution) or an institution for tuberculosis or mental diseases, but aid may be granted to a recipient who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

(3) Is not receiving any other public assistance from the state or from any instrumentality or political subdivision thereof, except for medical or surgical assistance, or any other type of federally aided public assistance.

[Amended by 1959 c.409 §2; 1965 c.556 §20]

412.530 Amount of aid to be granted.

(1) The amount of aid to be granted shall be determined by the county public welfare department on the basis of need, within the limits of available public assistance funds,

with due regard to any other income and resources of the applicant, as well as any expenses reasonably attributable to the earning of any such income and the conditions existing in each case, and in accordance with the rules and regulations made by the State Public Welfare Commission.

(2) In the determination of eligibility and the amount of need, and in any reconsideration thereof, with respect to an applicant or recipient of aid pursuant to ORS 412.510 to 412.630, 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 1963 c.71 §1; 1965 c.42 §1]

412.540 Certification that applicant is disabled. No application for aid to the disabled shall be approved until a physician licensed by the Board of Medical Examiners, or licensed in another state or territory of the United States having qualifications substantially similar to those of the State of Oregon, has examined the applicant and certified his findings of disability in the manner and form required by the State Public Welfare Commission.

[Amended by 1959 c.409 §3; 1965 c.93 §1]

412.550 Powers and duties of state commission. The provisions of ORS 411.060 to 411.110 and 411.260 to 411.290, pertaining to the powers and duties of the State Public Welfare Commission, are applicable to the program for aid to the disabled.

[Amended by 1959 c.409 §4]

412.560 Application for aid. Any person who believes he is eligible may apply to the county public welfare department for aid as a disabled person.

[Amended by 1959 c.409 §5]

412.570 Investigation of applicant. When a county public welfare department receives the application for aid, it shall cause an investigation to be made to ascertain the facts as to the applicant's training, experience, capacity for employment and any other material facts which may be required by the rules of the State Public Welfare Commission. Members and administrators of the county public welfare commissions may administer oaths and examine

witnesses thereunder and issue subpoenas to compel their attendance and the production of papers and writings.

[Amended by 1955 c.364 §6]

412.580 Appeal from failure to act on application or denial thereof or from modification or cancelation of aid. If an application is not acted upon by the department with reasonable promptness or is denied in whole or in part, or if any award of assistance is modified or canceled, the applicant or recipient may appeal from the decision of the county public welfare commission to the State Public Welfare Commission. The State Public Welfare Commission shall give the appellant an opportunity for a fair hearing, and the hearing shall be held in the county selected by the appellant. If required by either the appellant or the commission, the hearing shall include a review of the medical findings as to disability and the social data as to appellant's capacity for employment. The findings and decision of the State Public Welfare Commission shall be binding upon the county public welfare departments.

412.590 Reconsideration, cancelation and reduction of aid; payment of and accounting for county contributions. In administering the program for aid to the disabled, the reconsideration of aid, the cancelation or reduction of aid and the payment and deposit of and accounting for county contributions shall be handled in the manner provided in the laws relating to the program for aid to the blind.

[Amended by 1953 c.500 §12; 1959 c.409 §6]

412.600 Recovery of aid from recipient's estate; transfer of real property in order to qualify for aid. The right of recovery of public assistance from the estates of deceased recipients shall exist and the transfer of real property shall disqualify applicants or recipients for aid, in all respects as provided in subsection (1) of ORS 413.170 and in ORS 413.200.

412.610 Aid is inalienable. Aid given under ORS 412.510 to 412.630 is not transferable or assignable and moneys paid to any recipient are not subject to execution.

412.620 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 shall remain eligible to receive aid in accordance with the rules of the State Public Welfare Commission.

412.625 Application of ORS 412.108 and 412.113 to aid to disabled. The provisions of ORS 412.108 and 412.113 are applicable to aid provided under ORS 412.510 to 412.630.
[1967 c.217 §5]

412.630 When aid is paid to guardian or conservator. If the recipient or applicant is incapable of taking care of himself or his money, aid may be paid to his duly appointed 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 §2]

412.990 [Repealed by 1953 c.500 §12]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1967.

Robert W. Lundy
Legislative Counsel