Chapter 416

1967 REPLACEMENT PART

Recovery of Assistance Payments

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RELATIVES' RESPONSIBILITY LAW

416.010 Definitions for ORS 416.010 to 416.260. For purposes of ORS 416.010 to 416.260:

(1) "Dependent" means any of those persons in addition to a spouse:

(a) Whom the relative has a legal obligation to support;

(b) Who received his chief support from the relative during the preceding calendar year;

(c) Who is under 18 years of age, or is 18 years or over and is regularly attending an institution of learning as a full-time student, or is 18 years or over but is not self-supporting due to a physical or mental handicap; and

(d) Who is under 18 years of age and whose gross income for the preceding calendar year was $600 or less, or is 18 years of age or over and whose gross income for the preceding calendar year was $1,200 or less and who is regularly attending an institution of learning as a full-time student.

(2) "Gross annual income" means the adjusted gross income plus federal income tax deductions of the relative, as determined by the state income tax return filed during the current year (or, if such return has not been filed or is not available in the files of the State Tax Commission, the return filed for the preceding year), less the amount paid by the responsible relative during the period covered by such state income tax return for medical and hospital expenses of the responsible relative, his spouse and those persons who are listed as dependents of the responsible relative on such state income tax return, but amounts paid for such medical and hospital expenses may be subtracted only to the extent that they were not included as part of the monthly contributions required by ORS 416.060. A separate income tax return shall constitute prima facie evidence of the gross income and number of dependents of the individual making it; a joint income tax return of husband and wife shall constitute prima facie evidence of the gross income and number of dependents of the husband or wife, or both.

(3) A "needy person" is one who is eligible for public assistance under the laws of the state.

(4) "Relative" or "relatives" mean the living husband, wife, father, mother, son or daughter 21 years of age or over of an applicant for or a recipient of public assistance.

(5) "Total cost" means the total amount of public assistance of any type furnished by the state or the county departments to a recipient for a given period.

[1961 c.605 §2]

416.020 Investigation of financial condition of relatives of applicant for public assistance. (1) Upon making application for public assistance, each applicant shall provide the county department with the names and current addresses, to the extent known to the applicant, of the applicant's living relatives as defined in subsection (4) of ORS 416.010. The applicant shall agree to provide information to the county department under oath and shall consent to investigation by the county department on the applicant's behalf of any person whose income and financial condition is at issue.

(2) Upon receipt of an application for public assistance, each county department, in addition to duties otherwise imposed and acting without unnecessary delay and with diligence, shall investigate the facts relating to the income and financial condition of the applicant's living relatives. In making such investigation the county department shall give each of the applicant's relatives 18 years of age or over written notice of such application and the possibility of the relative's present or future liability under ORS 416.060. Such notice shall include the information that it is given pursuant to ORS 416.010 to 416.260

and a copy of such notice shall be sent to the applicant. Receipt of the notice by the relative is not a condition precedent to the imposition of liability under ORS 416.060 or the use of any remedy provided by law to enforce such liability. The county department may require statements under oath from the applicants and from any such person whose income and financial condition is at issue. A report containing the results of such investigation shall be promptly made to the state commission.
[Formerly 411.410]

416.030 Certain relatives exempt from liability for support. (1) Upon receipt of the report of the investigation referred to in ORS 416.020, the state commission may make such further investigation of the matter as it may deem necessary to ascertain the facts in relation thereto.

(2) No liability for the support of a needy person shall be imposed under the provisions of ORS 416.010 to 416.260 upon:

(a) A living relative of such needy person during any period when a court order or decree, entered in a proceeding other than a proceeding under ORS 179.610 to 179.770 or 416.010 to 416.260, is in effect, which requires the relative to pay a sum of money for the support of that person.

(b) The child of a needy person if, during the minority of the child, such person wilfully deserted or abandoned the child, or, by expulsion or cruelty, drove the child from the parental home, or, without good cause, was responsible for the child's being "dependent" as defined by subsection (2) of ORS 418.205.
[Formerly 411.420; amended by 1967 c.549 §7]

416.040 Annual financial statement; statement of recipient's relatives; effect of failure to file. (1) By April 15 of each year each relative of a recipient who received public assistance in the preceding calendar year shall file with the state commission for the preceding year a sworn statement on a form provided by the state commission of the relative's gross annual income as defined in subsection (2) of ORS 416.010, along with such other information as the state commission considers necessary to assist in making a determination of the relative's future ability to contribute to the support of the applicant or recipient.

(2) The state commission may extend by 90 days the time for filing of the statement required in subsection (1) of this section.

(3) If the responsible relative fails to file a statement by the date specified under subsection (1) or (2) of this section or files a return which is so contradictory to the report and investigation under ORS 416.020 and 416.030 as to appear not to have been made in good faith, the state commission may estimate the gross annual income of the relative upon the basis of the information available from the report, from investigation and from the State Tax Commission as provided in ORS 416.230.

(4) The statement referred to in subsection (1) of this section shall relate to such matters and information of the type referred to in paragraphs (a) and (b) of subsection (1) of ORS 411.650 as may be prescribed by the state commission or required by the state department in any case.
[1961 c.605 §6; subsection (4) enacted as 1963 c.499 §8]

416.050 Determination of relative's liability for support contributions. (1) Upon receipt of the statement required under ORS 416.040 or the reports under ORS 416.020 and 416.030, the state commission shall make a determination of the liability of the relative for contributions required by the relatives' contribution scale in ORS 416.060.

(2) In determining the ability to contribute, the state commission may consider the financial circumstances of the relative and, in unusual cases, may permit a contribution of less than the amount fixed in the relatives' contribution scale.

(3) If the relative fails to file a statement or files a contradictory statement as described in subsection (3) of ORS 416.040, the state commission shall, on the basis of its estimate of the relative's income, make a determination of the liability of the relative for contributions required by the relatives' contribution scale.
[1961 c.605 §7]

416.060 Relatives' contribution scale; contribution from other relatives. (1) The living relatives of any needy person are hereby made jointly and severally liable to such person for monthly contributions of money not to exceed total cost, in accordance with the following relatives' contribution scale:

RELATIVES' CONTRIBUTION SCALE

Gross annual income of responsible relatives in one family in dollars		Number of persons dependent upon income									
		1	2	3	4	5	6	7	8	9	10
		MONTHLY PAYMENTS REQUIRED (in dollars)									
Over	But not over										
0	5,000	0	0	0	0	0	0	0	0	0	0
5,000	5,500	10	0	0	0	0	0	0	0	0	0
5,500	6,000	20	0	0	0	0	0	0	0	0	0
6,000	6,500	30	0	0	0	0	0	0	0	0	0
6,500	7,000	40	10	0	0	0	0	0	0	0	0
7,000	7,500	50	20	0	0	0	0	0	0	0	0
7,500	8,000	60	30	10	0	0	0	0	0	0	0
8,000	8,500	70	40	20	0	0	0	0	0	0	0
8,500	9,000	80	50	30	10	0	0	0	0	0	0
9,000	9,500	90	60	40	20	0	0	0	0	0	0
9,500	10,000	100	70	50	30	10	0	0	0	0	0
10,000	10,500	Total Cost	80	60	40	20	0	0	0	0	0
10,500	11,000	Total Cost	90	70	50	30	10	0	0	0	0
11,000	11,500	Total Cost	100	80	60	40	20	10	0	0	0
11,500	12,000	Total Cost	Total Cost	90	70	50	30	20	10	0	0
12,000	12,500	Total Cost	Total Cost	100	80	60	40	30	20	10	0
12,500	13,000	Total Cost	Total Cost	Total Cost	90	70	50	40	30	20	10
13,000	13,500	Total Cost	Total Cost	Total Cost	100	80	60	50	40	30	20
13,500	14,000	Total Cost	Total Cost	Total Cost	Total Cost	90	70	60	50	40	30
14,000	14,500	Total Cost	Total Cost	Total Cost	Total Cost	100	80	70	60	50	40
14,500	15,000	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	90	80	70	60	50
15,000	15,500	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	100	90	80	70	60
15,500	16,000	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	100	90	80	70
16,000	16,500	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	100	90	80
16,500	17,000	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	100	90
17,000	17,500	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	100
17,500		Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost

(2) When any living relative is required to contribute according to the scale in subsection (1) of this section, he may compel contribution from any other living relative or relatives liable under ORS 416.010 to 416.260.

(3) If the relative and his spouse each has income with respect to the calendar year during which public assistance is paid and they jointly or severally owe a duty of support to one or more persons for whom the relative may not provide the chief support because of the combined income, the relative is still entitled to claim that number of dependents nearest the whole number obtained by dividing the relative's gross annual income by the combined gross annual income of the relative and his spouse and multiplying the quotient by the number of dependents for whose support they are jointly or severally liable.

[Formerly 411.425]

416.070 Grant of assistance as prima facie evidence of need; findings prima facie correct. (1) In all administrative and judicial proceedings under ORS 416.010 to 416.260, the grant of public assistance by the county commission or the state commission to a recipient shall be prima facie evidence that such person does not have income or resources sufficient to provide himself with food, clothing, shelter and such other essentials as are necessary to sustain life and as are compatible with decency and good health.

(2) The findings of the examiner or referee, as reviewed by the state commission, and

in the absence of any showing of bad faith by the commission or the examiner or referee, shall be prima facie correct in any subsequent judicial proceedings.
[1961 c.605 §16]

416.080 Liability of relative does not cut off assistance; consent of recipient to recover from relative. The liability of a relative to contribute to the support of a recipient of public assistance established by ORS 416.060 is not grounds for denying or discontinuing public assistance to any person. However, by accepting such public assistance, the recipient thereof shall be deemed to consent to the recovery of an amount equal thereto from any responsible living relative by the state commission, as provided in ORS 416.260.
[Formerly 411.440 and then 411.428]

416.090 Needy person has cause of action against relatives for support. Each needy person in Oregon has a cause of action at law against any living relative or relatives referred to in ORS 416.020 for the monthly contribution to his support established by ORS 416.030 and 416.060. In any such action at law, judgment may be entered for all accumulated contributions for which defendant is liable under ORS 416.060.
[Formerly 411.450 and then 411.434]

416.100 State commission is subrogated to right to prosecute needy person's cause of action. The state commission shall be subrogated to the right of each needy person who is a recipient of public assistance in this state to prosecute an action at law arising under ORS 416.090 against any living relative of such recipient.
[Formerly 411.460 and then 411.438]

416.110 Time within which proceedings under ORS 416.100 to 416.140 must be commenced. (1) Any action or proceeding by the commission as provided in ORS 416.100 to 416.140 for the enforcement of any claims arising after January 1, 1959, shall be commenced within three years from the first day of the month during which the public assistance sought to be recovered by the commission was paid to the needy person, and any warrant issued by the commission for the enforcement of a final decision of the State Public Welfare Commission shall be filed within one year from the date upon which such decision is rendered, or within one year from the date the circuit or Supreme Court decides an appeal from such decision.

(2) A proceeding commenced under ORS 416.120 to 416.140 shall be deemed to commence when the notice required by ORS 416.120 is delivered to the relative.
[Formerly 411.441]

416.120 Notice to relative of contribution due; hearing of relative's objections; records of hearing. (1) After having made a determination of liability of a relative pursuant to ORS 416.010 to 416.100, the state commission may, in lieu of bringing an action at law on a theory of subrogation under ORS 416.100, give notice to the responsible relative by certified mail at his last-known address that a contribution pursuant to the scale provided in ORS 416.060 is due and payable to the state commission for aid given to the needy person and that the relative may request in writing within 30 days of mailing of the notice a hearing on objections to his financial responsibility at a time and place, in the county where the relative resides, as specified by the state commission.

(2) The hearing shall be held before an examiner or referee, appointed by the state commission, whose decision is subject to review by the state commission. The relative sought to be held responsible shall be given notice of the hearing by certified mail or personal service at least 20 days prior to the hearing.

(3) The relative sought to be held responsible shall be given opportunity at the hearing to present evidence as to why the determination of liability made under ORS 416.050 should be reduced or should not be required.

(4) A full and complete record of all documents and proceedings relating to the determination of and objection to liability of the relative shall be maintained by the state commission. The state commission shall provide that all testimony at any hearing upon such objection shall be recorded.
[Formerly 411.442; subsection (4) enacted as 1961 c.605 §15]

416.130 Decision of commission after hearing; notice to relative. If the evidence at the hearing under ORS 416.120 or, in case the relative fails to appear at the hearing, the evidence pursuant to any investigation under ORS 416.020 and 416.030, does not disclose sufficient reason why, in the opinion of the state commission, the relative should not be

held responsible in accordance with the contribution scale in ORS 416.060, the state commission shall notify the relative by certified mail at his last-known address of its final decision within 10 days after making such decision.
[Formerly 411.444]

416.140 Judicial review of commission's decision; notice of appeal; transcript of proceedings. (1) Any relative affected by a final decision under ORS 416.130 shall be entitled to judicial review of the decision. Within 30 days after mailing of the decision of the state commission the relative may file a notice of appeal in the circuit court in the county where the relative resides or in the county where the state commission has its main office. A copy of the notice of appeal shall be served on the state commission by certified mail.

(2) Within 30 days after receipt of a notice of appeal, the state commission shall make available without cost to the relative a certified copy of a transcript of all documents, papers and testimony taken or used at any hearing under ORS 416.010 to 416.260, together with the findings and decision of the examiner or referee.
[Formerly 411.446]

416.150 Content of petition for appeal; introduction of additional evidence. (1) Within 30 days after the transcript is available the relative may file with the clerk of the circuit court in which he filed his notice of appeal a petition stating the nature of the relative's interest, the facts showing how the relative is affected by the final decision of the state commission and the ground or grounds upon which the relative contends the final decision should be reversed or modified. A copy of this petition shall be served by certified mail upon the state commission.

(2) The state commission shall within 20 days of the receipt of the petition provided in subsection (1) of this section file its reply, together with a certified copy of the same transcript made available to the relative under subsection (2) of ORS 416.140. The state commission shall send a copy of the reply to the relative by certified mail.

(3) Within 10 days after receipt of the reply, the relative shall file his reply and send a copy to the state commission by certified mail.

(4) If, before the date set for hearing, application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good and substantial reasons for failure to present it in the proceedings before the state commission, the court may order that the additional evidence be taken before the state commission upon such conditions as the court considers proper. The state commission may modify its findings and decision by reason of the additional evidence and shall, within a time to be fixed by the court, file with the reviewing court, to become a part of the record, the additional evidence together with any modifications or new findings or decisions, or its certificate that it elects to stand on its original findings and decision.
[1961 c.605 §13]

416.160 Procedure for judicial review of commission decision. (1) The review authorized by ORS 416.140 shall be conducted by the court without a jury as a suit in equity and shall be confined to the record, except that, in cases of alleged irregularities in procedure before the state commission, not shown in the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs.

(2) The court may adopt the findings of fact of the state commission and affirm the decision of the state commission; or it may reverse and set aside the decision of the state commission, or reverse and remand for further proceedings, after review of all the facts disclosed by the record, and any additional facts established under the provision of subsection (4) of ORS 416.150. The court shall thereupon enter its decree. In the case of reversal of the final decision of the state commission, the court shall make special findings of fact based upon evidence in the record and conclusions of law indicating clearly all respects in which the final decision of the state commission is wrong.

(3) If the decision of the state commission is sustained on appeal and an amount of money is held to be due the state commission from the relative, the circuit court shall enter a judgment for that amount. The state commission may sue on the judgment without issuance of the warrant required by ORS 416.170.
[1961 c.605 §14]

416.170 Issuance of warrant to collect contribution; filing; entry in judgment docket. (1) If the relative fails to appeal a final decision of the state commission within the time specified in ORS 416.140 or if the court, on appeal, decides in favor of the state commission, the state commission may cause to have issued in its name by such person as it designates a warrant directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the relative found within his county, for the payment of the amount of the contribution and the cost of executing the warrant, and to return such warrant to the state commission and pay to it the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant.

(2) The sheriff shall, not later than five days after the receipt of the warrant, file with the clerk of his county a copy thereof. Thereupon, the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the relative mentioned in the warrant, and in appropriate columns the amount of the contribution due or portion thereof for which the warrant is issued and the date when such copy is filed.
[Formerly 411.448]

416.180 Lien of warrant; execution of warrant; effect of return of warrant unsatisfied. (1) The amount of a warrant docketed under ORS 416.170 shall become a lien upon the title to and interest in real property or personal property of the relative against whom it is issued in the same manner as a judgment duly docketed in the office of the county clerk. The sheriff shall then proceed upon the warrant in all respects, with like effect and in the same manner provided by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be added to and collected as a part of the warrant liability.

(2) If a warrant is returned not satisfied in full, the commission shall have the same remedies to enforce the claim for contributions against the relative as if the people of the state had recovered judgment against the relative for the amount of the contribution.
[Formerly 411.452]

416.190 Release of lien when sale of property would not satisfy lien in whole or in part. (1) Any person having a lien upon or any interest in real estate against which the amount of the warrant provided for in ORS 416.170 has become a lien, notice of which has been recorded in accordance with the laws of this state prior to the filing of the warrant, may request the commission in writing to release the real estate from the lien of the warrant.

(2) If, upon such request, the commission finds that a sale of the property would not result in satisfaction of the contributions due in whole or in part, the commission shall execute a release of the lien as to such property and such release shall be conclusive evidence of the extinguishment of the lien as to that property.

(3) If the commission fails to act upon a request for release of lien under this section within 60 days from the date of such request, any person having a lien upon or interest in the property against which the warrant has become a lien may make the commission a party to any proceeding brought to enforce any interest in or lien upon such real property, and the determination of the court in such proceeding shall be conclusive and binding upon the commission and the State of Oregon.
[Formerly 411.454]

416.200 Release of lien in other cases. In addition to the release of lien provided for in ORS 416.190, the commission may execute releases in the following cases which releases shall be conclusive evidence of the extinguishment of the lien:

(1) If the commission finds that the liability for the amount of the contribution, together with all costs in respect thereof has been satisfied; or

(2) If the commission finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such contribution and the amount of all prior liens upon such property; or

(3) If there is furnished to the commission a bond, in such form and with such security as the commission may deem sufficient, conditioned upon the payment of the amount of the warrant, together with all interest in respect thereof, within 60 days after the issuance of such release; or

(4) If there is paid to the commission in partial satisfaction of the amount of the warrant an amount not less than the value, as determined by the commission, of the interest of the State of Oregon in the part of the property to be so discharged. In determining such value, the commission shall give consideration to the fair market value of the part of the property to be so discharged and to such liens thereon as have priority to the lien of the State of Oregon.
[Formerly 411.456]

416.210 Compromise agreements with relatives. ORS 416.060 and 416.120 to 416.250 shall not be construed to prevent the State Public Welfare Commission from entering into a compromise agreement with the responsible relative at any state of a proceeding under ORS 416.120 to 416.250.
[Formerly 411.458]

416.220 Support order by court; enforcement and modification of order. (1) In addition to the remedy provided in ORS 416.090, the circuit court of the county in which an applicant for or recipient of public assistance resides may, upon petition of the applicant or recipient, order that a relative pay an amount each month for the support of the applicant or recipient. Pending the final order, the court may enter such temporary order as may be necessary for support of the applicant or recipient. In making any support order under this section the court cannot exceed the amounts specified in ORS 416.060.

(2) An order of support entered under subsection (1) of this section shall be enforceable by contempt proceedings.

(3) If an applicant for or recipient of public assistance requires legal aid in exercising his rights under this section or under ORS 416.090, the state commission, the county commission or the Welfare Recovery Division of the Department of Justice shall provide necessary legal aid.

(4) The court entering an order under subsection (1) of this section shall retain jurisdiction over the person and may modify its orders upon a showing that the conditions under which the original order was entered have changed so that the original order creates a hardship on the relative or on the person for whose benefit the order was made. The court may modify its orders upon the request of the relative, the person for whose benefit the order was made or the state commission.
[1961 c.605 §19]

416.230 Certification of relative's annual income and number of dependents by State Tax Commission. (1) Whenever it appears necessary to the state commission in any proceeding under ORS 416.010 to 416.260, or when the state commission has reason to believe that the affidavit of financial condition of a relative under ORS 416.020 was not made in good faith, the state commission may make a written request to the State Tax Commission, asking for a certificate of the gross annual income of the relative, as defined in subsection (2) of ORS 416.010. The request shall contain the name and address of the taxpayer and of the taxpayer's spouse and the name of the applicant for or recipient of public assistance and his relationship to the taxpayer.

(2) The State Tax Commission shall then certify to the state commission the gross annual income of the named taxpayer, as shown by the taxpayer's return filed during the current year, or, if such return is not available, the return for the preceding year. The State Tax Commission shall also, if the request so states, certify the names of all persons whom the taxpayer has claimed as dependents in computing his adjusted gross income. For purposes of proceedings under ORS 416.010 to 416.260 the certificate of the State Tax Commission shall be prima facie evidence of the truth of the facts asserted therein.

(3) The State Tax Commission shall cooperate with the state commission in supplying or verifying the information required by this section and ORS 416.040.
[Formerly 411.462]

416.240 Proceeding against one relative not to preclude action against others. A proceeding under ORS 416.010 to 416.260 against any relative of a needy person is not an exclusive remedy of the commission and does not preclude the commission from taking action against any other relatives believed to be financially able, if full recovery of contributions cannot be made from any one relative.
[Formerly 411.464]

416.250 Remedy of ORS 416.120 to 416.250 as additional remedy. ORS 416.120 to 416.250 is intended to be a remedy for collection of contributions from responsible relatives of needy persons additional to or as an alternative for the action provided in ORS 416.090, 416.100 and 416.260.
[Formerly 411.466]

416.260 Distribution of amount recovered from relative of recipient of public assistance. The state commission may, either in its own name or in the name of the recipient of public assistance to whose right of action it has been subrogated, commence and prosecute to final conclusion such legal proceedings as may be deemed necessary for the amount of the relatives' required contribution established by ORS 416.060. From the amount collected as a result of such legal proceedings or as a result of a warrant proceeding under ORS 416.120 to 416.210, the state commission shall deduct the full amount previously paid as public assistance under the laws of this state and the remainder thereof, after deducting the costs of any proceeding, shall be delivered to the recipient. The amount of any previously paid public assistance recovered in any proceeding shall be distributed by the state commission to the United States Government, the county and to the Public Welfare Account, as their interests may appear. The state commission may request the legal services of the Attorney General in the prosecution of any action under this section or ORS 416.120 to 416.250.
[Formerly 411.470]

416.270 Payments by relative based on estimated income for current year. (1) A relative referred to in ORS 416.010 may make monthly payments on his liability for the current year to the State Public Welfare Commission. The relative may compute his monthly payments by applying the table provided in ORS 416.060 to his estimated income for the current year. The moneys received by the State Public Welfare Commission shall be paid into the Relative Liability Contribution Fund which hereby is created and shall be retained in that fund until a final determination in accordance with ORS 416.010 to 416.260 is made of the relative's liability for that year. The Relative Liability Contribution Fund hereby is continuously appropriated for the purposes of this section.

(2) In the event that the sum of these payments is greater than the liability of the relative for that year, as computed in accordance with ORS 416.010 to 416.260, the State Public Welfare Commission shall apply the excess first upon any liability of the relative to the Public Welfare Commission remaining from prior years. If the excess exceeds any prior liability, the balance of the sum of the payments after the current and prior years' liability has been deducted, shall be retained in the Relative Liability Contribution Fund and credited against the relative's liability for the next year unless the relative elects, in writing, to receive the balance. If the relative so elects, the State Public Welfare Commission shall pay the relative out of the Relative Liability Contribution Fund the balance of the sum of his payments after the relative's current and prior years' liability has been deducted.

(3) If the liability of the relative for the current year, as finally determined, in accordance with ORS 416.010 to 416.260, is greater than the sum of the payments made by him for that year, the State Public Welfare Commission shall proceed to collect the remaining liability in accordance with the provisions of ORS 416.010 to 416.260.

(4) Any amount collected by the State Public Welfare Commission under this section which is retained in the Relative Liability Contribution Fund after the deduction of refunds, if any, shall be distributed to the United States Government, the county and to the Public Welfare Account as their interests may appear, except for any amount retained as a credit against the relative's liability for the next year which shall not be distributed until a final determination, in accordance with ORS 416.010 to 416.260, of the relative's liability for that year is made.
[Formerly 411.474]

RECOVERY FROM ESTATES

416.310 Estate of deceased person liable for aid received from counties; relatives not relieved from obligation of support. (1) Except as otherwise provided by ORS 413.200, the estate of every deceased person who during his or her lifetime received aid from or whose burial expenses have been paid by any county, other than aid received as old age assistance or pursuant to ORS 418.040, 444.120 or 444.220, is liable for the actual cost of such aid so rendered or the actual expenses of such burial. The county shall have a just and valid claim against such estate therefor.

(2) Nothing in this section relieves the parents, children, brothers or sisters of any poor person from their obligation to support such person, or prevents the county court from recovering for such support.
[Formerly 411.480]

416.320 Manner of approval and payment of county claims against estate. All claims of the type mentioned in ORS 416.310 shall be itemized and verified by the county clerk and presented by him to the administrator or executor of the estate; except that the claims shall be verified by the county auditor in counties having a county auditor authorized by ORS chapter 210. The claims shall be approved and paid by the administrator or executor in the manner and in the order of preference provided by law for approval and payment of claims and charges against estates of deceased persons.
[Formerly 411.490]

416.330 Disposition of money received by county from estate. All moneys received under ORS 416.320 shall be receipted for by the county clerk and turned over by him to the county treasurer, who shall credit the same to the general fund of the county.
[Formerly 411.500]

416.340 Collection of claim against estate of deceased. With respect to any claim which the State Public Welfare Commission may have against the estate of a deceased person, the commission may, subject to such terms as it may prescribe in any such case:

(a) Secure payment of such claim in whole or in part by the acceptance of assignments, conveyances, notes, mortgages and other transfers of property or interests therein.

(b) Waive such claim to the extent that the State Public Welfare Commission finds that the enforcement thereof would tend to defeat the purpose of the public assistance laws.
[1963 c.114 §2]

LIEN ON RECIPIENT'S CLAIM FOR DAMAGES FOR PERSONAL INJURIES

416.510 Definitions for ORS 416.510 to 416.610. As used in ORS 416.510 to 416.610, unless the context requires otherwise:

(1) "Action" means an action, suit or proceeding.

(2) "Applicant" means an applicant for assistance.

(3) "Assistance" means moneys paid by the State Public Welfare Commission to persons directly and moneys paid by the state commission to others for the benefit of such persons, except medical assistance for the aged.

(4) "Claim" means a claim of a recipient of assistance for damages for personal injuries against any person or public body, agency or commission other than the State Compensation Department.

(5) "Compromise" means a compromise between a recipient and any person or public body, agency or commission against whom the recipient has a claim.

(6) "Judgment" means a judgment in any action or proceeding brought by a recipient to enforce his claim.

(7) "Recipient" means a recipient of assistance.

(8) "Settlement" means a settlement between a recipient and any person or public body, agency or commission against whom the recipient has a claim.

(9) "State commission" means the State Public Welfare Commission.
[Formerly 411.552]

416.520 Claim for damages for personal injuries not grounds for denying assistance. If any applicant or recipient has a claim for damages for personal injuries, the existence of such claim or any action to enforce such claim shall not be grounds for denying or discontinuing assistance to such applicant or recipient.
[Formerly 411.554]

416.530 Notice to state commission of claim. When any applicant or recipient makes a claim or, without making a claim, begins an action to enforce such claim, he shall immediately notify the state commission. If an applicant or recipient has given notice that he has made a claim, it shall not be necessary for him to give notice that he has begun an action to enforce such claim. The notification shall include the name and address of each person or public body, agency or commission against whom claim is made or action is brought. If claim is made or action is brought against a corporation, the address given in such notification shall be that of its principal place of business. If the applicant or recipient be a minor, his parents, legal guardian or foster parents shall give the notification required by this section.
[Formerly 411.556]

416.540 Lien of state commission. (1) Except as provided in subsection (2) of this section and in ORS 416.590, the state commission shall have a lien upon the

amount of any judgment in favor of a recipient or amount payable to him under a settlement or compromise for all assistance received by such recipient from the date of his injury to the date of satisfaction of such judgment or payment under such settlement or compromise.

(2) The lien does not attach to the amount of any judgment, settlement or compromise to the extent of attorney's fees, costs and expenses incurred by a recipient in securing such judgment, settlement or compromise and to the extent of medical, surgical and hospital expenses incurred by such recipient on account of the personal injuries for which he had a claim.

[Formerly 411.558]

416.550 Procedure to perfect lien. (1) Upon receiving notice under ORS 416.530, to perfect its lien the state commission shall:

(a) File a notice of lien, substantially in the form prescribed in ORS 416.560, with the recording officer of the county in which the person against whom claim is made or action is brought resides. If the claim or action be against a corporation, the notice of lien shall be filed with the recording officer of the county within the state in which such corporation has its principal place of business. If the claim or action be against a public body, agency or commission, the notice of lien shall be filed with the recording officer of the county in which the public body, agency or commission has its main offices; and

(b) Prior to the date of satisfaction of the judgment or payment under the settlement or compromise, send a certified copy of the notice of lien by registered mail to each person or public body, agency or commission against whom claim is made or action is brought by the recipient.

(2) Upon the filing of a notice of lien by the state commission, the recording officer shall enter the name of the injured person, the approximate date of the injury and the name of the state commission as lienor in the hospital lien docket provided for in ORS 87.575 and shall make an index thereto in the names of the injured persons and the state commission.

[Formerly 411.560]

416.560 Form of notice of lien. The form of the notice required by subsection (1) of ORS 416.550 shall be substantially as follows:

Notice is hereby given that the State Public Welfare Commission has rendered assistance to_____, a person who was injured on or about the_____day of_____ in the city of_____ and State of_____, and the State Public Welfare Commission hereby asserts a lien to the extent provided in ORS 416.510 to 416.610, for the amount of such assistance upon any amount due and owing_____(name of injured person) under a judgment, settlement or compromise from _____ alleged to have caused such injuries and from any other person or public body, agency or commission liable for the injury or obligated to compensate the injured person on account of such injuries.

State Public Welfare Commission
by_____, Administrator.

State of Oregon, }
County of_____} ss.

I, _____, being first duly sworn on oath say: That I am the Administrator of the State Public Welfare Commission; that I have read the foregoing notice of lien and know the contents thereof and believe the same to be true.

_____

Subscribed and sworn to before me this _____day of_____in the year of our Lord_____.

_____, Notary Public.

[Formerly 411.562]

416.570 Notice to commission when judgment rendered or claim settled; statement by commission of amount of lien. Immediately after a judgment has been rendered in favor of a recipient or a settlement or compromise has been agreed upon, the person or public body, agency or commission bound by such judgment, settlement or compromise shall notify the state commission. After such notification the state commission shall send a statement of the amount of its lien to such person or public body, agency or commission by registered mail.

[Formerly 411.564]

416.580 Payment in satisfaction of lien. (1) After a notice of lien is filed in the manner provided in subsection (2) of ORS 416.550, any person or public body, agency or commission who makes any payment to the injured recipient, his heirs, personal representatives or assigns, or his or their attorneys, under a judgment, settlement or

compromise without previously having paid to the state commission the amount of its lien, shall be liable to the State of Oregon, for the use and benefit of the state commission for a period of 180 days after the date of such payment for the amount of such payment to the extent that the lien attached thereto under ORS 416.540.

(2) Any amount paid to the state commission in satisfaction of its lien shall be distributed by the state commission to the United States Government, the county and the Public Welfare Account, as their interests may appear.

(3) If the recipient be a minor, no payments to the state commission in satisfaction of its lien and, except to the extent of the fees, costs and expenses specified in subsection (2) of ORS 416.540, no payments to the recipient under a judgment, settlement or compromise shall be made until a hearing has taken place and the court has issued its order under ORS 416.590.
[Formerly 411.566]

416.590 Procedure where recipient is a minor. (1) If the recipient be a minor, after the date on which a judgment in his favor is rendered or settlement or compromise is agreed upon, the guardian of his estate shall petition the court having probate jurisdiction in the county in which the guardian was appointed to determine what sum will be needed for the minor's complete physical rehabilitation. If the guardian of the minor's estate fails to petition the court, any other interested person or public body, agency or commission may file such petition. The lien of the state commission provided for in ORS 416.510 to 416.610 shall not attach to the amount of such judgment, settlement or compromise to the extent of the sum needed for such rehabilitation. Among other data, the petition shall contain the name and address of each person or public body, agency or commission liable to the minor under the judgment, settlement or compromise.

(2) The court shall conduct a hearing to determine the sum that will be needed by the minor and at least 10 days prior to the date of such hearing, the clerk of the court shall notify the guardian of the minor's estate, the state commission and the person who filed the petition, if such person be someone other than the guardian of the minor's estate, of the date on which the hearing will be held. At such hearing any interested person as well as witnesses for the minor and for the state commission may testify on the question before the court. Upon reaching a decision, the court shall issue an order setting forth such decision and the clerk of such court shall enter the order in an appropriate record book. The clerk shall also send a copy of such order to the guardian of the minor's estate, the person who filed the petition if such person be someone other than the guardian of the minor's estate, the state commission and to each person or public body, agency or commission liable to the minor under the judgment, settlement or compromise.
[Formerly 411.568]

416.600 Release of portion of lien in certain cases. When the state commission determines that a recipient will incur additional medical, surgical or hospital expenses or that additional assistance will have to be given to him after the date of satisfaction of judgment or payment under a settlement or compromise, the state commission may release any portion of its lien to the extent of such anticipated expenses and assistance.
[Formerly 411.570]

416.610 Action against recipient who fails to notify commission of claim. The state commission shall have a cause of action against any recipient who fails to give the notification required by ORS 416.530 for amounts received by him pursuant to a judgment, settlement or compromise to the extent that the state commission could have had a lien against such amounts had such notice been given.
[Formerly 411.572]

MISCELLANEOUS PROVISIONS

416.810 Disposition of reimbursements for public assistance granted. All sums of money recovered by or paid to the state or county commissions as reimbursement for funds granted for public assistance shall be paid to the state and to the counties as their interests may appear, shall be paid into the State Treasury and credited to the Public Welfare Account and credited to the proper public assistance funds of the counties and may be expended for public assistance purposes in accordance with ORS 411.060 to 411.110, 411.150, 411.250 and 411.710 to 411.730; provided, that the United States

Government is entitled to a share of any amount so received as its interest may appear, which shall be promptly paid to the United States Government.
[Formerly 411.510]

416.820 Acceptance and disbursement of gifts for support of certain persons. The state commission and county commissions may accept funds, money or other valuable things from relatives, corporations or interested persons or organizations for the care and support of needy persons and may expend the same for the care and support of the individual or individuals for whom the money was paid. Funds accruing thereunder shall be deposited with the State Treasurer in a special account and shall be disbursed in accordance with ORS 411.060 to 411.110, 411.150, 411.250 and 411.710 to 411.730.
[Formerly 411.520]

416.830 Acceptance and disbursement of gifts for public assistance. The state commission and county commissions may accept from persons, corporations and organizations contributions or gifts in cash or otherwise which shall be disbursed in the same manner as the money appropriated for public assistance purposes; provided, however, that the donor of such gifts may stipulate the manner in which such gifts shall be expended.
[Formerly 411.530]

PENALTIES

416.990 Penalties. Any person who makes, renders, signs or verifies any false or fraudulent statement, or supplies any false or fraudulent information with intent to evade any requirement of ORS 416.020, 416.030 and 416.060 or any lawful requirement of the commission thereunder is guilty of a misdemeanor.
[Formerly part of 411.990]

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