

Chapter 413

1969 REPLACEMENT PART

Old-age Assistance and Medical Care of the Aged

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DEFINITIONS

413.005 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 Public Welfare Division 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 took effect July 1, 1966. The amendment was to become oper-

ative when state and federal funds were available for use in the programs authorized by ORS 413.005. See 1965 c.556 §31. Such funds did not become available but a medical assistance program became effective July 1, 1967. See 1967 c.502.

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 is a resident of the State of Oregon; 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; 1967 c.204 §2; 1969 c.468 §4]

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

413.015 [Formerly 413.030; repealed by 1969 c.69 §8]

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. However, the provisions of this subsection do not apply to assistance provided to an inpatient of a medical facility.

[Formerly 413.040; amended by 1967 c.116 §2]

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 assistance pursuant to ORS chapter 414.

[Formerly 413.150; amended by 1969 c.69 §6]

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 Public Welfare Division 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 Public Welfare Division that, unless he obtains the consent of the division, 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 Public Welfare Division 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 division.
[Formerly 413.211]

413.039 [1961 c.620 §23; 1963 c.609 §4; 1965 c.556 §23; repealed by 1965 c.556 §28 and by 1969 c.203 §13]

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

413.045 [1961 c.620 §22; 1963 c.609 §5; repealed by 1965 c.556 §28 and by 1969 c.203 §13]

413.047 [1963 c.609 §2; repealed by 1965 c.556 §28 and by 1969 c.203 §13]

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 [1963 c.609 §3; 1965 c.556 §24; repealed by 1965 c.556 §28; repealed by 1969 c.203 §13]

413.055 [1961 c.620 §25; repealed by 1965 c.556 §28 and by 1969 c.203 §13]

413.059 [1961 c.620 §§27, 28; repealed by 1965 c.556 §28 and by 1969 c.203 §13]

413.060 [Repealed by 1961 c.171 §4]

413.061 [1963 c.609 §9(4); repealed by 1969 c.203 §13]

413.063 [1963 c.609 §9(1), (2), (3); repealed by 1969 c.203 §13]

413.065 [1961 c.620 §29; repealed by 1963 c.609 §6]

413.066 [1963 c.609 §8; repealed by 1969 c.203 §13]

ADMINISTRATIVE PROVISIONS

413.068 Division to supervise assistance administration. The Public Welfare Division shall administer and supervise the administration of old-age assistance 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 division deems advisable.

[Formerly 413.050; amended by 1969 c.203 §3]

413.070 County departments shall keep prescribed records. The county departments shall keep such records and accounts in relation to old-age assistance as the division prescribes.

[Amended by 1961 c.620 §13; 1969 c.203 §4]

413.080 [Repealed by 1969 c.597 §281]

413.090 Application for assistance; action thereon. (1) Except as otherwise provided in subsection (2) of this section, each person requesting old-age assistance 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, 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 Public Welfare Division. All grants for old-age assistance shall be subject to approval of the division 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; 1969 c.68 §7]

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 the Public Welfare Division 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 division. The findings and decision of the division 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 Public Welfare Division; 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 division 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 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; 1969 c.203 §6]

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

[Amended by 1961 c.620 §17; 1969 c.203 §7]

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 division 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 division or the county department that the interests of the recipient would be best served thereby, the

division 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 division determines that the conditions which would justify such protective payments no longer exist.

(4) Subject to funds made available to the division for administrative expenditures, the division 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 under this chapter or for medical assistance for the aged under the provisions of chapter 620, Oregon Laws 1961, and chapter 609, Oregon Laws 1963, 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 Public Welfare Division 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 division 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; 1969 c.203 §8]

413.180 Recovery of assistance improperly granted. Should it be ascertained by either the division or the county department that any old-age assistance or medical assistance for the aged under the provisions of chapter 620, Oregon Laws 1961, and chapter 609, Oregon Laws 1963, 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 division or the county commission may cancel the grant and the county commission by which the improper payment was authorized, or the division 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 Public Welfare Division by the Welfare Recovery Division of the Department of Justice or by attorneys assigned to the Public Welfare Division, 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; 1969 c.203 §9]

413.190 [Renumbered 413.029]

413.200 Liability of estate of deceased recipient for assistance received; relatives of recipients of medical assistance not liable. The amount of any old-age assistance or medical assistance for the aged under the provisions of chapter 620, Oregon Laws 1961, and chapter 609, Oregon Laws 1963, 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.

[Amended by 1955 c.444 §4; 1961 c.620 §20; subsection (2) enacted as 1961 c.620 §7; 1969 c.203 §10]

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 adminis-

tration 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 division shall promulgate and enforce rules and regulations for the provision and administration of old-age assistance as may be necessary to render this state eligible for the receipt of federal grants-in-aid of old-age assistance under the federal Social Security Act.

[1961 c.620 §30; 1969 c.203 §11]

413.990 [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, 1969.

Robert W. Lundy
Legislative Counsel