# Chapter 416

## 1971 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 as defined by the federal Internal Revenue Code of 1954, as amended, as determined by the appropriate state or federal income tax return filed for the subject year (or, if such return has not been filed or is not available in the files of the Department of Revenue, the return filed for the preceding year) plus any nontaxable interest, excluded income, or exempt income not included in the adjusted gross income of the relative, 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 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 416.061. 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 Public Welfare Division to a recipient for a given period.

[1961 c.605 §2; 1969 c.597 §250; 1971 c.407 §1]

**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 Public Welfare Division 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 under oath and shall consent to investigation 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, the division, 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 division 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 416.061. 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. No liability for support of a needy person will be imposed prior to the mailing of written notice to the relative's last-known address. Receipt of the notice by the relative is not a condition precedent to the imposition of liability under ORS 416.061 or the use of any remedy provided by law to enforce such liability. The division may require statements under oath from the applicants and from any such person whose income and financial condition is at issue. The results of such investigation shall be filed at the headquarters office of the Public Welfare Division.

[Formerly 411.410; 1971 c.480 §3; 1971 c.779 §49]

**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 Public Welfare Division 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 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) A living relative of such needy person during any period when the relative is subject to or exempt from support under ORS 179.610 to 179.770.

(c) 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.

(d) The child of a needy person, if, during the minority of the child, such person is committed by order of the court to a state institution for the mentally ill or mentally deficient.

[Formerly 411.420; 1967 c.549 §7; 1971 c.125 §1; 1971 c.750 §5]

**416.035 Exemption of relatives whose liability under other law terminated.** Notwithstanding any other provisions of ORS 416.010 to 416.260, no liability shall be imposed upon any relative for the support of a needy person after such relative's responsibility therefor has been or would have been terminated under the provisions of ORS 179.635 had such needy person continued to be a resident of a state institution for the mentally deficient.

[1971 c.750 §2]

**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 Public Welfare Division for the preceding year a sworn statement on a form provided by the division of the relative's gross annual income as defined in subsection (2) of ORS 416.010, along with such other information as the division 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 division 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 division may estimate the gross annual income of the relative upon the basis of the information available from the report, from investigation and from the Department of Revenue 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 division or required by the division 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 division shall make a determination of the liability of the relative for contributions required by the relatives' contribution scale in ORS 416.061.

(2) In determining the ability to contribute, the division 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 division 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]

**416.055 Proration of liability among liable relatives.** Whenever there is more than one relative who is determined liable for contribution under the scale in ORS 416.061, or determined liable as a result of any proceeding under ORS 416.120 and 416.130 and the total individual liability of such relatives exceeds total cost, the payments required of such relatives shall be prorated among such relatives. Each such relative shall be liable to the extent that the ratio of his liability

bears to the total liability of all such relatives.

[1971 c.480 §2]

**416.060** [Formerly 411.425; repealed by 1971 c.651 §1 (416.061 enacted in lieu of 416.060)]

**416.061 Monthly liability schedule; contribution from other relatives.** (1) The living relatives of any needy person are hereby made liable to such person for monthly contributions of money not to exceed total cost in accordance with the following relatives' contribution scale:

| Gross annual income of responsible relatives in one family in dollars | | RELATIVES' CONTRIBUTION SCALE<br>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 | | | | | | | | | | |
| 6,500 | 7,000 | 26 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7,000 | 7,500 | 32 | 13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7,500 | 8,000 | 39 | 20 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8,000 | 8,500 | 46 | 26 | 13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8,500 | 9,000 | 52 | 32 | 20 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9,000 | 9,500 | 59 | 39 | 26 | 13 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9,500 | 10,000 | 65 | 45 | 32 | 20 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10,000 | 10,500 | 71 | 52 | 39 | 26 | 13 | 0 | 0 | 0 | 0 | 0 |
| 10,500 | 11,000 | 78 | 59 | 45 | 32 | 20 | 0 | 0 | 0 | 0 | 0 |
| 11,000 | 11,500 | 85 | 65 | 52 | 39 | 26 | 13 | 0 | 0 | 0 | 0 |
| 11,500 | 12,000 | 91 | 71 | 59 | 45 | 32 | 20 | 13 | 0 | 0 | 0 |
| 12,000 | 12,500 | 97 | 78 | 65 | 52 | 39 | 26 | 20 | 13 | 0 | 0 |
| 12,500 | 13,000 | 104 | 85 | 71 | 59 | 45 | 32 | 26 | 20 | 13 | 0 |
| 13,000 | 13,500 | 110 | 91 | 78 | 65 | 52 | 39 | 32 | 26 | 20 | 13 |
| 13,500 | 14,000 | 117 | 97 | 85 | 71 | 59 | 45 | 39 | 32 | 26 | 20 |
| 14,000 | 14,500 | 131 | 111 | 99 | 85 | 73 | 59 | 53 | 46 | 40 | 34 |
| 14,500 | 15,000 | 145 | 125 | 113 | 99 | 87 | 73 | 67 | 60 | 54 | 48 |
| 15,000 | 15,500 | 159 | 139 | 127 | 113 | 101 | 87 | 81 | 74 | 68 | 62 |
| 15,500 | 16,000 | 173 | 153 | 141 | 127 | 115 | 101 | 95 | 88 | 82 | 76 |
| 16,000 | 16,500 | 187 | 167 | 155 | 141 | 129 | 115 | 109 | 102 | 96 | 90 |
| 16,500 | 17,000 | 208 | 188 | 176 | 162 | 150 | 136 | 130 | 123 | 117 | 111 |
| 17,000 | 17,500 | 229 | 209 | 197 | 183 | 171 | 157 | 151 | 144 | 138 | 132 |
| 17,500 | 18,000 | 250 | 230 | 218 | 204 | 192 | 178 | 172 | 165 | 159 | 153 |
| 18,000 | 18,500 | 271 | 251 | 239 | 225 | 213 | 199 | 193 | 186 | 180 | 174 |
| 18,500 | 19,000 | 292 | 272 | 260 | 246 | 234 | 220 | 214 | 207 | 201 | 195 |
| 19,000 | 19,500 | Total Cost | 293 | 281 | 267 | 255 | 241 | 235 | 228 | 222 | 216 |
| 19,500 | 20,000 | Total Cost | Total Cost | 302 | 288 | 276 | 262 | 256 | 249 | 243 | 237 |
| 20,000 | 20,500 | Total Cost | Total Cost | Total Cost | 309 | 297 | 283 | 277 | 270 | 264 | 258 |
| 20,500 | 21,000 | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | 304 | 299 | 291 | 285 | 279 |
| 21,000 | 21,500 | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | Total Cost | 306 | 300 |
| 21,500 | 22,000 | 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 furnished 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.
[1971 c.651 §2 (416.061 enacted in lieu of 416.060)]

**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 Public Welfare Division 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 division, and in the absence of any showing of bad faith by the division 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 416.061 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 division, 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 416.061. In any such action at law, judgment may be entered for all accumulated contributions for which defendant is liable under ORS 416.061.
[Formerly 411.450 and then 411.434]

**416.100 Division is subrogated to right to prosecute needy person's cause of action.** The Public Welfare Division 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 416.130 must be commenced.** (1) Any action or proceeding by the Public Welfare Division as provided in ORS 416.100 to 416.130 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 division was paid to the needy person, and any warrant issued by the division for the enforcement of a final decision of the division 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 and 416.130 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 416.030, 416.040, 416.050 and 416.061 to 416.100, the Public Welfare Division 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 416.061 is due and payable to the division 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 division.

(2) The hearing shall be held before an examiner or referee, appointed by the division, whose decision is subject to review by the division. The hearing shall be subject to ORS 183.310 to 183.500. 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.
[Formerly 411.442; subsection (4) enacted as 1961 c.605 §15; 1971 c.734 §46]

**416.130 Decision 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 division, the relative should not be held responsible in accordance with the contribution scale in ORS 416.061, the division 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** [Formerly 411.446; repealed by 1971 c.734 §21]

**416.145 Judicial review.** (1) Judicial review of the decision of the Public Welfare Division shall be as provided in ORS 183.310 to 183.500. Within 30 days after receipt of a petition for judicial review, the division shall make available without cost to the petitioner the record at any hearing under ORS 416.010 to 416.260.

(2) If the decision of the Public Welfare Division is sustained on appeal, the Court of Appeals shall enter an order stating the amount found due. The Public Welfare Division may sue on such order without issuance of the warrant required by ORS 416.170.
[1971 c.734 §48]

**Note:** ORS 416.145 was added to and made a part of ORS chapter 416 by legislative action but not to any series therein.

**416.150** [1961 c.605 §13; repealed by 1971 c.734 §21]

**416.160** [1961 c.605 §14; repealed by 1971 c.734 §21]

**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 Public Welfare Division within the time specified in ORS 416.140 or if the court, on appeal, decides in favor of the division, the division 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 division 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 Public Welfare Division 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 Public Welfare Division in writing to release the real estate from the lien of the warrant.

(2) If, upon such request, the division finds that a sale of the property would not result in satisfaction of the contributions due in whole or in part, the division 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 division 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 division 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 division 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 Public Welfare Division may execute releases in the following cases which releases shall be conclusive evidence of the extinguishment of the lien:

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

(2) If the division 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 division a bond, in such form and with such security as the division 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 division in partial satisfaction of the amount of the warrant an amount not less than the value, as determined by the division, of the interest of the State of Oregon in the part of the property to be so discharged. In determining such value, the division 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 416.061 and 416.120, 416.130 and 416.170 to 416.250 shall not be construed to prevent the Public Welfare Division from entering into a compromise agreement with the responsible relative at any state of a proceeding under ORS 416.120, 416.130 and 416.170 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 416.061.

(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 Public Welfare Division 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 division.
[1961 c.605 §19; 1971 c.779 §50]

**416.230 Certification of relative's annual income and number of dependents by Department of Revenue.** (1) Notwithstanding ORS 314.835, when it appears necessary to the Public Welfare Division in any proceeding under ORS 416.010 to 416.260, or when the division has reason to believe that the affidavit of financial condition of a relative under ORS 416.040 was not made in good faith, or when the relative fails to file a financial statement as required by ORS 416.040, the division may make a written request to the Department of Revenue, asking for a certificate of any information from the income tax return filed by the relative, or by the relative and his spouse, including any information from any copy of any federal income tax return required to be filed with the state income tax return.

(2) For purposes of proceedings under ORS 416.010 to 416.260 the certificate of the Department of Revenue shall be prima facie evidence of the truth of the facts asserted therein.

(3) The Department of Revenue shall cooperate with the division in supplying or verifying the information required by this section.
[Formerly 411.462; 1971 c.407 §2]

**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 Public Welfare Division and does not preclude the division 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 Additional remedy.** ORS 416.120, 416.130 and 416.170 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 Public Welfare Division 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 416.061. From the amount collected as a result of such legal proceedings or as a result of a warrant proceeding under ORS 416.120, 416.130 and 416.170 to 416.210, the division 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 division to the United States Government and to the Public Welfare Account, as their interests may appear.
[Formerly 411.470; 1969 c.45 §2; 1971 c.418 §13]

**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 Public Welfare Division. The relative may compute his monthly payments by applying the table provided in ORS 416.061 to his estimated income for the current year. The moneys received by the division 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 division shall apply the excess first upon any liability of the relative to the division 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 division 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 division 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 Public Welfare Division 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 Public Welfare Division may have against the estate of a deceased person, the division 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 Public Welfare Division 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 Public Welfare Division to persons directly and moneys paid by the division to others for the benefit of such persons.

(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 Accident Insurance Fund or Workmen's Compensation Board.

(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) "Division" means the Public Welfare Division.
[Formerly 411.552; amended by 1969 c.203 §12]

**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 division 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 Public Welfare Division. 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 division.** (1) Except as provided in subsection (2) of this section and in ORS 416.590, the Public Welfare Division 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 Public Welfare Division 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 division, the recording officer shall enter the name of the injured person, the approximate date of the injury and the name of the division 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 division.
[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:

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Notice is hereby given that the Public Welfare Division has rendered assistance to _____, a person who was injured on or about the _____ day of _____ in the city of _____ and State of _____, and the Public Welfare Division 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.

Public Welfare Division
by _____, Administrator.

State of Oregon, }
County of _____ } ss.

I, _____, being first duly sworn on oath say: That I am the Administrator of the Public Welfare Division; 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.

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[Formerly 411.562; amended by 1969 c.597 §251]

**416.570 Notice to division when judgment rendered or claim settled; statement by division 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 Public Welfare Division. After such notification the division 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 Public Welfare Division the amount of its lien, shall be liable to the State of Oregon, for the use and benefit of the division 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 division in satisfaction of its lien shall be distributed by the division to the United States Government and the Public Welfare Account, as their interests may appear.

(3) If the recipient be a minor, no payments to the division 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; amended by 1969 c.45 §3]

**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 Public Welfare Division 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 division 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 division 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 division 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 Public Welfare Division 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 division 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 division of claim.** The Public Welfare Division 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 division 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 division as reimbursement for funds granted for public assistance shall be paid into the State Treasury and credited to the Public Welfare Account and may be expended for public assistance purposes in accordance with ORS 411.060 to 411.111, 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; amended by 1969 c.45 §4]

**416.820 Acceptance and disbursement of gifts for support of certain persons.** The Public Welfare Division 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 411.111, 411.250 and 411.710 to 411.730.
[Formerly 411.520; 1971 c.779 §51]

**416.830 Acceptance and disbursement of gifts for public assistance.** The Public Welfare Division 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; 1971 c.779 §52]

## 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 416.061 or any lawful requirement of the Public Welfare Division 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, 1971.

Robert W. Lundy
Legislative Counsel