Chapter 414

1973 REPLACEMENT PART

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414.001, 414.002, 414.003, 414.004, 414.005, 414.006, 414.007, 414.008, 414.009, 414.010, 414.011, 414.012, 414.013 and 414.014 [Repealed by 1953 c.378 §2]

414.015, 414.016 and 414.017 [Repealed by 1953 c.30 §2]

414.020 [Repealed by 1953 c.204 §9]

GENERAL PROVISIONS

414.025 Definitions. As used in this chapter, unless the context or a specially applicable statutory definition requires otherwise:

(1) "Category of aid" means old-age assistance, aid to the blind, aid to the disabled or aid to dependent children.

(2) "Categorically needy" means a person who is a resident of this state and who:

(a) Is receiving a category of aid.

(b) Would be eligible for a category of aid, except for duration of residence requirement of a particular category.

(c) Would be eligible for, but is not receiving a category of aid.

(d) Is in a medical facility and, if he left such facility, would be eligible for a category of aid.

(e) Is under the age of 21 years and would be a dependent child under the program for aid to dependent children except for age and regular attendance in school or in a course of vocational or technical training.

(f) Is a caretaker relative named in paragraph (c) of subsection (1) of ORS 418.035 who has in his care a dependent child who would be a dependent child under the program for aid to dependent children except for age and regular attendance in school or in a course of vocational or technical training; or is the spouse of such caretaker relative and fulfills the requirements of subsection (2) of ORS 418.035.

(g) Is under the age of 21 years, is in a foster family home or licensed child-caring agency or institution under a purchase of care agreement and is one for whom a public agency of this state is assuming financial responsibility, in whole or in part.

(h) Is a spouse of an individual receiving old-age assistance, aid to the blind or aid to the disabled, and who is living with the recipient, whose needs and income are taken into account in determining the cash needs of the recipient, and who is determined by the Public Welfare Division to be essential to the well-being of the recipient.

(i) Is a caretaker relative named in paragraph (c) of subsection (1) of ORS 418.035 who has in his care a dependent child receiving aid to dependent children, or a child who would be eligible to receive aid to dependent children except for duration of residence requirement; or is the spouse of such caretaker relative and fulfills the requirements of subsection (2) of ORS 418.035.

(j) Is under the age of 21 years, is in a youth care center and is one for whom a public agency of this state is assuming financial responsibility, in whole or in part.

(3) "Income" means income as defined in subsection (3) of ORS 413.005.

(4) "Medical assistance" means so much of the following medical and remedial care and services as may be prescribed by the Public Welfare Division according to the standards established pursuant to ORS 414.065:

(a) Inpatient hospital services, other than services in an institution for tuberculosis or mental diseases;

(b) Outpatient hospital services;

(c) Other laboratory and X-ray services;

(d) Skilled nursing home services, other than services in an institution for tuberculosis or mental diseases;

(e) Physicians' services, whether furnished in the office, the patient's home, a hospital, or a skilled nursing home, or elsewhere;

(f) Medical care, or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(g) Home health care services;

(h) Private duty nursing services;

(i) Clinic services;

(j) Dental services;

(k) Physical therapy and related services;

(L) Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(m) Other diagnostic, screening, preventive and rehabilitative services;

(n) Inpatient hospital services, skilled nursing home services and intermediate care facility services for individuals 65 years of age or over in an institution for tuberculosis or mental diseases;

(o) Any other medical care, and any other type of remedial care recognized under state law;

(p) Periodic screening and diagnosis of individuals under the age of 21 years to ascertain their physical or mental defects, and such health care, treatment and other measures to correct or ameliorate defects and

chronic conditions discovered thereby; and

(q) Inpatient hospital services for individuals under 21 years of age in an institution for mental diseases.

(5) "Medical assistance" does not include any care or services for any individual who is an inmate of a public institution, except as a patient in a medical institution or any care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases or any care or service for any individual who is not under 21 years of age and who is a patient in an institution for mental diseases.

(6) "Medically needy" means a person who is a resident of this state and who does not have income and resources sufficient to provide himself and his dependents with essential maintenance and medical needs as are necessary to afford a reasonable sustenance compatible with decency and health, as determined pursuant to ORS 414.037, and who, except for duration of residence or financial need requirement, would be eligible for a category of aid.

(7) "Resources" means resources as defined in subsection (4) of ORS 413.005.

[1965 c.556 §2; 1967 c.502 §3; 1969 c.507 §1; 1971 c.488 §1; 1973 c.651 §10]

414.030 [Repealed by 1953 c.204 §9]

414.032 Medical assistance to categorically needy and medically needy. (1) Within the limits of funds available therefor, medical assistance shall be made available to persons who are categorically needy.

(2) Within the limits of funds expressly appropriated and available for medical assistance to the medically needy, medical assistance shall be available to persons who are medically needy.

[1967 c.502 §4]

PROCEDURE TO OBTAIN MEDICAL ASSISTANCE

414.035 [1965 c.556 §1; repealed by 1967 c.502 §21]

414.037 Standard of need for medically needy. (1) Except as provided in subsection (2) of this section, the minimum amount of income and resources considered sufficient to meet maintenance needs for the medically needy is fixed at:

(a) An annual income of $1,750 for one person, plus $750 for the first and $480 for each additional dependent person;

(b) Life insurance with a cash surrender value of not more than $2,500 for one person, plus $500 for each additional dependent person;

(c) Liquid assets other than life insurance of not more than $500 value for one person, plus $500 for the first and $100 for each additional dependent person; and

(d) Real property occupied as his own residence.

(2) Except with respect to short-term convalescent care, the minimum amount of income considered sufficient to meet maintenance needs for a person receiving care provided by a nursing home, as defined in ORS 678.510, is fixed at an annual income of $240 for the person receiving nursing home care, plus $1,750 for the first and $480 for each additional dependent person.

[1967 c.502 §5]

414.040 [1953 c.204 §2; renumbered 414.810 and 566.310]

414.042 Determination of need and amount of aid. (1) The need for and the amount of medical assistance to be made available shall be determined, in accordance with the rules of the Public Welfare Division, taking into account:

(a) The requirements and needs of the person, his spouse and other dependents;

(b) The income, resources and maintenance available to the person;

(c) The responsibility of his spouse, and, with respect to a person who is blind, or is permanently and totally disabled, or is under the age of 21 years, the responsibility of the parents; and

(d) The conditions existing in each case.

(2) Such amounts of income and resources may be disregarded as the division may prescribe by rules, except that the division may not require any needy person over 65 years of age, as a condition of entering or remaining in a hospital, nursing home or other congregate care facility, to sell any real property normally used as such person's home. Any rule or regulation of the division inconsistent with this section is to that extent invalid. The amounts to be disregarded shall be within the limits required or permitted by federal law, rules or orders applicable thereto.

(3) In the determination of the amount of medical assistance available to a medically needy person, all income and resources available to the person in excess of the amounts prescribed in ORS 414.037, within limits prescribed by the division, shall be applied first

to costs of needed medical and remedial care and services not available under the medical assistance program and then to the costs of benefits under the medical assistance program.
[1967 c.502 §6; 1971 c.503 §1]

414.045 [1965 c.556 §3; repealed by 1967 c.502 §21]

414.047 Application for medical assistance. (1) Application for any category of aid shall also constitute application for medical assistance.

(2) Except as otherwise provided in this section, each person requesting medical assistance shall make application therefor to the division. The division shall determine eligibility for and fix the date on which such assistance may begin, and shall obtain such other information required by the rules of the division.

(3) If an applicant is unable to make application for medical assistance, an application may be made in his behalf by someone acting responsibly for him.
[1967 c.502 §7; 1969 c.68 §8; 1971 c.779 §46]

414.050 [1953 c.204 §2; renumbered 414.820 and then 566.320]

414.055 Hearing on eligibility; effect of decision. Any individual whose claim for medical assistance is denied or is not acted upon with reasonable promptness may petition the Public Welfare Division for a fair hearing. The hearing shall be held at a time and place and shall be conducted in accordance with the rules and regulations of the division.
[1965 c.556 §4; 1971 c.734 §45; 1971 c.779 §47]

414.057 Notice of change in circumstances. Upon the receipt of property or income or upon any other change in circumstances which directly affects the eligibility of the recipient to receive medical assistance or the amount of medical assistance available to him, the recipient shall immediately notify the Public Welfare Division of the receipt or possession of such property or income, or other change in circumstances. Failure to give the notice shall entitle the Public Welfare Division to recover from the recipient the amount of assistance improperly disbursed by reason thereof.
[1967 c.502 §8; 1971 c.779 §48]

414.060 [1953 c.204 §3; renumbered 414.830 and then 566.330]

EXTENT AND COVERAGE OF MEDICAL ASSISTANCE

414.065 Standards for medical assistance; effect of payment; extent of medical benefits. (1) With respect to medical and remedial care and services to be provided in medical assistance during any period, and within the limits of funds available therefor, the Public Welfare Division shall determine, subject to such revisions as it may make from time to time:

(a) The types and extent of medical and remedial care and services to be provided.

(b) State-wide uniform standards to be observed in the provision of medical and remedial care and services.

(c) The number of days of medical and remedial care and services toward the cost of which public assistance funds will be expended in the care of any person.

(d) Reasonable fees, charges and daily rates to which public assistance funds will be applied toward meeting the costs of providing medical and remedial care and services to an applicant or recipient.

(e) Reasonable fees for professional medical and dental services which may be based on usual and customary fees in the locality for similar services.

(2) The types and extent of medical and remedial care and services and the amounts to be paid in meeting the costs thereof, as determined and fixed by the division and within the limits of funds available therefor, shall be the total available for medical assistance and payments for such medical assistance shall be the total amounts from public assistance funds available to providers of medical and remedial care and services in meeting the costs thereof.

(3) Except for payments under a cost-sharing plan, payments made by the division for medical assistance shall constitute payment in full for all medical and remedial care and services for which such payments of medical assistance were made.

(4) Medical benefits and limits established pursuant to paragraphs (a) and (c) of subsection (1) of this section for the eligible medically needy may be less but shall not exceed medical benefits and limits established for the eligible categorically needy.
[1965 c.556 §5; 1967 c.502 §12]

414.070 [1953 c.204 §4; renumbered 414.840 and then 566.340]

414.073 Information on all healing arts to be made available. When giving information concerning medical assistance, the Public Welfare Division shall make available to applicants or recipients materials which include at least a listing of all the healing arts licensed in this state.
[1971 c.188 §2]

414.075 Payment of deductibles; coverage for persons over 65 years of age. (1) Medical assistance provided to any individual who is covered by the hospital insurance benefits or supplementary health insurance benefits, or either of them, as established by federal law, may include:

(a) The full amount of any deductible imposed with respect to such individual under the hospital insurance benefits; and

(b) All or any part of any deductible, cost sharing, or similar charge imposed with respect to such individual under the health insurance benefits.

(2) With respect to any individual who is 65 years of age or older, medical assistance may include medical and remedial care and services for patients in institutions for tuberculosis or mental diseases.
[1965 c.556 §§8, 9; 1967 c.502 §13]

414.080 [1953 c.204 §5; renumbered 414.850 and then 566.350]

414.085 Cooperative agreements authorized. (1) The Public Welfare Division may enter into cooperative arrangements with other state agencies and with public or private local agencies:

(a) To establish and maintain standards for private or public institutions in which recipients of medical assistance may receive care or services.

(b) To obtain maximum utilization of health services and vocational rehabilitation services in the provision of medical assistance.

(c) To provide medical assistance in a manner consistent with simplicity of administration and the best interests of the recipients.

(d) To arrange for joint planning and for development of alternate methods of care, making maximum utilization of available resources, with respect to recipients with mental diseases or tuberculosis, and to provide an individual plan for each such patient to assure that the institutional care provided to him is in his best interests.

(e) To obtain satisfactory progress toward attaining a comprehensive mental health program, utilizing community mental health centers, nursing homes and other alternatives to care in a public institution for mental diseases.

(2) Nothing in subsection (1) of this section shall be construed to impose upon or grant to the division responsibility or authority for state programs relating to standards, licensing, vocational rehabilitation, mental health or tuberculosis not otherwise expressly so imposed or granted by law.
[1965 c.556 §10]

414.090 [1953 c.204 §6; renumbered 414.860 and then 566.360]

414.095 Exemptions applicable to payments. Neither medical 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 ORS 411.405 and this chapter is subject to execution, levy, attachment, garnishment or other legal process.
[1965 c.556 §11; 1967 c.502 §14]

414.105 Recovery of certain medical assistance; certain transfers of property voidable. (1) The Public Welfare Division may recover from any person the amounts of medical assistance incorrectly paid on behalf of such person.

(2) Medical assistance pursuant to ORS 411.405 and this chapter paid on behalf of an individual who was 65 years of age or older when he received such assistance may be recovered from his estate, or if there be no estate the estate of the surviving spouse, if any, shall be charged for such aid paid to either or both; provided, however, that claim for such medical assistance correctly paid to him may be established against the estate, but there shall be no adjustment or recovery thereof until after the death of the surviving spouse, if any, and only at a time when he has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real property by recipients of such aid without adequate consideration may be set aside under subsection (2) of ORS 411.630.

(3) The amounts of medical assistance pursuant to ORS 411.405 and this chapter provided on behalf of a recipient shall not be recovered by the division under ORS 416.010 to 416.270.
[1965 c.556 §12; 1967 c.502 §15; 1969 c.507 §2; 1971 c.334 §1; 1973 c.334 §1; subsection (4) compiled as 416.280]

INSURANCE AND SERVICE CONTRACTS

414.115 Medical assistance by insurance or service contracts. In lieu of providing one or more of the medical and remedial care and services available under medical assistance by direct payments to providers thereof and in lieu of providing such medical and remedial care and services made available pursuant to ORS 414.065, the Public Welfare Division may use available medical assistance funds to purchase and pay premiums on policies of insurance, or enter into and pay the expenses on health care service contracts, or medical or hospital service contracts that provide one or more of the medical and remedial care and services available under medical assistance for the benefit of the categorically needy or the medically needy, or both. The policy of insurance or the contract by its terms, or the insurer or contractor by written acknowledgment to the division must guarantee:

(1) To provide medical and remedial care and services of the type, to the extent and according to standards prescribed under ORS 414.065;

(2) To pay providers of medical and remedial care and services the amount due, based on the number of days of care and the fees, charges and costs established under ORS 414.065, except as to medical or hospital service contracts issued by a hospital association which employs a method of accounting or payment on other than a fee-for-service basis;

(3) To provide medical and remedial care and services under policies of insurance or contracts in compliance with all laws, rules and regulations applicable thereto; and

(4) To provide such statistical data, records and reports relating to the provision, administration and costs of providing medical and remedial care and services to the division as may be required by the division for its records, reports and audits.

[1967 c.502 §9]

414.125 Rates on insurance or service contracts; requirements for insurer or contractor. (1) Any payment of available medical assistance funds for policies of insurance or service contracts shall be according to such uniform state-wide rates as the Public Welfare Division shall have established and which it may revise from time to time as may be necessary or practical.

(2) No premium or other periodic charge on any policy of insurance, health care service contract, or medical or hospital service contract shall be paid from available medical assistance funds unless the insurer or contractor issuing such policy or contract is by law authorized to transact business as an insurance company, health care service contractor or hospital association in this state.

[1967 c.502 §10]

414.135 Contracts with direct providers of care and services. The Public Welfare Division may enter into nonexclusive contracts under which funds available for medical assistance may be administered and disbursed by the contractor to direct providers of medical and remedial care and services available under medical assistance in consideration of services rendered and supplies furnished by them in accordance with the provisions of this chapter. Payment shall be made according to the rules of the division pursuant to the number of days and the fees, charges and costs established under ORS 414.065. The contractor must guarantee the division by written acknowledgment:

(1) To make all payments under this chapter promptly but not later than 30 days after receipt of the proper evidence establishing the validity of the provider's claim.

(2) To provide such data, records and reports to the division as may be required by the division.

[1967 c.502 §11]

414.145 Implementation of ORS 414.115 to 414.135. The provisions of ORS 414.115, 414.125 or 414.135 may be implemented whenever it appears to the Executive Department that such implementation will provide comparable benefits at equal or less cost than provision thereof by direct payments by the Public Welfare Division to the providers of medical assistance.

[1967 c.502 §11a]

MEDICAL ADVISORY COMMITTEE

414.205 Medical advisory committee. (1) A medical advisory committee is established, consisting of not more than 15 members to be appointed by the Governor from among persons in the health professions, providers of medical and remedial care and services and the general public. In making his appointment, the Governor shall consult with appropriate professional and other interested organizations.

(2) Members shall serve at the pleasure of the Governor.

(3) Members of the advisory committee shall receive no compensation for their services, but subject to any applicable state law, shall be allowed actual and necessary travel expenses incurred in the performance of their duties from the Public Welfare Account.
[1967 c.502 §18]

414.210 [1957 c.692 §1; repealed by 1963 c.631 §2]

414.215 Duties of committee. The medical advisory committee shall advise the Public Welfare Division on:

(1) Health and medical care and services to be provided pursuant to this chapter.

(2) Matters referred to it for study by the division.
[1967 c.502 §19]

414.220 [1957 c.692 §2; repealed by 1963 c.631 §2]

414.225 Division to consult with and assist committee. (1) The Public Welfare Division shall consult with the medical advisory committee concerning the determinations required under ORS 414.065.

(2) The division shall provide secretarial services to the medical advisory committee.
[1967 c.502 §20]

414.230 [1957 c.692 §5; repealed by 1963 c.631 §2]

414.240 [1957 c.692 §3; repealed by 1963 c.631 §2]

414.250 [1957 c.692 §4; repealed by 1963 c.631 §2]

414.260 [1957 c.692 §6; repealed by 1963 c.631 §2]

414.270 [1957 c.692 §7(1); repealed by 1963 c.631 §2]

414.280 [1957 c.692 §7(2); repealed by 1963 c.631 §2]

414.290 [1957 c.692 §7(3); repealed by 1963 c.631 §2]

414.300 [1957 c.692 §8; repealed by 1963 c.631 §2]

MISCELLANEOUS

414.305 Payment of cost of medical care for institutionalized persons. (1) The Public Welfare Division is hereby authorized to pay the cost of care for patients within Mental Health Division institutions under the medical assistance program established by ORS chapter 414.

(2) All moneys received by the Mental Health Division from the Public Welfare Division for the cost of care of patients shall be accounted for separately and deposited daily for credit to the General Fund, to be available for general governmental purposes.
[1969 c.507 §3; 1971 c.33 §1]

Note: ORS 414.305 was not added to and made a part of ORS chapter 414 by legislative action.

414.310 [1957 c.692 §9; 1961 c.130 §2; repealed by 1963 c.631 §2]

414.810 [Formerly 414.040; renumbered 566.310]

414.820 [Formerly 414.050; renumbered 566.320]

414.830 [Formerly 414.060; renumbered 566.330]

414.840 [Formerly 414.070; renumbered 566.340]

414.850 [Formerly 414.080; renumbered 566.350]

414.860 [Formerly 414.090; renumbered 566.360]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 1, 1973.

Thomas G. Clifford
Legislative Counsel