

# Chapter 413

1993 EDITION

## Old-age Assistance

### DEFINITIONS

413.005 Definitions

#### OLD-AGE ASSISTANCE

- 413.009 Eligibility for old-age assistance  
413.019 Amount of old-age assistance  
413.029 Burial of deceased old-age recipient  
Note Prohibition on payment of funeral expenses from state appropriation—1993 c.631 §5

#### ADMINISTRATIVE PROVISIONS

- 413.068 Division to supervise assistance administration  
413.070 Records  
413.090 Application for assistance; action thereon  
413.100 Appeal from failure to act on application or denial thereof or from modification or cancellation of assistance  
413.110 Cancellation or reduction of assistance upon receipt of property or income  
413.120 Reconsideration and change of amount of assistance  
413.130 Assistance is inalienable  
413.140 Effect of removal by recipient to another county or state  
413.160 When assistance is paid to guardian or conservator  
413.165 Payments to representative payee authorized; appointment of guardian, conservator or representative  
413.170 Effect of transfer of real property on eligibility for assistance  
413.180 Recovery of assistance improperly granted  
413.200 Liability of certain estates for assistance paid; exceptions; certain transfers of property voidable  
413.220 Jurisdiction of violations of chapter  
413.230 Conflict of this chapter with federal requirements

413.240 Rules and regulations

### CROSS REFERENCES

- Administrative procedures and rules of state agencies, 183.310 to 183.550  
Care manager, health care provider organization for aged or blind or disabled, when required, 1993 c.815 §18  
Claims by Adult and Family Services Division against savings association accounts of deceased public assistance recipients, 722.262  
Compensation for in-home care by spouse, 411.802, 411.803  
Deferral of property taxes of elderly persons, 311.668  
Definitions for statutes relating to aid to the needy, 411.010  
Discrimination in employment on account of age, 659.015  
Elderly housing program of Housing and Community Services Department, 456.515 to 456.582  
Income and resources that may be disregarded in determining eligibility, 411.700  
Income identification, eligibility for benefits to senior citizens, 305.350 to 305.365  
Medical assistance, Ch. 414  
Ombudsman, health care, 1993 c.815 §18  
Recovery of certain assistance under ORS 416.010 to 416.270 prohibited, 416.280  
Reimbursement for in-home care, 411.803  
Statutes applicable to all forms of public assistance, Ch. 411  
Surplus food distribution, 411.806 to 411.820  
**413.009**  
Agreement for Federal Government determination of eligibility and payments, 411.114  
Duty of child to support parent, 109.010  
**413.090**  
Investigations, subpoena power, 411.375 to 411.390

**HUMAN SERVICES; JUVENILE CODE; CORRECTIONS**

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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 the needs of the applicant or recipient.

(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.

(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 the person 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; 1965 c.556 §21; 1973 c.651 §7]

**OLD-AGE ASSISTANCE**

**413.009 Eligibility for old-age assistance.** (1) Subject to the provisions of this chapter, old-age assistance shall be given to:

(a) 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.

(b) 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.

(2) The retention by the applicant or recipient of resources which have a total value no greater than a maximum amount established by Adult and Family Services Division rule shall not affect the eligibility of the applicant or recipient or the amount of payment to the applicant or recipient. The Adult and Family Services Division may determine by rule that certain items retained by the applicant or recipient shall not be considered in determining the total value of the resources of the applicant or recipient. [Formerly 413.020; 1965 c.556 §22; 1967 c.204 §2; 1969 c.468 §4; 1973 c.651 §8]

**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 statewide 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; 1967 c.116 §2]

**413.020** [Renumbered 413.009]

**413.025** [Formerly 413.150; 1969 c.69 §6; repealed by 1981 c.784 §38]

**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 Adult and Family Services Division shall provide such a burial out of funds available for carrying out the purposes of this chapter. [Formerly 413.190]

**Note:** Section 5, chapter 631, Oregon Laws 1993, provides:

**Sec. 5. Prohibition on payment of funeral expenses from state appropriation.** Notwithstanding ORS 411.010 and 413.029, the funds appropriated by this Act shall not be used to meet the costs of burials. [1993 c.631 §5]

**413.030** [Amended by 1961 c.620 §10; renumbered 413.015]

**413.035** [Formerly 413.211; repealed by 1973 c.651 §11]

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

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

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

413.059 [1961 c.620 §§27,28; repealed by 1965 c.556 §28 and 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 Adult and Family Services Division shall administer and supervise the administration of old-age assistance and shall prescribe the form of, and furnish and supply all blank applications, reports, affidavits and such other forms as the division deems advisable. [Formerly 413.050; 1969 c.203 §3; 1971 c.779 §38]

**413.070 Records.** The division shall keep such records and accounts in relation to old-age assistance as the division considers necessary. [Amended by 1961 c.620 §13; 1969 c.203 §4; 1971 c.779 §39]

413.080 [Repealed by 1969 c.597 §281]

**413.090 Application for assistance; action thereon.** Each person requesting old-age assistance shall make application therefor to the Adult and Family Services Division. The division shall receive all applications 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 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. Designated employees of the division, designated in the manner provided in ORS 412.570, may issue subpoenas for witnesses and compel their attendance and the production of papers and writings and may examine witnesses under oath. [Amended by 1955 c.364 §7; 1961 c.620 §14; 1969 c.68 §7; 1971 c.779 §40]

**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 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 Adult and Family Services 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. [Amended by 1971 c.734 §44; 1971 c.779 §41]

**413.110 Cancellation or reduction of assistance upon receipt of property or income.** Whenever it is ascertained that the recipient or the spouse of the recipient 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 Adult and Family Services Division shall determine is sufficient for the required assistance. The recipient shall notify the division immediately of the receipt or possession of such property or income. [Amended by 1955 c.381 §1; 1971 c.779 §42]

**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 Adult and Family Services 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. [Amended by 1955 c.381 §2; 1961 c.620 §15; 1965 c.43 §1; 1973 c.651 §9]

**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 the person or of the funds granted, the Adult and Family Services Divi-

sion may direct the payment of the assistance granted to the person to any other person or corporation that has been duly appointed guardian or conservator of the person 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; 1971 c.779 §43]

**413.165 Payments to representative payee authorized; appointment of guardian, conservator or representative.** (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 that the recipient, by reason of physical or mental condition, has such inability to manage funds that making payments to the recipient would be contrary to the welfare of the person and that, therefore, it is necessary to provide assistance through payments authorized by this section.

(2) The division 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 that capacity.

(3) If it appears to the division that the interests of the recipient would be best served thereby, the division may petition for the judicial appointment of a guardian, conservator or other legal representative of the recipient. If the person is appointed and duly qualified, money payments of assistance otherwise payable to the recipient, or representative payee, shall be made to the qualified person until the division determines that the conditions which would justify the 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 or conservatorship established pursuant to this section, pay all costs and fees, including any necessary bond premiums, reasonably incurred in the proceeding and in administering money payments. [1965 c.556 §26; 1971 c.779 §44; 1973 c.823 §130]

**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 as-

sistance 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 Adult and Family Services 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 the division 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, the division may cancel the grant and the division shall have cause of suit or action against the person who has received improper assistance. The action shall be instituted by the district attorney or the Support Enforcement Division of the Department of Justice or by attorneys assigned to the Adult and Family Services Division, to recover from such person the amount paid the person, with interest thereon, together with the necessary costs of suit or action. [Amended by 1961 c.620 §19; 1969 c.203 §9; 1971 c.779 §45]

413.190 [Renumbered 413.029]

**413.200 Liability of certain estates for assistance paid; exceptions; certain transfers of property voidable.** (1) The amount of any old-age assistance or medical assistance for the aged paid under this chapter or under ORS chapter 414 is a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient, 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. However, there shall be no adjustment or recovery of any old-age assistance or medical assistance for the aged correctly paid to or on behalf of any individual under this chapter except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or who is blind or permanently and totally disabled. Transfers of real or personal property by recipients of such aid without adequate consideration are voidable and may be set aside under ORS 411.620 (2).

(2) Except where there is a surviving spouse, or a surviving child who is under 21 years of age or who is blind or permanently and totally disabled, the amount of any old-age assistance paid under this chapter is a claim against the estate in any guardianship or conservatorship proceedings and may be paid pursuant to ORS 126.353.

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to

the extent that the need for aid resulted from a crime committed against the recipient. [Amended by 1955 c.444 §4; 1961 c.620 §20; subsection (2) enacted as 1961 c.620 §7; 1969 c.203 §10; 1971 c.455 §1; 1975 c.386 §3; 1985 c.522 §3; 1993 c.249 §4]

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 administration of this chapter submitted to the Federal Department of Health and Human Services 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; 1991 c.67 §106]

**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]