

Chapter 411

2003 EDITION

Adult and Family Services; Public Assistance

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GENERAL PROVISIONS

411.010 Definitions. As used in this chapter and in other statutes providing for assistance and services to needy persons, unless the context or a specially applicable statutory definition requires otherwise:

(1) "Department" means the Department of Human Services.

(2) "General assistance" means assistance or service of any character provided to needy persons not otherwise provided for to the extent of such need and the availability of funds, including medical, surgical and hospital or other remedial care and costs of burials of needy persons.

(3) "Public assistance" means all types of assistance including old-age assistance, temporary assistance for needy families, aid to the blind, general assistance, aid to the permanently and totally disabled, medical assistance and such other functions as may be delegated to the administrator by or in accordance with the provisions of federal and state laws. [Amended by 1961 c.620 §1; 1963 c.599 §1; 1965 c.556 §15; 1969 c.597 §228; 1971 c.779 §7; 1973 c.464 §1; 1997 c.581 §4]

411.040 [1969 c.597 §227; 1983 c.740 §140; 1999 c.59 §106; repealed by 2001 c.900 §261]

411.050 [Amended by 1969 c.314 §34; repealed by 1969 c.597 §281]

411.060 State agency for public assistance. Subject to ORS 417.300 and 417.305, the Department of Human Services shall administer and supervise all public assistance programs and adopt and enforce such rules as are necessary to ensure full compliance with the terms of federal and state laws. [Amended by 1969 c.597 §229; 1971 c.319 §8; subsection (2) enacted as 1971 c.779 §72; 1977 c.267 §17; 1989 c.834 §15; 2003 c.14 §178]

411.062 When bilingual services required. (1) When the caseload of a Department of Human Services local office consists of 35 or more non-English-speaking households which share the same language, the department shall provide at that local office written materials in that language and access to a bilingual assistance worker or caseworker fluent in both that language and English.

(2) As used in this section:

(a) A "non-English-speaking household" is a household that does not have an adult member who is fluent in English.

(b) "Written materials" includes all forms, notices and other documents which the Department of Human Services provides to any English-speaking client for the establishment, maintenance and explanation of eligibility for public assistance.

(3) The Personnel Division of the Oregon Department of Administrative Services shall

recruit qualified individuals and shall maintain lists of such individuals for purposes of meeting the requirements of this section. [1979 c.834 §2; 2001 c.900 §218]

Note: 411.062 was added to and made a part of ORS chapter 411 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

411.064 [1979 c.834 §3; repealed by 2001 c.900 §261]

411.070 Statewide standards for public assistance. The Department of Human Services shall by rule fix statewide uniform standards for all public assistance programs and effect uniform observance thereof throughout the state. In establishing statewide standards for public assistance, the department, within the limits of available funds, shall:

(1) Take into consideration all basic requirements for a standard of living compatible with decency and health, including food, shelter, clothing, fuel, public utilities, telecommunications service, medical care and other essential items and, upon the basis of investigations of the facts, shall provide budgetary guides for determining minimum costs of meeting such requirements.

(2) Develop standards for making payments and providing support services for the employment and self-sufficiency skills programs described in ORS 418.040. [Amended by 1955 c.613 §1; 1969 c.597 §229a; 1971 c.779 §8; 1987 c.447 §129; 1991 c.122 §9; 1993 c.18 §99; 1999 c.1093 §15; 2001 c.900 §219; 2003 c.567 §3]

411.080 [Amended by 1969 c.597 §230; repealed by 1971 c.319 §11]

411.090 [Amended by 1969 c.597 §231; repealed by 2001 c.900 §261]

411.095 Procedure for hearings, rules, orders. (1) Except as provided in subsection (2) of this section, when the Department of Human Services changes a benefit standard that results in the reduction, suspension or closure of a grant of general assistance or a grant of public assistance, the department shall mail a notice of intended action to each recipient affected by the change at least 30 days before the effective date of the action.

(2) If the department has fewer than 60 days before the effective date to implement a proposed change described in subsection (1) of this section, the department shall mail a notice of intended action to each recipient affected by the change as soon as practicable but at least 10 days before the effective date of the action.

(3) When the department conducts a hearing pursuant to ORS 416.310 to 416.340 and 416.510 to 416.830 and 416.990 or when the department proposes to deny, reduce, suspend or terminate a grant of general assistance, a grant of public assistance or a support service payment used to support

participation in the job opportunity and basic skills program, the department shall provide an opportunity for a hearing under ORS chapter 183.

(4) When emergency assistance or the continuation of assistance pending a hearing on the reduction, suspension or termination of public assistance or a support service payment used to support participation in the job opportunity and basic skills program is denied, and the applicant for or recipient of public assistance or a support service payment requests a hearing on the denial, an expedited hearing on the denial shall be held within five working days after the request. A written decision shall be issued within three working days after the hearing is held.

(5) Adoption of rules, conduct of hearings and issuance of orders and judicial review of rules and orders shall be in accordance with ORS chapter 183. [1971 c.734 §41; 1987 c.3 §9; 2001 c.900 §247; 2003 c.243 §1; 2003 c.567 §1]

411.100 [Repealed by 1971 c.779 §78]

411.105 Applicant's declaration of eligibility; report on change in circumstance; recovery of amounts improperly paid. (1) At the time of making application every person applying for public assistance shall declare to the Department of Human Services any circumstance which directly affects the eligibility to receive assistance or the amount of assistance available to the person. Upon the receipt of property or income or upon any other change in circumstances which directly affects the eligibility of the recipient to receive assistance or the amount of assistance available to the recipient, the applicant, recipient or other person in the assistance household shall immediately notify the department of the receipt or possession of such property or income, or other change in circumstances. The department shall recover from the recipient the amount of assistance improperly disbursed by reason of failure to comply with the provision of this section.

(2) The department may recover any general or public assistance which has been paid to any recipient when that recipient is presently receiving or subsequently receives Supplemental Security Income. The amount of recovery shall be limited to the total amount of Supplemental Security Income that was received for the same time period that the general or public assistance was being paid.

(3) Nothing in subsection (1) or (2) of this section shall be construed as to prevent the department from entering into a compromise agreement for recovery of assistance improperly disbursed, if the department determines that the administration and collection costs involved would exceed the amount that can

reasonably be expected to be recovered. [1969 c.68 §3; 1975 c.178 §1; 1977 c.194 §1]

411.110 [Repealed by 1969 c.68 §1 (411.111 enacted in lieu of 411.110)]

411.111 Review of records to determine continued eligibility; personnel. For the purpose of eliminating from the public assistance rolls all persons for any reason not entitled to the benefits being granted, any application for or grant of public assistance is subject to investigation, certification, review and reconsideration from time to time and as frequently as is required by the rules and regulations of the Department of Human Services, and is subject to change or cancellation when the circumstances are not verified or have changed sufficiently to warrant such action; and for this purpose the department may employ and fix the compensation of such persons as it finds necessary and advisable. [1969 c.68 §2 (enacted in lieu of 411.110)]

411.113 Department to determine eligibility. The Department of Human Services shall determine eligibility for all public assistance. [1971 c.779 §73; 2001 c.900 §86]

411.114 Agreement with federal government for determination of eligibility and payment to recipients under certain public assistance categories. The Department of Human Services may enter into agreements with the federal government under which the federal government, on behalf of the department, will determine eligibility and make cash payments to recipients of old-age assistance, aid to the blind and aid to the disabled entitled thereto under rules adopted by the department. [1973 c.651 §2]

411.115 [1957 c.572 §1; 1961 c.620 §2; 1965 c.556 §16; 1971 c.779 §9; repealed by 1975 c.180 §1 (411.116 enacted in lieu of 411.115)]

411.116 Rules, contracts and intergovernmental agreements for providing social services to individuals. In addition to its other powers, the Department of Human Services may adopt rules and enter into contracts and intergovernmental agreements, subject to availability of funds therefor and consistent with federal and state law and regulations, for the purpose of providing social services, including protection, job preparation and support services, reduction of unintended pregnancy and provision of information and referrals for community, medical and social resources, to those individuals in need of, or who request such services. [1975 c.180 §2 (enacted in lieu of 411.115); 1997 c.581 §5]

411.117 Requirements when applicants or recipients victims of domestic violence; identification. (1) The Department of Human Services shall:

(a) Identify applicants for and recipients of assistance under the temporary assistance to needy families program who are currently

victims of domestic violence, have been victims of domestic violence or are at risk of victimization by domestic violence.

(b) Ensure that appropriate individuals on the local level who provide assistance to domestic violence victims participate in individualized case management with the department.

(c) Refer individuals identified under this subsection to appropriate counseling and support services.

(d) Waive or modify any temporary assistance to needy families program requirements that may make it more difficult for individuals identified under this subsection to escape domestic violence or place those individuals at risk of further or future domestic violence, including but not limited to:

(A) Time limits on receipt of benefits;

(B) Work requirements;

(C) Paternity establishment and child support cooperation requirements;

(D) Residency requirements;

(E) Family cap provisions; and

(F) Penalties for failure to comply with a program requirement.

(e) Maintain emergency assistance eligibility and payment limits for victims of domestic violence or persons at risk of victimization by domestic violence identified under this section at no less than the levels in effect on January 1, 1997.

(f) Allow eligibility for temporary assistance to needy families for persons identified under this section as victims of domestic violence or persons identified as at risk of victimization by domestic violence who would otherwise be eligible except for the fact that they are noncitizens.

(2) All information received by the department in identifying the individuals described in subsection (1) of this section shall remain confidential.

(3) For purposes of this section, "domestic violence" means the occurrence of one or more of the following acts between family members, intimate partners or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse;

(b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury;

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427; or

(d) Using coercive or controlling behavior. [1997 c.330 §2]

411.118 Report to Legislative Assembly. The Department of Human Services shall report to each session of the Legislative Assembly on the status and efficacy of:

(1) The domestic violence identification process under ORS 411.117;

(2) Emergency assistance utilization for victims of domestic violence; and

(3) Domestic violence training for department staff, information sharing and evaluation. [1997 c.330 §3]

411.119 Prohibition against denial of assistance based on drug conviction. A person who is otherwise eligible to receive public assistance, including food stamp benefits, shall not be denied assistance because the person has been convicted of a drug-related felony. [1997 c.581 §46]

411.120 Authorized expenditures for public assistance. The Department of Human Services may, subject to the allotment system provided for in ORS 291.234 to 291.260, expend such sums as are required to be expended in this state to provide public assistance excluding medical assistance. Expenditures for public assistance include, but are not limited to, expenditures for the following purposes:

(1) Assistance to needy persons and their dependents.

(2) Old-age assistance, including services to applicants for and recipients of old-age assistance to help them attain self-care.

(3) Assistance to needy blind persons, including services to applicants for and recipients of aid to the blind to help them attain self-support and self-care.

(4) Temporary assistance for needy families, including services to relatives with whom dependent children applying for or receiving temporary assistance for needy families are living in order to help such relatives attain the maximum self-support or self-care consistent with the maintenance of continuing parental care and protection or in order to maintain and strengthen family life for such children.

(5) Assistance to the permanently and totally disabled as defined in ORS 412.510, including services to the permanently and totally disabled as defined in ORS 412.510 to help them attain self-support and self-care.

(6) Carrying out the provisions of law for child welfare purposes.

(7) Scholarships or grants for qualified welfare recipients to provide them education and professional, technical or other helpful training, payable to a publicly supported career school or educational institution on behalf of the recipient.

(8) Such purposes as the department is otherwise authorized to expend funds, including the administration expenses of the department.

(9) Carrying out the provisions of ORS 411.116. [Amended by 1957 c.648 §1; 1961 c.600 §4; 1961 c.620 §3; 1965 c.556 §17; 1967 c.588 §3; 1969 c.123 §1; 1969 c.203 §1; 1971 c.779 §10; 1991 c.66 §1; 1995 c.343 §41; 1997 c.581 §6]

411.121 Local district pilot projects. (1) Notwithstanding ORS 411.070, the Department of Human Services is authorized to establish and implement local district pilot projects that promote the improvement of work skills, education and employability by offering client incentives that reward significant progress leading toward self-sufficiency. Client incentives offered under this section shall not exceed the equivalent of one month's temporary assistance for needy families grant in any 12-month period. No applicant or recipient participating in a pilot program shall be disadvantaged by such participation.

(2) The department shall monitor the results of any approved pilot projects to determine the types of client incentives that result in positive client performance. Within the limit of existing funds, the department may implement statewide those client incentives that prove to be cost-effective. The department shall solicit input from clients and client advocates prior to such statewide implementation.

(3) The department shall adopt all rules necessary to implement and administer the provisions of this section. [1997 c.581 §47]

411.122 Department to make dependent care payments directly to providers. The Department of Human Services shall provide dependent care payments directly to dependent care providers for eligible families. [1989 c.1047 §1; 1995 c.278 §47]

Note: 411.122 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 411 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

411.125 Family Services Review Commission; appointment; duties. (1) There is established the Family Services Review Commission consisting of 16 members. The members shall be appointed by the Governor for a term of four years. In making the appointments, the Governor shall consider representatives of county public welfare boards, as well as representatives from all of the congressional districts. Four members shall be recipients or former recipients of cash or self-sufficiency-related services from the Department of Human Services. Four members shall be representatives of business and professional interests. Four members shall be public welfare policy specialists. Four mem-

bers shall be advocates of public welfare from the state agencies or public or private organizations interested in public welfare. The commission shall receive compensation and expenses as provided in ORS 292.495.

(2) The commission shall advise and consult with the Director of Human Services in carrying out the functions of the department relating to programs and services to persons who, as a result of the person's or the person's family's economic, social or health condition, require medical assistance, financial assistance, institutional care, rehabilitation, vocational rehabilitation or other social or health services. The commission shall, through its chairperson, have access to information regarding persons receiving assistance and other relevant information about self-sufficiency programs of the department. [1969 c.597 §228b; 1971 c.779 §71; 1981 c.545 §8; 1991 c.10 §1; 1999 c.422 §1; 2001 c.900 §87]

411.130 Quarterly allocation of funds for each category of public assistance. The Department of Human Services, taking into consideration the total amount of funds available for public assistance in Oregon during the biennial period beginning July 1 of each odd-numbered year, the estimated number of beneficiaries in each category thereof, current and estimated costs of essential needs to maintain a standard of living during such period compatible with decency and health and such other matters as it may deem pertinent, shall estimate and allocate the funds available for each category of public assistance on a monthly basis subject to the quarterly revisions. Changes in such allocations, if any, shall be uniform and, as nearly as practicable and considering the above factors, proportionately equal in each such category. The monthly amounts so found estimated and allocated shall be deemed to be the funds available for each category for public assistance in Oregon.

411.135 Cooperation with federal government in research and training personnel. In addition to its other powers, the Department of Human Services may:

(1) Enter into agreements with, join with or accept grants from, the federal government for cooperative research and demonstration projects for public welfare purposes, including, but not limited to, any project which:

(a) Relates to the prevention and reduction of dependency.

(b) Aids in effecting coordination of planning between private and public welfare agencies of the state.

(c) Improves the administration and effectiveness of programs carried on or assisted by the department.

(2) With the cooperation and the financial assistance of the federal government, train personnel employed or preparing for employment in the department. The training may be carried out in any manner, including but not limited to:

(a) Directly by the department.

(b) Indirectly through grants to public or other nonprofit institutions of learning or through grants of fellowships.

(c) Any other manner for which federal aid in support of the training is available.

(3) Subject to the allotment system provided for in ORS 291.234 to 291.260, expend the sums required to be expended for the programs and projects described in subsections (1) and (2) of this section. [1957 c.569 §1; 1961 c.600 §5; 1969 c.597 §232; 1971 c.779 §11; 1975 c.509 §1; 1991 c.66 §2]

411.137 Contributions by state and counties for medical assistance demonstration projects under ORS 411.135. Exclusive of all sums of money contributed by the federal government for medical assistance and administration under ORS 414.033 (2) the State of Oregon shall contribute 40 percentum and the several counties of the state in which demonstration projects are operating shall each contribute 60 percentum of all sums, including administrative costs, required to be expended for such purposes in and for such respective counties. [1975 c.509 §8; 1991 c.66 §3]

411.140 [Amended by 1961 c.517 §1; repealed by 1971 c.779 §78]

411.145 County public welfare boards; appointment; term; expenses; termination. (1) A county public welfare board of not fewer than five nor more than seven members may be created within each county. The members shall be appointed by the governing body of the county, on the basis of recognized interest in and knowledge of the field of public assistance. Members of the governing body may be appointed to the board.

(2) Members shall be appointed for a term of four years. Before the expiration of the term of a member of the county public welfare board, the governing body shall appoint the successor of the member to assume the duties of the member on July 1 next following. In case of a vacancy for any cause, the governing body shall make an appointment to be immediately effective for the unexpired term. Any member of the county public welfare board may be removed by the governing body at any time for cause. The governing body shall name the chairperson of the county public welfare board.

(3) Members appointed shall receive no compensation for their services but shall be

allowed the actual and necessary expenses incurred by them in attending any meeting of the Department of Human Services when such attendance is authorized by the Director of Human Services. The expenses authorized pursuant to this subsection shall be paid by the department out of the Public Welfare Account.

(4) The governing body of the county may abolish the county public welfare board upon 60 days' notice. On the effective date stated in the notice, the county public welfare board shall be abolished and the tenure of office of members shall cease.

(5) Until the notice required in subsection (4) of this section is given, any county public welfare board in existence on November 4, 1993, shall continue and shall perform its duties under ORS 411.155. [1971 c.779 §69; 1993 c.88 §§1,2; 2001 c.900 §88]

411.150 [Repealed by 1971 c.779 §78]

411.155 Duties of county public welfare boards. The county public welfare board shall:

(1) Receive information and complaints from local citizens and may at its discretion transmit such complaints to the Department of Human Services on matters relating to public assistance programs. The department shall, if requested, investigate and report on its findings pursuant to any complaint presented to it by a county public welfare board.

(2) Evaluate the effectiveness of public welfare programs in relation to local needs, determine the need and develop locally sponsored programs to augment public welfare programs, interpret public welfare programs and inform the public.

(3) Confer with local welfare offices on selection of special local programs, budget, eligibility for assistance, and other matters which will assist local offices in effectively serving local needs.

(4) Recommend changes, if any are needed, in the program or delivery of services to improve the department's response to local problems. [1971 c.779 §70]

411.160 [Amended by 1967 c.454 §46; 1967 c.561 §3; 1967 s.s. c.12 §1; repealed by 1969 c.45 §10]

411.170 [Amended by 1963 c.143 §1; repealed by 1969 c.45 §11]

411.180 [Amended by 1963 c.143 §2; repealed by 1969 c.45 §11]

411.190 [Amended by 1955 c.443 §1; 1961 c.657 §1; 1967 c.240 §1; repealed by 1969 c.45 §11]

411.200 [Repealed by 1969 c.45 §10]

411.210 [Amended by 1967 c.240 §2; repealed by 1969 c.45 §10]

411.220 Deposit of funds received for public assistance purposes; appropriation thereof. (1) The Department of Human Services shall deposit in the State Treasury to

the credit of the General Fund all the amounts received by it from the United States Government or its agencies or from any other source for public assistance purposes. All such funds, together with any remaining balances of funds received for the purposes of public assistance of any type, hereby are appropriated for expenditure by the department for the type of public assistance for which such funds were granted to or received by the state or appropriated by the state, as the case may be.

(2) All moneys received from refunds, cancellations or recoveries resulting from public assistance payments made from state funds, as differentiated from federal or county funds, shall be paid into the State Treasury and credited to the Public Welfare Account and hereby are appropriated for expenditure by the department for public assistance purposes. [Subsections (2) and (3) enacted as 1953 c.458 §§2,4; 1961 c.600 §6; 1961 c.620 §4; 1969 c.45 §1; 1969 c.203 §2]

411.222 [1955 c.380 §§1,3; repealed by 1957 c.531 §3]

411.230 Payment of claims. Warrants shall be drawn by the Oregon Department of Administrative Services in favor of the Department of Human Services for the aggregate amounts of public assistance or refunds to counties duly certified by the department to be due to any person or county in such amount as may be set forth in such certification. The department shall cause to be deposited all such warrants in payment of public assistance or refunds to counties in the State Treasury in a suspense checking account for distribution to those entitled thereto and may draw its checks on the State Treasury in favor of the persons, firms, corporations, associations or counties entitled thereto under such rules as it shall promulgate so as to include in single combined payments for specified periods all moneys allotted to particular payees from various sources for said period. [Amended by 1967 c.454 §47; 1971 c.80 §5]

411.240 Public Welfare Account. (1) There hereby is established in the General Fund of the State Treasury an account to be known as the Public Welfare Account. All moneys in the Public Welfare Account hereby are appropriated for and shall be used by the Department of Human Services for the respective purposes authorized by law. The moneys in the Public Welfare Account and all appropriations from the account shall be subject to allotment made by the Oregon Department of Administrative Services.

(2) The Department of Human Services shall keep a record of all moneys credited to and deposited in the Public Welfare Account. The record shall indicate by separate cumulative accounts the source from which the

moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) The unobligated balance in the Public Welfare Account on June 30 of each odd-numbered year shall be determined by the Department of Human Services as of September 30 following the close of each biennium and certified to the Oregon Department of Administrative Services. The amount certified pursuant to this subsection shall revert to the General Fund and become available for general governmental purposes. [Amended by 1961 c.600 §7; 1963 c.537 §4; 1965 c.440 §3; 1967 c.454 §107; 2003 c.14 §179]

411.242 Advancements from Public Welfare Account to meet claims payable from federal funds. Pending receipt by the State Treasurer of federal funds for the payment of public assistance, the moneys in the Public Welfare Account appropriated for expenditure by the Department of Human Services for public assistance purposes shall be expended to the extent necessary to meet claims for public assistance which otherwise would be paid from such federal funds. Upon notice that such federal funds have been received by the State Treasurer, the department shall prepare a claim against such funds for the amount advanced from the Public Welfare Account for the purposes of this section and a warrant may be drawn by the Oregon Department of Administrative Services in favor of the State Treasurer in payment of such claim, for credit to and reimbursement of the Public Welfare Account. [1953 c.410 §1; 1961 c.600 §8; 1967 c.454 §48; 1971 c.80 §6]

411.245 Revolving fund. The revolving fund in the amount of \$50,000 established by warrant drawn on the State Treasurer by the Oregon Department of Administrative Services payable out of the Public Welfare Account in favor of the Department of Human Services is continued. The revolving fund shall be used by the Department of Human Services for the purpose of providing funds to pay current salaries and expenses, emergency public assistance advances and other expenses when it is necessary to make immediate cash payments. The revolving fund shall be deposited with the State Treasurer. For the purpose of providing working cash balances for emergency public assistance advances and other expenses when it is necessary to make immediate cash payments, the Department of Human Services may withdraw from the State Treasury portions of the fund to be used by designated custodians for the purposes authorized by this section. The designated custodians may hold the funds or may deposit the funds in any bank authorized as a depository of state funds, or may hold part and deposit the remainder. The revolving fund shall be reimbursed by warrants

drawn by the Oregon Department of Administrative Services upon the verified claims of the Department of Human Services and warrants payable out of the Public Welfare Account. [1953 c.460 §1; 1967 c.71 §1; 1967 c.454 §49; 1971 c.80 §7; 1971 c.779 §12; 2003 c.14 §180]

411.250 [Repealed by 1983 c.537 §7]

411.260 [Amended by 1957 c.570 §1; 1969 c.597 §236; 1971 c.779 §13; repealed by 2001 c.900 §261]

411.270 [Amended by 1957 c.570 §2; 1969 c.597 §237; 1971 c.779 §14; repealed by 2001 c.900 §261]

411.280 [Amended by 1969 c.597 §238; 1971 c.779 §15; repealed by 2001 c.900 §261]

411.290 [Repealed by 1969 c.597 §281]

411.300 Rules and regulations concerning use and custody of records. (1) The Department of Human Services shall make and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the department. The use of such records, papers, files and communications by any other agency or department of government or person to which they may be furnished shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished.

(2) No rules or regulations shall be made or administrative practice followed by the Department of Human Services pursuant to subsection (1) of this section which would interfere with the purposes of ORS 411.113, 411.155, 411.320 and 411.335. [Amended by 1953 c.500 §12; 1971 c.779 §16]

411.310 [Repealed by 1967 c.98 §1]

411.320 Disclosure and use of public assistance records limited; contents as privileged communication; exceptions. (1) For the protection of applicants for and recipients of public assistance, except as otherwise provided in this section, the Department of Human Services shall not disclose or use the contents of any public assistance records, files, papers or communications for purposes other than those directly connected with the administration of the public assistance laws of Oregon or as necessary to assist public assistance applicants and recipients in accessing and receiving other governmental or private nonprofit services, and these records, files, papers and communications are considered confidential subject to the rules and regulations of the Department of Human Services. In any judicial or administrative proceeding, except proceedings directly connected with the administration of public assistance or child support enforcement laws, their contents are considered privileged communications.

(2) Nothing in this section prohibits the disclosure or use of contents of records, files, papers or communications for purposes di-

rectly connected with the establishment and enforcement of support obligations pursuant to the Title IV-D program.

(3) Nothing in this section prohibits the disclosure of the address, Social Security number and photograph of any applicant or recipient to a law enforcement official at the request of such official. To receive information pursuant to this section, the officer must furnish the agency the name of the applicant or recipient and advise that the applicant or recipient:

(a) Is fleeing to avoid prosecution, custody or confinement after conviction for a felony;

(b) Is violating a condition of probation or parole; or

(c) Has information that is necessary for the officer to conduct the official duties of the officer and the location or apprehension of the applicant or recipient is within such official duties. [1953 c.500 §5; 1971 c.779 §17; 1995 c.609 §8; 1997 c.581 §7; 2001 c.900 §88a]

411.325 [1953 c.500 §6; 1961 c.620 §5; 1963 c.70 §1; 1967 c.502 §16; 1971 c.779 §18; repealed by 1997 c.581 §48]

411.330 [1953 c.500 §§7,8; 1971 c.779 §19; repealed by 1997 c.581 §48]

411.335 Prohibited use of lists or names. No person or agency shall solicit, disclose, receive, make use of, or authorize, knowingly permit, participate in or acquiesce in the use of, any lists or names for commercial or political purposes of any nature, or for any purpose not directly connected with the administration of the public assistance laws. [1953 c.500 §9; 1997 c.581 §8]

411.350 [1967 c.578 §1; 1971 c.779 §20; repealed by 2001 c.900 §261]

411.375 Public assistance investigations; power to subpoena, administer oaths, take depositions and fix witness fees. (1) In connection with any public assistance investigation or hearing the Director of Human Services or any examiner, referee or other officer duly appointed to conduct the investigation or hearing may by subpoena compel the attendance and testimony of witnesses and the production of books, accounts, documents and other papers, and may administer oaths, take depositions and fix the fees and mileage of witnesses.

(2) The Department of Human Services shall provide for defraying the expenses of such investigations or hearings, which may be held in any part of the state. [1955 c.364 §1; 1969 c.597 §240]

411.380 Petition for enforcement of subpoena issued under ORS 411.375. (1) In case of the refusal of a witness to attend or testify or produce any papers required by such subpoena, the person designated by the subpoena as the person before whom the tes-

timony is to be given or the papers produced, may petition the circuit court in and for the county in which the investigation or hearing is pending for an order directing the witness to attend and testify or produce the papers before the petitioner.

(2) The petition shall allege that due notice was given of the time and place for the attendance of the witness or the production of the papers, that the witness was subpoenaed in the manner prescribed and that the witness failed and refused to attend, to produce the papers required by the subpoena or to answer questions propounded to the witness in the course of the investigation or hearing. [1955 c.364 §2]

411.385 Court order to show cause issued upon filing of petition for enforcement of subpoena. Upon the filing of such a petition, the court shall enter an order, a copy of which shall be served upon the witness, directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why the witness has not attended and testified or produced the papers as required by the subpoena. [1955 c.364 §3]

411.390 Court may compel appearance of witness before petitioner. (1) If at the hearing provided for in ORS 411.385 it is apparent to the court that the subpoena was regularly issued, the court shall thereupon enter an order that the witness appear before the petitioner at a time and place to be fixed in such order, and testify and produce the required papers.

(2) Failure by the witness to comply with an order made pursuant to subsection (1) of this section shall be dealt with as for contempt of court. [1955 c.364 §4]

411.395 [1961 c.171 §2; repealed by 1969 c.597 §281]

411.405 [1965 c.556 §14; repealed by 2001 c.900 §261]

411.410 [Amended by 1961 c.605 §3; renumbered 416.020]

411.415 [1971 c.617 §3; 1989 c.224 §80; 1991 c.93 §9; repealed by 2001 c.900 §261]

411.420 [Amended by 1957 c.154 §1; 1961 c.605 §4; renumbered 416.030]

411.425 [1953 c.361 §3; 1955 c.501 §1; 1959 c.273 §1; 1961 c.605 §8; renumbered 416.060]

411.428 [Formerly 411.440; renumbered 416.080]

411.430 [Repealed by 1953 c.361 §19]

411.434 [Formerly 411.450; amended by 1955 c.501 §2; renumbered 416.090]

411.438 [Formerly 411.460; renumbered 416.100]

411.440 [Renumbered 411.428 and then 416.080]

411.441 [1959 c.522 §§2,4; renumbered 416.110]

411.442 [1953 c.361 §§4,5; 1961 c.605 §9; renumbered 416.120]

411.444 [1953 c.361 §6; 1961 c.605 §10; renumbered 416.130]

411.446 [1953 c.361 §7; 1961 c.605 §11; renumbered 416.140]

411.448 [1953 c.361 §8; 1961 c.605 §17; renumbered 416.170]

411.450 [Renumbered 411.434 and then 416.090]

411.452 [1953 c.361 §9; renumbered 416.180]

411.454 [1953 c.361 §10; renumbered 416.190]

411.456 [1953 c.361 §11; renumbered 416.200]

411.458 [1953 c.361 §12; renumbered 416.210]

411.460 [Renumbered 411.438 and then 416.100]

411.462 [1953 c.361 §13; 1961 c.605 §20; renumbered 416.230]

411.464 [1953 c.361 §15; renumbered 416.240]

411.466 [1953 c.361 §16; renumbered 416.250]

411.470 [Amended by 1953 c.361 §19; renumbered 416.260]

411.474 [1957 c.571 §1; renumbered 416.270]

411.480 [Renumbered 416.310]

411.490 [Amended by 1961 c.104 §1; renumbered 416.320]

411.500 [Renumbered 416.330]

411.510 [Amended by 1961 c.600 §9; renumbered 416.810]

411.520 [Renumbered 416.820]

411.530 [Renumbered 416.830]

411.552 [1959 c.454 §1; 1961 c.620 §8; renumbered 416.510]

411.554 [1959 c.454 §2; renumbered 416.520]

411.556 [1959 c.454 §3; renumbered 416.530]

411.558 [1959 c.454 §4; renumbered 416.540]

411.560 [1959 c.454 §§5,7; renumbered 416.550]

411.562 [1959 c.454 §6; renumbered 416.560]

411.564 [1959 c.454 §8; renumbered 416.570]

411.566 [1959 c.454 §9; renumbered 416.580]

411.568 [1959 c.454 §11; renumbered 416.590]

411.570 [1959 c.454 §12; renumbered 416.600]

411.572 [1959 c.454 §10; renumbered 416.610]

411.575 Acceptance of gifts and grants for scholarships. (1) In addition to other funds made available for education and training of public assistance recipients, the Department of Human Services may accept gifts and grants from private sources for the purpose of providing the scholarships or grants authorized under ORS 411.580.

(2) The moneys received under subsection (1) of this section shall be deposited in a special account, separate and distinct from the General Fund, to be named the Department of Human Services Scholarship Account, which account is established. All moneys in the account and all earnings thereon are continuously appropriated to the Department of Human Services to be used together with any federal funds that may be available to provide scholarships or grants under ORS 411.580.

(3) The amount in the Department of Human Services Scholarship Account that is available after scholarships and grants under ORS 411.580 have been awarded for any pe-

riod shall be reported to the Oregon Investment Council by the Department of Human Services and shall be considered investment funds within the meaning of ORS 293.701 to 293.820 and shall be invested in accordance with the standards of ORS 293.726. All earnings on such investments shall be credited to the Department of Human Services Scholarship Account. [1967 c.588 §2; 1969 c.707 §1; 1971 c.774 §16; 1989 c.966 §46; 1997 c.130 §7; 2003 c.14 §181]

411.580 Scholarships and grants for recipients. (1) In addition to any other scholarships or grants provided by law and subject to the availability of funds in the Department of Human Services Scholarship Account, the Department of Human Services may award tuition and fee-exempting scholarships or grants and additional funds for purchase of required books and supplies from other funds, whether from public or private sources, made available for training of recipients toward self-support to those qualified to receive welfare assistance, for enrollment at any publicly supported educational, vocational or training institution in this state.

(2) Selection of scholarship or grant recipients shall be made by county public welfare board created by ORS 411.145, with the advice and assistance of all publicly supported educational, vocational or training institutions.

(3) Scholarships or grants shall be awarded on the basis of the recipient's apparent ability and willingness to profit from the education or the vocational, technical, or other courses available, to the end that scholarships or grants awarded will benefit both the student and the people of this state.

(4) In order to facilitate the most effective use of funds granted under this section, the Department of Human Services may apply funds available under this section to supportive services, including but not limited to transportation and child care, for scholarship or grant recipients whenever the availability of such services has been eliminated by the exhaustion of funds in the department's job related training program. [1967 c.588 §1; 1969 c.123 §2; 1971 c.227 §1; 1971 c.387 §1; 1971 c.774 §17; 1971 c.779 §21a; 1997 c.130 §8; 2003 c.14 §182]

411.590 Housekeeper, homemaker or home care worker in residence of public assistance recipient not state employee; exception. A person who is hired as a housekeeper or homemaker, or home care worker as defined in ORS 410.600, and is not otherwise employed by the Department of Human Services, an area agency or other public agency, shall not for any purposes be deemed to be an employee of the State of Oregon or an area agency whether or not the department or agency selects the person for employment or exercises any direction or

control over the person's employment. However, nothing in this section precludes the state or an area agency from being considered the employer of the person for purposes of ORS chapter 657. [1975 c.401 §5; 1981 c.784 §23; 1987 c.780 §1; 1999 c.548 §1; 2001 c.900 §89; 2001 c.901 §8]

411.595 Procedure where waiver of federal requirement involves policy change. (1) As used in this section "policy change" includes any change in the operation of public assistance programs that affects recipients adversely in any substantial manner, including but not limited to the denial, reduction, modification or delay of benefits. "Policy change" does not include any procedural change that affects internal management but does not adversely and substantially affect the interest of public assistance recipients.

(2) The Department of Human Services may submit applications for waiver of federal statutory or regulatory requirements to the federal government or any agency thereof. Following the submission of any application for waiver that involves a policy change, and prior to implementation, the department shall do the following:

(a) Conduct a hearing in accordance with ORS chapter 183 regarding the waiver application or application for waiver renewals and the proposed rules;

(b) Prepare a complete summary of the testimony and written comments received at the hearing;

(c) Submit the application for waiver or application for waiver renewals involving a policy change to the legislative review agency, as defined in ORS 291.375, and present the summary of testimony and comments described in this section; and

(d) Give notice of the date of its appearance before the Emergency Board or the Joint Committee on Ways and Means in accordance with ORS 183.335, and before the Family Services Review Commission. [1983 c.299 §2; 1987 c.3 §14; 2001 c.900 §90]

MISCELLANEOUS PROVISIONS RELATING TO PUBLIC ASSISTANCE

411.610 Indorsement by others of public assistance checks or warrants payable to deceased recipient; disposition of proceeds. Any check or warrant issued by the Department of Human Services to a recipient of public assistance who subsequently dies may be indorsed in the name of the deceased by the surviving spouse or a next of kin in the order described in ORS 293.490 (3); and payment may be made and the proceeds used without any of the restrictions enumerated in ORS 293.495 (1). [Amended by 1957 c.120 §1; 1981 c.594 §9]

411.620 Recovery of public assistance obtained or disposed of unlawfully.

(1) The Department of Human Services may prosecute a civil suit or action against any person who has obtained, for personal benefit or for the benefit of any other person, any amount or type of general assistance or public assistance, as defined in ORS 411.010, or has aided any other person to obtain such general assistance or public assistance, in violation of any provision of ORS 411.630, or in violation of ORS 411.640. In such suit or action the department may recover the amount or value of such general assistance or public assistance so obtained in violation of ORS 411.630, or in violation of ORS 411.640, with interest thereon, together with costs and disbursements incurred therein.

(2) Excepting as to bona fide purchasers for value, the department, the conservator for the recipient or the personal representative of the estate of a deceased recipient may prosecute a civil suit or action to set aside the transfer, gift or other disposition of any money or property made in violation of any provisions of ORS 411.630, 412.600, 413.200 and 414.105 and the department may recover out of such money or property, or otherwise, the amount or value of any general assistance or public assistance obtained as a result of such violation, with interest thereon, together with costs and disbursements incurred therein. [Amended by 1963 c.499 §1; 1971 c.334 §2; 1973 c.661 §1; 1983 c.638 §1; 2001 c.900 §220]

411.630 Unlawfully obtaining public assistance.

(1) No person shall knowingly obtain or attempt to obtain, for the benefit of the person or of any other person, any public assistance, as defined in ORS 411.010, to which the person or such other person is not entitled under state law by means of:

(a) Any false representation or fraudulent device, or

(b) Failure to immediately notify the Department of Human Services of the receipt or possession of property or income, or of any other change of circumstances, which directly affects the eligibility for, or the amount of, such assistance.

(2) No person shall transfer, conceal or dispose of any money or property with the intent:

(a) To enable the person to meet or appear to meet any requirement of eligibility prescribed by state law or by rule or regulation promulgated by the department for a grant or an increase in a grant of any type of general assistance or public assistance, as defined in ORS 411.010; or

(b) Except as to a conveyance by such person to create a tenancy by the entirety,

to hinder or prevent the department from recovering any part of any claim which it may have against the person or the estate of the person.

(3) No person shall knowingly aid or abet any person to violate any provision of this section.

(4) No person shall receive, possess or conceal any money or property of an applicant for or recipient of any type of general assistance or public assistance, as defined in ORS 411.010, with the intent to enable such applicant or recipient to meet or appear to meet any requirement of eligibility referred to in subsection (2)(a) of this section or, except as to a conveyance by such applicant or recipient to create a tenancy by the entirety, with the intent to hinder or prevent the department from recovering any part of any claim which it may have against such applicant or recipient or the estate of the applicant or recipient. [Amended by 1963 c.499 §2; 1969 c.66 §1; 1971 c.779 §22]

411.632 Relief where assets transferred, removed or secreted.

If it reasonably appears that a customer who is a recipient of public assistance has assets in excess of those allowed to a recipient of such assistance under applicable federal and state statutes and regulations, and it reasonably appears that such assets may be transferred, removed, secreted or otherwise disposed, then the Department of Human Services may seek appropriate relief under ORCP 83 and 84, or any other provision of law but only to the extent of the liability. The state shall not be required to post a bond in seeking the relief. [1987 c.438 §6; 2001 c.900 §91]

411.635 Recovery of improperly disbursed public assistance.

Public assistance improperly disbursed as a result of recipient conduct that is not in violation of ORS 411.630 may be recouped pursuant to ORS 293.250 or from earnings that the state disregards pursuant to ORS 411.700 and 418.045 as follows:

(1) The Department of Human Services shall notify the recipient that the recipient may elect to limit the recoupment monthly to an amount equal to one-half the amount of disregarded earnings by granting the department a confession of judgment for the amount of the overpayment.

(2) If the recipient does not elect to grant the confession of judgment within 30 days the department may recoup the overpayment from the entire amount of disregarded earnings. The recipient may at any time thereafter elect to limit the monthly recoupment to one-half the disregarded earnings by granting the department a confession of judgment.

(3) The department shall not execute on a confession of judgment until the recipient is no longer receiving public assistance and has either refused to agree to or has defaulted on a reasonable plan to satisfy the judgment.

(4) Nothing in this section limits the authority of the department by rule to exempt from recoupment any portion of disregarded earnings. [1979 c.719 §2]

411.640 Unlawfully receiving public assistance. No person shall receive, either for the benefit of the person or for the benefit of any other person, any amount or type of general assistance or public assistance, as defined in ORS 411.010, to which the person or such other person is not entitled under state law. [1963 c.499 §4]

411.650 Statement required to obtain public assistance. (1) Every person 18 years of age or over who applies for or receives any type of general assistance or public assistance, as defined in ORS 411.010, whether such general assistance or public assistance is applied for or received for the benefit of the person or of another individual, shall execute to the Department of Human Services at the time of making such application, and at such times as may be required by the department in any case, written statements relating to each individual for whose benefit such general assistance or public assistance is applied for or received, and to any person who has a duty to support such individual, or to whom such individual owes a duty of support. Such statements shall include, but need not be limited to, so much of the following information, relating to each such individual or other person, as may be specified or required by the department:

(a) The name of the individual, address, date and place of birth, residence, family relationships, and the composition of the household in which the individual lives;

(b) The financial circumstances of the individual and means of and ability for support of the individual and other individuals, including but not limited to information concerning:

(A) The employment of the individual and the nature and amount of the income of the individual, from whatever source derived;

(B) The tangible and intangible assets of the individual, property and resources of any nature including, but not limited to, money, real and personal property, rights and expectancies as an heir, devisee, legatee, trustee or cestui que trust, and any rights, benefits, claims or choses in action, whether arising in tort or based upon statute, contract or judgment;

(C) The receipt of the individual, transfer or disposal of any assets, property or resources, referred to in subparagraph (B) of this paragraph, within three years immediately preceding such application and during any period with respect to which such general assistance or public assistance is granted; and

(D) Such other information as may be required pursuant to state or federal laws applicable to such general assistance or public assistance.

(2) All applications for such general assistance or public assistance and all statements referred to in subsection (1) of this section shall be upon forms prescribed and furnished by the department. Each such statement shall be subscribed by each individual who executes or joins in the execution of such statement.

(3) The spouse of any individual who applies for or receives such general assistance or public assistance may be required by the department to join in the execution of, or separately to execute, any statement referred to in subsection (1) of this section, under oath or affirmation, except during any period in which it appears to the department that:

(a) Such individual and the spouse of the individual are estranged and are living apart;

(b) The spouse is absent from this state or the whereabouts of the spouse is unknown; or

(c) The spouse is physically or mentally incapable of executing such statement or of providing any information referred to in subsection (1) of this section. [1963 c.499 §5; 1965 c.300 §1; 1971 c.799 §23; 2003 c.576 §442]

411.660 Modification, cancellation or suspension of public assistance. (1) If any person is convicted of a violation of any provision of ORS 411.630, any grant of general assistance or public assistance made wholly or partially to meet the needs of such person shall be modified, canceled or suspended for such time and under such terms and conditions as may be prescribed by or pursuant to rules or regulations of the Department of Human Services.

(2) Subsection (1) of this section does not prohibit a grant of general assistance or public assistance to meet the needs of a child under the age of 18 years. [1963 c.499 §6; 2001 c.900 §92]

411.670 Definitions for ORS 411.670, 411.675 and 411.690. As used in this section and ORS 411.675 and 411.690:

(1) "Claims for payment" includes bills, invoices, electronic transmissions and any other document requesting money in compensation for or reimbursement of needs

which have been furnished to any public assistance recipient.

(2) "Need" means any type of care, service, commodity, shelter or living requirement.

(3) "Person" includes individuals, corporations, associations, firms, partnerships, governmental subdivisions and agencies and public and private organizations of any character. [1983 c.609 §2]

411.675 Submitting wrongful claim or payment prohibited. No person shall obtain or attempt to obtain for personal benefit or the benefit of any other person, any payment for furnishing any need to or for the benefit of any public assistance recipient by knowingly:

(1) Submitting or causing to be submitted to the Department of Human Services any false claim for payment;

(2) Submitting or causing to be submitted to the department any claim for payment which has been submitted for payment already unless such claim is clearly labeled as a duplicate;

(3) Submitting or causing to be submitted to the department any claim for payment which is a claim upon which payment has been made by the department or any other source unless clearly labeled as such; or

(4) Accepting any payment from the department for furnishing any need if the need upon which the payment is based has not been provided. [1983 c.609 §3]

411.690 Liability of person wrongfully receiving payment; amount of recovery.

(1) Any person who accepts from the Department of Human Services any payment made to such person for furnishing any need to or for the benefit of a public assistance recipient shall be liable to refund or credit the amount of such payment to the department if such person has obtained or subsequently obtains from the recipient or from any source any additional payment received for furnishing the same need to or for the benefit of such recipient. However, the liability of such person shall be limited to the lesser of the following amounts:

(a) The amount of the payment so accepted from the department; or

(b) The amount by which the aggregate sum of all payments so accepted or received by such person exceeds the maximum amount payable for such need from public assistance funds under rules adopted by the department.

(2) Notwithstanding subsection (1) of this section, any person who after having been afforded an opportunity for a hearing pursuant to the portions of ORS chapter 183 re-

lating to a contested case, is found to violate ORS 411.675 shall be liable to the department for treble the amount of the payment received as a result of such violation.

(3) The department may prosecute civil actions to recover moneys claimed due under this section and for costs and disbursements incurred in such actions. [1963 c.609 §11; 1977 c.669 §1; 1983 c.609 §4]

411.692 Definition for ORS 93.268 and 411.694. As used in ORS 93.268, 411.692 and 411.694, "encumbrance" means a voluntary instrument granting a security interest in the affected real property to secure a monetary obligation. [2003 c.638 §1]

Note: 411.692 and 411.694 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 411 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

411.694 Department of Human Services request for notice of transfer or encumbrance of real property; rules. (1) When an individual receives public assistance as defined in ORS 411.010 and the individual is the holder of record title to real property or the purchaser under a land sale contract, the Department of Human Services may present to the county clerk for recordation in the deed and mortgage records of a county a request for notice of transfer or encumbrance of the real property.

(2) A title insurance company or agent shall provide the department with a notice of transfer or encumbrance as required by ORS 93.268.

(3) If the department has caused a request for notice of transfer or encumbrance to be recorded in the deed and mortgage records, the department shall present to the county clerk for recordation a termination of request for notice of transfer or encumbrance when, in the judgment of the department, it is no longer necessary or appropriate for the department to monitor transfers or encumbrances related to the real property.

(4) The department shall adopt by rule a form of the request for notice of transfer or encumbrance, the notice of transfer or encumbrance and the termination of request for notice of transfer or encumbrance that, at a minimum:

(a) Contains the name of the public assistance recipient, a departmental case identifier or other appropriate information that links the individual who is the holder of record title to real property or the purchaser under a land sale contract to the individual's public assistance records;

(b) Contains the legal description of the real property;

(c) Contains a mailing address for the department to receive the notice of transfer or encumbrance; and

(d) Complies with the requirements for recordation in ORS 205.232 and 205.234 for those forms intended to be recorded.

(5) The department shall pay the recordation fee required by the county clerk under ORS 205.320.

(6) The request for notice of transfer or encumbrance described in this section does not affect title to real property and is not a lien on, encumbrance of or other interest in the real property. [2003 c.638 §2]

Note: See note under 411.692.

411.700 Income and resources that may be disregarded in determining eligibility; presentation of fiscal analysis to Emergency Board. (1) In the determination of eligibility and the amount of need with respect to a recipient or applicant of public assistance under ORS chapters 412, 413 and 414, the Department of Human Services may disregard such amounts of income and resources as are required by federal law or rules adopted pursuant thereto or as are authorized by the Legislative Assembly including the following:

(a) Any elderly rental assistance payments provided by ORS 310.635 or refunds in lieu of such relief shall be disregarded in determining eligibility and need.

(b) Any increase in the amount of assistance that is authorized by section 4, Public Law 93-233 (87 Stat. 953) and which is also being paid on March 5, 1974, shall be disregarded in determining eligibility and need.

(2) Any increase in the amount of assistance provided under Title XVI of the Social Security Act to meet changes in the cost of living that is an increase over that amount being paid on January 1, 1977, pursuant to an Act of Congress and which will first be paid after January 1, 1977, shall be disregarded in determining eligibility and need.

(3) When considering an application for public assistance, the department shall exempt from consideration as a resource up to \$10,000 equity value of any licensed and unlicensed vehicles owned by the applicant or recipient.

(4) The department shall implement subsection (3) of this section statewide to the extent possible that is consistent with federal regulation to maintain state eligibility for federal participation in public assistance programs. In the event the department determines that this policy has a net fiscal cost to the state, the department shall present the fiscal analysis to the Emergency Board for additional funding or direction to modify or

suspend the policy. [1974 c.17 §2; 1975 c.498 §1; 1977 c.841 §11; 1977 c.863 §1a; 1993 c.355 §1; 1997 c.170 §29; 1997 c.581 §9]

411.703 Issuance of warrants for overpayment of public assistance. (1) If an overpayment of public assistance, including food stamp benefits, is not repaid within 30 days of the payment due date, after an individual has been afforded an opportunity for a contested case hearing under ORS chapter 183 relating to the overpayment of public assistance, including food stamp benefits issued under ORS 411.806 to 411.845, the Department of Human Services may:

(a) Issue a warrant that meets the requirements of ORS 205.125 for the overpayment; and

(b) Present a warrant issued under this section for recordation in the County Clerk Lien Record of the county clerk of any county in the state.

(2) The warrant must include the principal amount of the overpayment, interest accumulated pursuant to ORS 82.010 or other applicable law, costs associated with recording, indexing and serving the warrant and costs associated with an instrument evidencing satisfaction or release of the warrant.

(3) The department shall mail a copy of the warrant to the debtor at the last known address of the debtor.

(4) Upon receipt of the warrant for recordation, the county clerk shall record the warrant in the manner provided in ORS 205.125.

(5) Upon recording, the warrant:

(a) Has the effect described in ORS 205.125 and 205.126; and

(b) May be enforced as provided in ORS 18.900 and 205.126. [2003 c.663 §2]

Note: Section 4, chapter 663, Oregon Laws 2003, provides:

Sec. 4. Section 2 of this 2003 Act [411.703] and the amendments to ORS 18.900 by section 3 of this 2003 Act apply to a debt arising from an overpayment of public assistance, as defined in ORS 411.010, including food stamp benefits issued under ORS 411.806 to 411.845, before, on or after the effective date of this 2003 Act [January 1, 2004]. [2003 c.663 §4]

411.705 [1975 c.672 §20; repealed by 1977 c.841 §13]

GENERAL ASSISTANCE

411.710 Basis for granting general assistance. (1) General assistance shall be granted in accordance with the rules and regulations of the Department of Human Services and on the basis of need, taking into account the income, resources and maintenance available to the individual from whatever source derived and the necessary expenditures of the individual and the conditions existing in each case.

(2) With respect to health services and needs to be provided in any general assistance programs during any period, and within the limits of funds available therefor, the department shall determine and fix, subject to such revisions as it may make from time to time:

(a) The types and extent of health services and needs to be provided to applicants and recipients.

(b) Statewide uniform standards to be observed in the provision of health services and needs.

(c) The maximum number of days of health services and needs toward the cost of which general assistance funds will be expended in the care of any applicant or recipient.

(d) Schedules of maximum fees, charges and daily rates to which general assistance funds will be applied toward meeting the costs of providing health services and needs to an applicant or recipient.

(3) The types and extent of health services and needs and the amounts to be paid in meeting the costs thereof, as determined and fixed by the department, shall be the total general assistance available to applicants and recipients for health services and needs and the total amounts from general assistance funds available to vendors in meeting such costs.

(4) Payments of general assistance for medical care and services shall constitute payment in full for all such care and services for which the payments were made. [Amended by 1965 c.556 §18]

411.720 Residence required of applicants for general assistance. No person shall be eligible for general assistance unless the person is a resident of the State of Oregon. [Amended by 1969 c.468 §1]

411.730 Application for general assistance; determination of eligibility and amount of grant. The Department of Human Services shall receive all applications for general assistance, and shall determine in accordance with its rules and regulations the eligibility for and the amount of the assistance which any person shall receive. [Amended by 1955 c.613 §2; 1969 c.68 §4; 1971 c.779 §24]

411.740 General assistance administration. The Department of Human Services shall administer and supervise the administration of general assistance and it shall prescribe the form of and supply all blank applications, reports, affidavits and such other forms as the department deems advisable. [Amended by 1969 c.597 §244; 1971 c.779 §25]

411.750 Cooperation with federal government in providing general assistance.

The Department of Human Services shall cooperate with the United States Government, departments and agencies of the State of Oregon and the counties of the state in providing general assistance, either direct relief, community work and training, medical and hospital care or other services for needy persons and shall receive, disburse or distribute all sums of money, commodities and other properties from the United States Government, departments or agencies of the State of Oregon and counties of the state for assistance purposes for needy persons. [Amended by 1967 c.130 §1]

411.760 Assistance grants are inalienable. All moneys granted under the provisions of ORS 411.060, 411.070 and 411.710 to 411.730 shall be inalienable by any assignment or transfer and shall be exempt from garnishment, levy or execution under the laws of this state.

411.765 [1969 c.207 §2; repealed by 2001 c.900 §261]

411.770 [Repealed by 1953 c.500 §12]

411.775 [1969 c.207 §3; repealed by 2001 c.900 §261]

411.785 [1969 c.207 §4; repealed by 2001 c.900 §261]

411.790 Assistance to certain persons receiving employment income.

(1) In granting general assistance, the Department of Human Services shall apply a graduated scale that disregards a portion of a person's income, if that income is earned in employment that is part of an approved treatment or rehabilitation program and if the person has been unemployed and receiving general assistance due to chronic mental illness.

(2) The department shall continue to provide health services and needs, as described in ORS 411.710 (2), to a person described in subsection (1) of this section for a period of time not to exceed two years after the person ceases to receive general assistance if:

(a) Group health insurance is not available to the person through employment or otherwise; and either

(b) Termination of eligibility for health services and needs would seriously inhibit the person's ability to continue employment; or

(c) The person's earnings are not sufficient to allow the person a reasonable equivalent of the general assistance and health service benefits which would be available to the person in the absence of the earnings.

(3) If the person described in subsection (1) of this section is covered by a group health insurance plan, the department shall continue to provide health services and needs for the limited purpose of paying the

costs of treatment for preexisting conditions until such costs are paid in whole or in part by the group health insurance policy.

(4) For purposes of this section, “approved treatment and rehabilitation program” and “chronic mental illness” shall be defined by the department by rule.

(5) For the purposes of general assistance, any work performed by a person while that person is hospitalized in a state or community psychiatric hospital shall not be considered employment.

(6) Nothing in this section is intended to limit the authority of the department to disregard the income of, and extend the period of eligibility for health services and needs to, persons other than those described in subsection (1) of this section. [1981 c.341 §2; 2001 c.900 §93]

411.795 Claim against estate of deceased recipient. (1) The amount of any general assistance paid under this chapter is a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or if there be no estate or the estate does not have sufficient assets to satisfy the claim, the estate of the surviving spouse shall be charged for such aid paid to either or both; provided, however, that there shall be no adjustment or recovery of any general assistance correctly paid to or on behalf of any individual under this chapter except after the death of such individual and 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 is blind or permanently and totally disabled.

(2) Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any general assistance paid under this chapter is a claim against the estate in any conservatorship proceedings and may be paid pursuant to ORS 125.495.

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or the surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient. [1971 c.422 §1; 1975 c.386 §1; 1985 c.522 §1; 1995 c.664 §91]

Note: 411.795 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 411 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

411.800 [1980 c.18 §1; 1983 c.2 §2; 1985 c.255 §1; 1985 c.819 §1; 1987 c.71 §1; 1989 c.1001 §1; 1991 c.39 §1; 1993 c.11 §1; 1995 c.148 §1; repealed by 1997 c.581 §48]

411.802 Compensation for in-home care by spouse. If an approved provider providing in-home care to a recipient of pub-

lic assistance for compensation marries the recipient, the Department of Human Services shall consider the care provided as compensable even though provided by a spouse. The standard of compensation under this section shall be the same as the standard applied for in-home care provided by an approved provider not residing in the home of the recipient. [1987 c.629 §2; 2001 c.900 §94]

411.803 When spouse may be compensated for in-home care. When a married recipient of public assistance provided under ORS chapter 412 or 413 requires in-home care, the Department of Human Services shall provide that such care be compensated even though provided by the spouse, in the manner and to the extent specified by rule of the department based on the extent of need and the availability of funds therefor. [1985 c.638 §2; 2001 c.900 §95]

411.805 [1961 c.526 §1; repealed by 1963 c.599 §2 (411.806 enacted in lieu of 411.805)]

FOOD STAMP BENEFITS

411.806 Definitions for ORS 411.806 to 411.845. As used in ORS 411.806 to 411.845, unless the context or a specially applicable statutory definition requires otherwise:

(1) “Administrative costs” means, but is not limited to, costs in connection with:

(a) Distributing food stamp benefits to recipients under a food stamp plan;

(b) The compensation of personnel while employed in carrying out ORS 411.806 to 411.845; and

(c) Reimbursement of the federal government for any loss described in ORS 411.830.

(2) “Food stamp plan” means a plan under which the federal government makes food stamp benefits available to this state or its agencies for distribution to individuals and households certified to be in economic need of and eligible to receive such food stamp benefits for the purchase of food commodities from retail food outlets.

(3) “Household” means two or more related or nonrelated individuals who do not reside in an institution.

(4) “Issuing agency” means the Department of Human Services.

(5) “Recipient” means an individual or household determined and certified, pursuant to ORS 411.811 or 411.825, to be eligible to receive food stamp benefits under a food stamp plan. [1963 c.599 §3 (enacted in lieu of 411.805); 1971 c.779 §26; 1997 c.581 §10]

411.810 [1961 c.526 §2; repealed by 1963 c.599 §4 (411.811 enacted in lieu of 411.810)]

411.811 Distribution by tribal councils; duties of department with respect to food distribution programs. (1) A tribal council

of an Indian tribe may make direct distribution of food commodities to recipients.

(2) With respect to food distribution programs, the Department of Human Services shall:

(a) Execute agreements necessary to maintain the eligibility of this state to receive food commodities, and to carry into effect ORS 411.806 to 411.845 relating to such programs, including agreements with other agencies of this state, with the federal government and its agencies, and with tribal councils of Indian tribes;

(b) Order, ship and store food commodities pending their delivery to tribal councils of Indian tribes or otherwise for direct distribution to recipients;

(c) Determine and require that the storage, distribution and handling of food commodities are made in accordance with state and federal laws, rules, regulations and requirements;

(d) Determine the quantities of food commodities which recipients shall be entitled to receive with respect to any period and geographical area; and

(e) Except as otherwise provided by ORS 411.816, adopt and enforce rules necessary to maintain the eligibility of this state to receive food commodities and to carry into effect ORS 411.806 to 411.845 relating to such programs. [1963 c.599 §5 (enacted in lieu of 411.810); 1971 c.779 §27; 1989 c.942 §1]

411.815 [1961 c.526 §3; repealed by 1963 c.599 §6 (411.816 enacted in lieu of 411.815)]

411.816 Rules for eligibility and benefit level. The Department of Human Services shall adopt rules conforming to federal laws and regulations required to be observed in maintaining the eligibility of this state to receive from the federal government, and to issue food stamp benefits under a food stamp plan. Rules adopted by the department pursuant to this section shall relate to and include, but shall not be limited to:

(1) The classifications of and requirements of eligibility for individuals and households to receive food stamp benefits under such plans. The limitations upon the income and resources of individuals and households established as requirements of eligibility under this section shall not exceed the maximum limitations on income and resources allowable under federal laws, rules and regulations;

(2) The periods during which individuals and households shall be certified or recertified to be eligible to receive food stamp benefits under such plans;

(3) The amount of food stamp benefits to be issued or allotted to recipients, with respect to any period, under a food stamp plan;

(4) Periodic redetermination and review of the eligibility of recipients to receive food stamp benefits issued under such plans;

(5) Cancellation of certifications issued for, and adjustment of the numbers of individuals in any household eligible to receive food stamp benefits issued to recipients under such plans for any period in accordance with changes of circumstances in individual cases; and

(6) Procedures to review, on the basis of substantial hardship, request for such adjustments. [1963 c.599 §7 (enacted in lieu of 411.815); 1969 c. 571 §1; 1989 c.942 §2; 1997 c.581 §11]

411.820 [1961 c.526 §§4,5; 1963 c.599 §12; 1975 c.179 §1; repealed by 1997 c.581 §48]

411.825 Food stamp plan. (1) The Department of Human Services shall determine and certify to the eligibility of all individuals and households to receive food stamp benefits under a food stamp plan.

(2) The department shall:

(a) Issue to recipients food stamp benefits made available from the federal government under such plan; and

(b) Account to the federal government for all such food stamp benefits.

(3) In order to carry out the provisions of ORS 411.806 to 411.845, the department is authorized to contract with any governmental agencies or private agencies for distribution of food stamp benefits. [1963 c.559 §10; 1971 c.779 §28; 1975 c.179 §2; 1997 c.581 §12]

411.827 Appropriation of sums received from federal government. All sums received by the Department of Human Services from the federal government to assist in meeting the costs of processing applications from, and of certifying and recertifying, individuals and households under ORS 411.806 to 411.845 are hereby appropriated to the department for expenditure in meeting the costs of processing applications from, and making certifications and recertifications of, individuals and households for the benefits made available pursuant to ORS 411.806 to 411.845. [1963 c.599 §14]

411.830 Payment of losses from plan.

(1) Any loss for which this state or its agencies may be liable to reimburse the federal government, in accordance with federal laws or regulations applicable to food stamp plans, shall be paid from funds appropriated to the Department of Human Services for the purposes of ORS 411.806 to 411.845.

(2) Subsection (1) of this section shall not relieve any person of any civil or criminal

liability to this state. [1963 c.599 §15; 1981 c.858 §1; 1997 c.581 §13]

411.835 Residence requirement. Individuals and households are not eligible to receive food stamp benefits under a food stamp plan unless they reside in a county in which such plan is in effect. [1963 c.599 §9; 1997 c.581 §14]

411.837 Compliance with state and federal laws required. Counties, state institutions and agencies, issuing agencies, retail food outlets, wholesale food concerns, banks and all persons who participate in or administer any part of a food stamp plan shall comply with all state and federal laws, rules and regulations applicable to such plans. [1963 c.599 §11]

411.840 Unlawfully obtaining or disposing of food stamp benefits. (1) No person shall knowingly obtain or attempt to obtain, or aid or abet another person in obtaining or attempting to obtain, any food stamp benefit under a food stamp plan to which the person or such other person is not entitled to receive or use under ORS 411.806 to 411.845, or under any rule or regulation promulgated pursuant to ORS 411.806 to 411.845.

(2) No person shall knowingly give, sell, trade or otherwise dispose of to another person not entitled to receive or use the same pursuant to ORS 411.806 to 411.845, or pursuant to any rule or regulation promulgated pursuant to ORS 411.806 to 411.845:

(a) Any food stamp benefit received under a food stamp plan; or

(b) Any food commodity received wholly or partially in exchange for a food stamp benefit received under a food stamp plan. [1963 c.599 §16; 1997 c.581 §15]

411.845 Prosecution; costs; accounting. (1) If any person obtains, gives, sells, trades or otherwise disposes of any food stamp benefit in violation of ORS 411.840, the district attorney shall prosecute, for and in the name of the State of Oregon, a civil action or suit to recover from such person:

(a) The food stamp benefit so obtained by such person; or

(b) The value of the food stamp benefit so obtained, given, sold, traded or otherwise disposed of by such person.

(2) In any suit or action prosecuted under subsection (1) of this section, the state is entitled to recover interest and its costs and disbursements incurred in such suit or action.

(3) Food stamp benefits and moneys recovered by the state under this section shall be accounted for or paid to the federal and state governments, as their respective inter-

ests therein may appear. [1963 c.599 §17; 1997 c.581 §16]

411.848 [1991 c.965 §3; renumbered 458.530 in 1993]

411.849 [1991 c.965 §4; 1993 c.271 §2; renumbered 458.532 in 1993]

411.850 [1991 c.965 §5; renumbered 458.545 in 1993]

411.851 [1991 c.965 §1; renumbered 458.540 in 1993]

COMMUNITY WORK AND TRAINING PROGRAMS

411.855 Definitions for ORS 411.855 to 411.870. For the purposes of ORS 411.855 to 411.870:

(1) "Community work and training program" means a program of a constructive nature designed to conserve work skills and to develop new skills of applicants and recipients of public assistance, pursuant to a plan jointly entered into by the Department of Human Services and a public entity, private nonprofit organization or private business under which such public entity, private nonprofit organization or private business undertakes to provide work or training to applicants or recipients of public assistance, who are required to participate without compensation in such program, and to provide supervision and control over such work or training.

(2) "Private business" means any business in which a profit may be made by the owner of the business.

(3) "Private nonprofit organization" means any organization which provides a service available to the general public where funding is based wholly or in part by donations from the general public and in which no part of the income of which is distributable to its members, directors or officers.

(4) "Public entity" means any agency of the federal or state government, county, city, town, public corporation or political subdivision in this state, including the Department of Human Services with respect to work or training in the department. [1961 c.631 §1; 1965 c.291 §1; 1967 c.130 §2; 1969 c.597 §245; 1971 c.779 §29; 1979 c.99 §1; 1993 c.739 §21]

411.860 Work relief programs authorized for general assistance applicants or recipients. Subject to rules and regulations promulgated by the Department of Human Services, each employable applicant or recipient of general assistance may be required to participate without compensation in a community work and training program, as a condition to a grant of general assistance for the benefit of the applicant or recipient or those to whom the applicant or recipient owes a legal duty of support, and for periods of time limited by the amount of such assistance, in cash or in kind, provided through such grant. However, no applicant or recipi-

ent of general assistance shall be required or permitted to perform labor or services without compensation in a community work and training program if such labor or services can be performed by an employee of the public entity as a part of the regular duties of the employee. [1961 c.631 §2; 1965 c.291 §2; 1967 c.130 §3]

411.865 Denial of general assistance to applicants or recipients; causes. The application for or grant of general assistance to any employable individual required to participate in a community work and training program may be denied or suspended for such time as may be fixed under rule or regulation of the Department of Human Services, if such individual without good cause:

(1) Fails to participate satisfactorily in such community work and training program to which the individual may be assigned;

(2) Fails to report for a community work and training program when and as directed by the department or by the supervisor of the individual therein;

(3) Abandons or repeatedly is absent from such work or training;

(4) Is insubordinate to the supervisor of the individual therein;

(5) Fails therein to take due precaution for the safety of the individual or others, or to use safety clothing or equipment made available to the individual;

(6) Is guilty of misconduct connected with such work or training; or

(7) If, within 30 days prior to such application, the individual was rendered ineligible for general assistance in another county, or the grant of general assistance in another county was suspended, for any of the causes stated in subsections (1) to (6) of this section. [1961 c.631 §3; 1967 c.130 §4; 1971 c.779 §30]

411.870 Approval of programs; rules. All community work and training programs shall be subject to approval of the Department of Human Services. The department shall promulgate and enforce rules and regulations necessary to carry into effect ORS 411.855 to 411.870. [1961 c.631 §4; 1967 c.130 §5]

411.875 Status of applicants, recipients, beneficiaries and trainees under community work and training program; workers' compensation coverage. Persons who are applicants, recipients, beneficiaries or trainees in community work and training programs as defined by ORS 411.855, and persons who are volunteers during their participation in such programs:

(1) Are not serving in positions in the services of a public entity as defined by ORS 411.855 for the purposes of any civil service

law or of any retirement system of such public entity.

(2) Are not employees as defined in ORS 657.015.

(3) Shall be provided workers' compensation coverage under the state workers' compensation system through election under ORS 656.039 by the employer or the employer's agent or may be provided another program of insurance if the applicant, recipient, beneficiary or trainee is not otherwise covered by a program of insurance offering similar coverage. Coverage need not include time loss benefits. [1967 c.130 §8; 1993 c.739 §22]

JOBS PLUS PROGRAM

411.877 Definitions for program. As used in ORS 316.680, 411.877 to 411.896 and 657.925:

(1) "Board" means the JOBS Plus Advisory Board established in ORS 411.886.

(2) "Department" means the Department of Human Services.

(3) "JOBS Plus" or "program" means the JOBS Plus Program established in ORS 411.878. [1995 c.561 §2 and 1995 c.816 §15]

Note: Chapter 561, Oregon Laws 1995, and sections 14 to 33, chapter 816, Oregon Laws 1995, were enacted by the Legislative Assembly as duplicate JOBS Plus Programs. Legislative Counsel has compiled the relevant sections of both chapters as ORS 316.680, 411.877 to 411.896 and 657.925. Legislative Counsel has not substituted ORS section references for provisions in chapter 816, Oregon Laws 1995, that technically are not related to the JOBS Plus Program.

411.878 Intent; state program creation; rules. (1) In establishing and implementing a program to be known as the JOBS Plus Program, the Legislative Assembly recognizes that early attachment to work and development of knowledge and skills are the most effective means of helping people make the transition from dependence on public assistance and subsiding in poverty to regular employment and self-reliance. It is the intent of the Legislative Assembly to promote greater economic self-sufficiency among Oregon families and workers by:

(a) Increasing the employability of unemployed and underemployed Oregonians through on-the-job training;

(b) Invigorating the public-private workforce partnership through development of jobs with both private for-profit and public employers;

(c) Ensuring that program participants through their employment development plans have opportunities to improve work skills, education and employability and to establish recent work histories with work site training, mentoring, individual education accounts and provision of necessary support

service benefits that include child care, workers' compensation, job placement and a guarantee that participation in the JOBS Plus Program does not result in a reduction in net income to a participant when compared with the participant's combined income from the temporary assistance for needy families program, the food stamp program and the unemployment insurance program; and

(d) Exeditiously placing program participants in subsidized and unsubsidized employment.

(2) The JOBS Plus Program is created as a program in which residents of the State of Oregon shall, in lieu of receiving food stamp benefits and payments from the temporary assistance for needy families program, be provided jobs and paid in a way that promotes self-sufficiency and encourages unemployed Oregonians to improve their positions in the workforce. Recipients of unemployment insurance also shall be offered employment under the program. The JOBS Plus Program shall be a public assistance to work strategy for the State of Oregon and operate under the job opportunities and basic skills program and rules adopted thereunder to the extent such rules are not inconsistent with ORS 316.680, 411.877 to 411.896 and 657.925. These rules include but are not limited to rules regarding participation requirements, exemptions and support services. [1995 c.561 §3 and 1995 c.816 §16; 1997 c.581 §17]

411.880 Exemptions and waivers from federal law to be obtained. The Governor and the Department of Human Services shall work diligently to obtain all exemptions and waivers from and amendments to federal statutes, rules and regulations necessary to implement the JOBS Plus Program at the earliest possible date, including but not limited to exemptions under section 1115 (42 U.S.C. 1315) of the Social Security Act and section 17 (7 U.S.C. 2026) of the Food Stamp Act. [1995 c.561 §4 and 1995 c.816 §17]

411.882 Maximizing use of federal grants and apportionments. In administering the JOBS Plus Program and to the extent permitted by federal law, the Department of Human Services shall maximize the use of federal grants and apportionments of the temporary assistance for needy families program, the food stamp program and employment related child care. [1995 c.561 §5 and 1995 c.816 §18; 1997 c.581 §18]

411.884 Application of program. The provisions of ORS 316.680, 411.877 to 411.896 and 657.925 apply to the entire state except to the extent the provisions of ORS 316.680, 411.877 to 411.896 and 657.925 are inconsistent with the control group study conducted pursuant to chapter 739, Oregon Laws 1993,

in Clackamas, Lincoln, Malheur and Washington Counties. [1995 c.561 §6 and 1995 c.816 §19]

411.886 JOBS Plus Advisory Board; duties; membership. (1) The JOBS Plus Advisory Board is established. The board shall advise the Department of Human Services and the Employment Department in the direction and administration of the JOBS Plus Program established under ORS 316.680, 411.877 to 411.896 and 657.925. The board shall have seven members, consisting of six representatives of the business community and one employed former recipient of temporary assistance for needy families, the food stamp program or the unemployment insurance program.

(2) The Governor shall appoint new members from nominees recommended by the board.

(3) Members appointed to the board shall serve terms of three years. [1995 c.561 §7 and 1995 c.816 §20; 1997 c.581 §19]

411.888 Vacancies on board; chairperson; meetings. (1) Nominations for persons to fill scheduled vacancies must be made to the Governor not less than 30 days prior to the effective date of the vacancy. Nominations for persons to fill an unscheduled vacancy shall be made to the Governor not more than 30 days after the position becomes vacant.

(2) The JOBS Plus Advisory Board shall select one of its members to serve as a chairperson for such terms and with duties and powers necessary for the performance of the functions of such office as the board determines. A majority of the members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at least once each quarter with the Director of Human Services and the Director of the Employment Department.

(4) The board shall report at least annually to the Governor and the Legislative Assembly on the status and progress of the JOBS Plus Program. The chairperson of the board shall have the additional duty to work with and coordinate the local councils created in ORS 411.890. [1995 c.561 §10(1) to (4) and 1995 c.816 §23(1) to (4)]

411.889 Contracting with private institutions. The Employment Department and the Department of Human Services shall explore contracting for job procurement and placement services with private job placement institutions. If contracting is deemed beneficial, the Employment Department and the Department of Human Services are encouraged to and shall have the authority to contract with private placement firms. [1995 c.561 §10(5) and 1995 c.816 §23(5); 2001 c.657 §4]

411.890 JOBS Plus Implementation Council; duties; membership. A JOBS Plus Implementation Council shall be established in service areas to be determined by the Director of Human Services to assist the JOBS Plus Advisory Board, the Department of Human Services and the Employment Department in the administration of the JOBS Plus Program and to allow local flexibility in dealing with the particular needs of each county. Each council shall be primarily responsible for recruiting and encouraging participation of employment providers in the county. Each council shall be composed of seven members who shall be appointed by the county commissioners in each county in the district. Council members shall be residents of the district in which they are appointed and shall serve four-year terms. Six members of the council shall be from the local business community. At least one member shall be a current or former recipient of the temporary assistance for needy families program, the food stamp program or the unemployment insurance program. [1995 c.561 §11 and 1995 c.816 §24; 1997 c.581 §20; 2001 c.900 §96]

411.892 Employer eligibility; job requirements; program participant eligibility; termination of participation; job assignment; exemptions; wages; reimbursement of employers. (1)(a) All employers, including public and private sector employers within the State of Oregon, are eligible to participate in the JOBS Plus Program. The Department of Human Services or Employment Department, as appropriate, shall adopt by rule a method to disqualify employers from participating in the program. No employer is required to participate in the JOBS Plus Program. In the event that there are unassigned participants whom no employer desires to utilize, the participants may be assigned to work for a public agency.

(b) The maximum number of program participants that any employer is authorized to receive at any one time may not exceed 10 percent of the total number of the employer's employees. However, each employer may receive one participant. The Director of Human Services or Director of the Employment Department, as appropriate, may waive the limit in special circumstances.

(c) The Department of Human Services or Employment Department, as appropriate, by rule shall establish criteria for excluding employers from participation for failure to abide by program requirements, showing a pattern of terminating participants prior to the completion of training or other demonstrated unwillingness to comply with the stated intent of the program.

(2) The Department of Human Services or Employment Department, as appropriate,

shall ensure that jobs made available to program participants:

(a) Do not require work in excess of 40 hours per week;

(b) Are in conformity with section 3304(a)(5) of the Federal Unemployment Tax Act;

(c) Are not used to displace regular employees or to fill unfilled positions previously established; and

(d) Do not pay a wage that is substantially less than the wage paid for similar jobs in the local economy with appropriate adjustments for experience and training.

(3)(a) Eligibility for the program shall be limited to residents who are:

(A) Adults and caretaker relatives who are receiving temporary assistance for needy families benefits;

(B) Adult food stamp program recipients except as described in subsection (5)(b) of this section;

(C) Unemployment compensation recipients; and

(D) Unemployed noncaretaker parents of children who are receiving temporary assistance for needy families benefits.

(b) In addition to those residents eligible for the program under paragraph (a) of this subsection, additional residents who are seeking employment may be eligible for the program if there are legislatively allocated funds available from the savings attributable to the program in the Unemployment Compensation Trust Fund or in the temporary assistance for needy families budget of the Department of Human Services.

(4)(a) Individuals desiring work through the program shall contact the nearest Department of Human Services office serving the county in which they reside if they are temporary assistance for needy families program or food stamp program applicants or recipients or noncustodial parents of individuals receiving temporary assistance for needy families. Unemployment insurance applicants or recipients or others seeking employment may gain access to the program through their local Employment Department office.

(b) With the assistance of the local JOBS Plus Implementation Councils and the JOBS Plus Advisory Board, the Department of Human Services shall develop a job inventory of sufficient size to accommodate all of the participants who desire to work in the program. In consultation with the participant, the department shall try to match the profile of each participant with the needs of an employer when assigning a participant to work with the employer.

(c) Either the employer or the participant may terminate the assignment by contacting the appropriate Department of Human Services or Employment Department office. In such event, the Department of Human Services or Employment Department shall reassess the needs of the participant and assign the participant to another JOBS Plus Program placement or another JOBS Program component and, at the employer's request, provide the employer with another participant.

(d)(A) Subject to ORS 657.925 (6)(d), if after four months in a placement, a participant has not been hired for an unsubsidized position, the employer shall allow the worker to undertake eight hours of job search per week. Participating employers shall consider such time as hours worked for the purposes of paying wages.

(B) Subject to ORS 657.925 (6)(d), if after six months in a placement, a participant has not been hired for an unsubsidized position, the placement shall be terminated, and the caseworker shall reassess the participant's employment development plan.

(e) The Department of Human Services may pay placement and barrier removal payments to temporary assistance for needy families and food stamp program participants as necessary to enable participation in the JOBS Plus Program.

(f) The Department of Human Services shall accept eligible volunteers into the program prior to mandating program participation by eligible persons.

(5)(a) Assignment of participants to available jobs shall be based on a preference schedule developed by the Department of Human Services and the Employment Department. Any temporary assistance for needy families recipient or food stamp recipient may volunteer for the program.

(b) The following individuals may not be required to participate in the program:

(A) Temporary assistance for needy families and food stamp recipients who are eligible for Supplemental Security Income benefits or other ongoing state or federal maintenance benefits based on age or disability.

(B) Food stamp applicants or recipients who are employed full-time or are college students eligible for food stamps and enrolled full-time in a community college or an institution of higher education, or enrolled half-time in a community college or an institution of higher education and working at least 20 hours per week.

(C) Teenage parents who remain in high school if progressing toward a diploma.

Teenage parents not in school are eligible for the JOBS Plus Program.

(c) The Department of Human Services shall provide life skills classes and opportunities to achieve General Educational Development (GED) certificates to appropriate participants in conjunction with working in the JOBS Plus Program.

(d) Temporary assistance for needy families and food stamp benefits shall be suspended at the end of the calendar month in which an employer makes the first wage payment to a participant who is a custodial parent in a family that receives temporary assistance for needy families or to any adult member of a household receiving food stamp benefits. Failure of the participant to cooperate with the requirements of the JOBS Plus Program may result in the participant's removal, in accordance with rules adopted by the Department of Human Services, from the JOBS Plus Program and suspension of the participant's temporary assistance for needy families grant and food stamp benefits. A temporary assistance for needy families and food stamp benefits recipient who has been removed from the program for failing to cooperate shall be eligible to reapply to participate in the program and shall have eligibility for program services determined without regard to the length of time the person was not participating following removal.

(6)(a) Employers shall pay all participating individuals at least the hourly rate of the Oregon minimum wage.

(b) Sick leave, holiday and vacation absences shall conform to the individual employer's rules for temporary employees.

(c) Group health insurance benefits shall be provided by the employer to program participants if, and to the extent that, state or federal law requires the employer to provide such benefits.

(d) All persons participating in the JOBS Plus Program shall be considered to be temporary employees of the individual employer providing the work and shall be entitled only to benefits required by state or federal law.

(e) Employers shall provide workers' compensation coverage for each JOBS Plus Program participant.

(7) In the event that the net monthly full-time wage paid to a participant would be less than the level of income from the temporary assistance for needy families program and the food stamp benefit amount equivalent that the participant would otherwise receive, the Department of Human Services shall determine and pay a supplemental payment as necessary to provide the participant with that level of net income. The depart-

ment shall determine and pay in advance supplemental payments to participants on a monthly basis as necessary to ensure equivalent net program wages. Participants shall be compensated only for time worked.

(8) In addition to and not in lieu of the payments provided for under subsections (6) and (7) of this section, participants shall be entitled to retain the full child support payments collected by the Department of Justice.

(9) Program participants who are eligible for federally and state funded medical assistance at the time they enter the program shall remain eligible as long as they continue to participate in the program. In conformity with existing state day care program regulations, child day care shall be provided for all program participants who require it.

(10) JOBS Plus Program employers shall:

(a) Endeavor to make JOBS Plus Program placements positive learning and training experiences;

(b) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and no less than that of comparable jobs of the employer;

(c) Provide on-the-job training to the degree necessary for the participants to perform their duties;

(d) Recruit volunteer mentors from among their regular employees to assist the participants in becoming oriented to work and the workplace; and

(e) Sign an agreement to abide by all requirements of the program, including the requirement that the program not supplant existing jobs. All agreements shall include provisions noting the employer's responsibility to repay reimbursements in the event the employer violates program rules. When a professional placement service, professional employment organization or temporary employment agency is acting as an employer pursuant to subsection (14) of this section, agreements under this paragraph shall require a three-party agreement between the professional placement service, professional employment organization or temporary employment agency, the organization where the participant has been placed to perform services and the State of Oregon. The three-party agreement shall include provisions requiring that all JOBS Plus reimbursements received by the professional placement service, professional employment organization or temporary employment agency be credited to the organization where the participant has been placed to perform services.

(11) Program participant wages shall be subject to federal and state income taxes,

Social Security taxes and unemployment insurance tax or reimbursement as applicable under ORS chapter 657, which shall be withheld and paid in accordance with state and federal law. Supplemental payments made pursuant to subsection (7) of this section shall not be subject to state income taxes under ORS chapter 316 and, to the extent allowed by federal law, shall not be subject to federal income taxes and Social Security taxes.

(12)(a)(A) The Department of Human Services shall reimburse employers for the employers' share of Social Security, unemployment insurance and workers' compensation premiums paid on behalf of program participants, other than those who are unemployment insurance claimants, referred to the employer by the Department of Human Services, as well as the minimum wage earnings paid by the employer to program participants referred to the employer by the Department of Human Services.

(B) The Employment Department shall reimburse employers \$5 per hour paid by the employer as earnings to JOBS Plus Program participants, who are unemployment insurance claimants and are referred to the employer by the Employment Department.

(b) If the Department of Human Services or Employment Department finds that an employer has violated any of the rules of the JOBS Plus Program, the appropriate department:

(A) Shall withhold any amounts due to employers under paragraph (a) of this subsection.

(B) May seek repayment of any amounts paid to employers under paragraph (a) of this subsection.

(13) Subject to ORS 657.925 (6)(d), for unemployment insurance claimants participating in the JOBS Plus Program:

(a) If after nine weeks in a placement, a participant has not been hired for an unsubsidized position, the employer shall allow the worker to undertake up to five hours of job search per week. Participating employers shall consider this time as hours worked for the purposes of paying wages.

(b) If after 13 weeks in a placement, a participant has not been hired for an unsubsidized position, the employer shall terminate the placement and the Employment Department shall assess the participant's employment development plan.

(14) For purposes of this section, "employer" shall include professional placement services, professional employment organizations and temporary employment agencies. [1995 c.561 §13 and 1995 c.816 §28; 1997 c.181 §1; 1997 c.249 §127; 1997 c.581 §21; 1997 c.704 §44; 2001 c.657 §3]

411.894 Oregon JOBS Individual Education Account; employer contribution; participant access; administered by Oregon Student Assistance Commission. (1)

The Oregon JOBS Individual Education Account is established in order to improve the position of JOBS Plus participants in the workforce by increasing their access to continuing education. Employer contributions to the account under this section shall be used to pay for education expenses for the individual as provided in subsection (2) of this section.

(2)(a) After the participant has participated in the JOBS Plus Program for 30 days, the employer shall pay, in addition to the participant wage, one dollar for each participant hour worked into the participant's individual education account. Contributions to such an account shall be tax deferred or tax-exempt to the extent permitted by federal and state law.

(b) Any participant for whom an Oregon JOBS Individual Education Account contribution is made shall be eligible for access to education benefits from that participant's individual education account for up to five years after the participant has left the JOBS Plus Program and has held a full-time, unsubsidized job for at least 30 days.

(c) When any participant has qualified for use of that participant's individual education account, an amount equal to that participant's individual education account balance shall be transferred to the Oregon Student Assistance Commission for that participant's use. Only one individual education account shall be created for any participant. Each account shall be administered by the Oregon Student Assistance Commission and shall be used for continuing education and training for the participant and the participant's immediate family.

(3) The Oregon Student Assistance Commission may use any interest earned by the account for payment of expenses incurred by the commission in carrying out its duties under this section.

(4) Any unexpended or unobligated moneys remaining in an individual education account five years after the participant has left the JOBS Plus Program are appropriated and transferred to the Oregon Opportunity Grant Fund on that date. [1995 c.561 §14 and 1995 c.816 §29; 1999 c.704 §22; 1999 c.1070 §17]

411.896 Annual report on program.

The Department of Human Services shall submit an annual written report to the Legislative Assembly and the Governor containing a full and complete analysis of the JOBS Plus Program. The report shall include recommendations from the department and the JOBS Plus Advisory Board regarding appro-

priate revisions to the program. [1995 c.561 §16 and 1995 c.816 §31]

DISPLACED HOMEMAKERS

411.900 Definitions for ORS 411.900 to 411.910. As used in ORS 411.900 to 411.910 unless the context requires otherwise:

(1) "Director" means the Director of Human Services.

(2) "Displaced homemaker" means an individual who:

(a) Has not worked in the labor force for a substantial number of years but has, during those years, worked in the home, providing unpaid household services for family members;

(b) Has been dependent on public assistance or on the income of another family member but is no longer supported by that income, or is receiving public assistance on account of dependent children in the home, especially where such assistance will be terminated within one year as a result of the youngest child reaching the age of 18; or

(c) Is currently unemployed and is experiencing difficulty in obtaining employment or is currently underemployed as defined in the Comprehensive Employment and Training Act, Section 675.4 (1979), and is experiencing difficulty in upgrading employment. [1977 c.150 §1; 1979 c.572 §1]

Note: 411.900 to 411.910 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 411 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

411.905 Programs for displaced homemakers; scope of activities. The Director of Human Services shall establish multipurpose service programs for displaced homemakers to be staffed to the maximum extent feasible by displaced homemakers. The programs shall include, but are not limited to:

(1) Job placement, counseling and development services designed for a displaced homemaker entering the job market after a number of years as a homemaker outside of the labor force;

(2) Job training services developed in cooperation with public and private employers to train displaced homemakers for available jobs in the public and private sectors, taking into account the skills and job experiences of a homemaker and to assist displaced homemakers in gaining admission to existing public and private job training programs;

(3) Health education and counseling services with respect to general principles of preventative health care, health care consumer education particularly selection of physicians and health care services, family

health care and nutrition education, addiction to drugs, controlled substances or alcohol and other related health care matters;

(4) Financial management services which provide information and assistance on insurance, taxes, estate and probate problems, mortgages, loans and other related financial matters;

(5) Coordination of program services and existing community services which may benefit the displaced homemaker; and

(6) Information and referral services which will assist the displaced homemaker to identify and access resources designed to facilitate the development of independence and economic self-sufficiency in the client. [1977 c.150 §2; 1979 c.572 §2; 1979 c.744 §19; 1987 c.153 §72]

Note: See note under 411.900.

411.910 Contracts with public and private agencies to carry out programs. (1) In carrying out the duties described in ORS 411.905, the Director of Human Services may enter into contracts with and make grants to public and private agencies for the purpose of establishing and operating multipurpose service programs.

(2) In entering into contracts and making grants for the purpose of establishing and operating multipurpose service programs the director shall establish priorities among qualified public and private agencies on the basis of financial need, geographic distribution, community support and volunteer participation. [1977 c.150 §3; 1979 c.572 §3]

Note: See note under 411.900.

411.920 [1999 c.1019 §1; 2001 c.684 §5; renumbered 660.309 in 2001]

411.923 [1999 c.1019 §2; repealed by 2001 c.684 §38]

411.926 [1999 c.1019 §3; 2001 c.684 §6; renumbered 660.321 in 2001]

411.929 [1999 c.1019 §4; 2001 c.684 §14; renumbered 660.324 in 2001]

411.932 [1999 c.1019 §5; 2001 c.684 §7; renumbered 660.333 in 2001]

411.935 [1999 c.1019 §6; 2001 c.684 §8; renumbered 660.330 in 2001]

411.950 [1983 c.753 §5; repealed by 2001 c.900 §261]

411.955 [1983 c.753 §6; repealed by 2001 c.900 §261]

411.960 [1983 c.753 §7; repealed by 2001 c.900 §261]

PUBLIC ASSISTANCE ACCESSIBILITY PROGRAM

411.965 Policy on program accessibility. The Legislative Assembly finds:

(1) That many persons eligible for public assistance programs, especially those with the lowest incomes and the greatest need for assistance, are precluded from receiving benefits because of program inaccessibility;

(2) That program inaccessibility stems from barriers that arise in learning of the

availability of benefits, in applying for benefits and in maintaining eligibility once eligibility is established;

(3) That a gap often exists between the reading and literacy skills possessed by potential applicants to programs and the skills demanded for completion of agency application forms and procedures. Most persons eligible for public assistance programs read at below the eighth-grade level and most public assistance forms require more than an eighth-grade reading level;

(4) That simplifying program rules and rewriting forms and brochures to close the "literacy gap" would contribute to decreasing the program error rate and saving program costs; and

(5) That the Department of Human Services would better serve the people of the State of Oregon by making public assistance programs accessible to those low-income persons legally entitled to assistance. [1987 c.3 §2]

411.967 Forms and notices to be in plain language. Every form, notice, brochure or other written material of the Department of Human Services intended for use by persons inquiring about, applicants for or recipients of public assistance shall be written in plain language. A form, notice, or brochure is written in plain language if it substantially complies with all of the following tests:

(1) Uses short sentences and paragraphs;

(2) Uses everyday words readable at an eighth-grade level of reading ability;

(3) Uses simple and active verb forms;

(4) Uses type of readable size;

(5) Uses uppercase and lowercase letters;

(6) Heads sections and other subdivisions with captions which fairly reflect the content of the section or subdivision and which are in boldfaced type or otherwise stand out significantly from the text;

(7) Uses layout and spacing which separate the paragraphs and sections of the document from each other and from the borders of the paper;

(8) Is written and organized in a clear and coherent manner;

(9) Is designed to facilitate ease of reading and comprehension; and

(10) Is readable at the sixth-grade level of reading ability except for vocabulary referred to in subsection (2) of this section. [1987 c.3 §3(1)]

411.969 Informational materials for applicants. (1) The Department of Human Services shall publish, make available and publicize to all persons inquiring about, ap-

plicants for and recipients of public assistance the following informational materials:

(a) Brochures enumerating and explaining the public assistance programs administered by the department; and

(b) Publications explaining how public assistance programs function, including but not limited to how grants are calculated, how overpayments are calculated, how child support is handled, the effect of earnings on grants, hearing rights and the right of the recipient to see the recipient's file.

(2) All notices of overpayments shall show the calculation of the overpayment and contain an explanation of the calculation. [1987 c.3 §4]

411.972 Receipts for documents supplied by applicants and recipients. The Department of Human Services shall provide written receipts to applicants and recipients for all documents delivered to a local office by the applicant or recipient upon the request of the applicant or recipient. [1987 c.3 §5; 2001 c.900 §248]

411.975 Time for issuance of recipient checks; effect of delay. (1) For all recipients who are on the monthly reporting system, the Department of Human Services shall have 10 calendar days from the date the department receives a complete monthly report to issue the recipient's assistance check for that month.

(2) If the department fails to issue a check in a timely manner pursuant to this section, the recipient may request same day issuance of the check from the local office. The department shall pay the recipient a sum equal to one-tenth of the household's monthly assistance grant if the department fails to issue the check the same day. The payment shall be treated as a resource and not counted as income by the department.

(3) As used in this section, "same day" means that the request is received by the local office before 12 noon. [1987 c.3 §6; 2001 c.900 §249]

411.977 Treatment of applicants and recipients; grievance procedure. (1) All applicants for and recipients of public assistance shall be treated in a courteous, fair and

dignified manner by Department of Human Services personnel.

(2) Any applicant or recipient who alleges discourteous, unfair or undignified treatment by department personnel or alleges that incorrect or inadequate information regarding public assistance programs has been provided by department personnel may file a grievance with the department. The department shall publicize the grievance system in each local office.

(3) The grievance shall be discussed first with the supervisor of the employee against whom the grievance is filed. If the grievance is not resolved, the applicant or recipient may discuss the grievance with the local office manager.

(4) The department shall compile a monthly report summarizing each grievance filed against department personnel and the action taken. The report shall identify each grievance by local office and indicate the number of grievances filed against individual employees. The report shall protect the anonymity of department personnel. The report shall be presented to the Family Services Review Commission and to all county public welfare boards. [1987 c.3 §7; 2001 c.900 §97]

411.979 [1987 c.3 §8; repealed by 1993 c.742 §36]

PENALTIES

411.990 Penalties. (1) Violation of ORS 411.320 or 411.335 is punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 60 days, or by both.

(2) Violation of any provision of ORS 411.630 or 411.840 is a Class C felony which may be reduced to a Class A misdemeanor in accordance with ORS 161.705.

(3) Violation of ORS 411.675 is a Class C felony.

(4) Criminal prosecution of violators of ORS 411.675 shall be commenced in accordance with ORS 131.125 (6) and (7). [Subsection (2) of 1959 Replacement Part enacted as 1955 c.501 §3; subsection (3) of 1959 Replacement Part enacted as 1953 c.500 §10; part renumbered 416.990; 1963 c.599 §18; 1977 c.669 §2; 1981 c.713 §1; 1983 c.609 §5; 1989 c.831 §2; 1997 c.427 §2]

