

Chapter 413

2003 EDITION

Old-Age Assistance

GENERAL PROVISIONS	
413.005	Definitions
OLD-AGE ASSISTANCE	
413.009	Eligibility for old-age assistance; rules
413.019	Amount of old-age assistance
413.029	Burial of deceased old-age assistance recipient
ADMINISTRATIVE PROVISIONS	
413.068	Department to supervise assistance administration
413.070	Records
413.090	Application for assistance; action thereon
413.100	Appeal from failure to act on application or denial thereof or from modification or cancellation of assistance
413.110	Cancellation or reduction of assistance upon receipt of property or income
413.120	Reconsideration and change of amount of assistance; rules
413.130	Assistance is inalienable
413.140	Effect of removal by recipient to another county or state
413.160	When assistance is paid to guardian or conservator
413.165	Payments to representative payee authorized; appointment of guardian, conservator or representative
413.200	Liability of certain estates for assistance paid; exceptions; certain transfers of property voidable
413.220	Jurisdiction of violations of chapter
413.230	Conflict of this chapter with federal requirements
413.240	Rules

GENERAL PROVISIONS

413.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Applicant" means a person who has applied for old-age assistance or for whose benefit an application for such assistance has been made by another.

(2) "Income" means net income in cash or kind available to the applicant or recipient the receipt of which is regular and predictable enough to afford security in the sense that the applicant or recipient may rely upon it to contribute toward meeting the needs of the applicant or recipient.

(3) "Needy person" means a person who has attained the age of 65 years and who does not have income and resources sufficient to provide the person with food, clothing, shelter and such other essential needs as are necessary to afford a reasonable sustenance necessary to maintain life and compatible with decency and health. However, if the United States Government provides for a contribution to state old-age assistance payable to persons of an age less than 65 years, such lower age shall become the qualifying age of persons entitled to receive old-age assistance. The minimum amount of such income and resources considered sufficient is fixed at \$50 per month.

(4) "Recipient" means a person who has received old-age assistance.

(5) "Resources" means any asset which may be applied toward meeting the needs of the applicant or recipient, including real and personal property holdings contributing to the maintenance of the applicant or recipient or representing investments or savings which may be drawn upon for maintenance purposes. [Formerly 413.010; 1965 c.556 §21; 1973 c.651 §7; 2003 c.14 §184]

OLD-AGE ASSISTANCE

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

(a) Any needy person who has attained the qualifying age and who is a resident of the State of Oregon; provided, however, that such assistance shall not include payments to, or in behalf of, any individual who is an inmate of a public institution (except as a patient in a public medical institution), but old-age assistance may be granted to a recipient who is a patient in an institution for tuberculosis or mental diseases, or who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

(b) Any needy person who is not receiving adequate support from a husband or wife or child able and legally responsible under the laws of this state to furnish such support, or from any other source.

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

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

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

413.019 Amount of old-age assistance.

(1) The amount of old-age assistance which any eligible person shall receive shall be on the basis of need and shall be determined on a uniform statewide basis, subject only to funds available.

(2) An amount of monthly old-age assistance should be added to income sufficient to equal at least \$50 per month. However, the provisions of this subsection do not apply to assistance provided to an inpatient of a medical facility. [Formerly 413.040; 1967 c.116 §2]

413.020 [Renumbered 413.009]

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

413.029 Burial of deceased old-age assistance recipient. In every case where the beneficiary dies and funeral expenses therefor have not been paid for in advance or the deceased leaves no real property or money sufficient to provide a decent burial, the Department of Human Services shall provide such a burial out of funds available for carrying out the purposes of this chapter. [Formerly 413.190]

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

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

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

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

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

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

413.049 [1961 c.620 §11b; repealed by 1963 c.609 §6]

413.050 [Amended by 1961 c.620 §12; renumbered 413.068]

413.052 [1963 c.609 §3; 1965 c.556 §24; repealed by 1965 c.556 §28; and 1969 c.203 §13]

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

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

413.060 [Repealed by 1961 c.171 §4]

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

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

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

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

ADMINISTRATIVE PROVISIONS

413.068 Department to supervise assistance administration. The Department of Human Services shall administer and supervise the administration of old-age assistance and shall prescribe the form of, and furnish and supply all blank applications, reports, affidavits and such other forms as the department deems advisable. [Formerly 413.050; 1969 c.203 §3; 1971 c.779 §38]

413.070 Records. The Department of Human Services shall keep such records and accounts in relation to old-age assistance as the department considers necessary. [Amended by 1961 c.620 §13; 1969 c.203 §4; 1971 c.779 §39; 2003 c.14 §185]

413.080 [Repealed by 1969 c.597 §281]

413.090 Application for assistance; action thereon. Each person requesting old-age assistance shall make application therefor to the Department of Human Services. The department shall receive all applications for old-age assistance, shall determine eligibility for and fix the date on which such assistance shall begin, shall fix the amount of old-age assistance which any person shall receive and shall obtain such other information required by the rules and regulations of the department. All grants for old-age assistance shall be subject to approval of the department and when approved shall remain in full force and effect until modified or vacated. Designated employees of the department, designated in the manner provided in ORS 412.570, may issue subpoenas for witnesses and compel their attendance and the production of papers and writings and may examine witnesses under oath. [Amended by 1955 c.364 §7; 1961 c.620 §14; 1969 c.68 §7; 1971 c.779 §40]

413.100 Appeal from failure to act on application or denial thereof or from modification or cancellation of assistance. If an application is not acted upon within a reasonable time after the filing of the application or is denied in whole or in part, or if any grant of assistance is modified or canceled, the applicant or recipient may petition the Department of Human Services for a fair hearing, which shall be held in the county when the appealing person so elects. Such hearing shall be conducted in accordance

with the rules and regulations of the department. [Amended by 1971 c.734 §44; 1971 c.779 §41]

413.110 Cancellation or reduction of assistance upon receipt of property or income. Whenever it is ascertained that the recipient or the spouse of the recipient has become possessed of property or income sufficient properly to maintain the recipient, the assistance granted to such recipient shall, subject to the provisions of ORS 413.120, either be canceled or reduced to that amount which the Department of Human Services shall determine is sufficient for the required assistance. The recipient shall notify the department immediately of the receipt or possession of such property or income. [Amended by 1955 c.381 §1; 1971 c.779 §42]

413.120 Reconsideration and change of amount of assistance; rules. (1) All assistance granted under this chapter is subject to reconsideration from time to time and as frequently as is required by the rules and regulations of the Department of Human Services; and is subject to change or cancellation when the circumstances have changed sufficiently to warrant such action.

(2) In the determination of eligibility and the amount of need, and in any reconsideration thereof, with respect to an applicant or recipient of old-age assistance, such amounts of income and resources may be disregarded as the department may prescribe by rules and regulations promulgated by it. [Amended by 1955 c.381 §2; 1961 c.620 §15; 1965 c.43 §1; 1973 c.651 §9]

413.130 Assistance is inalienable. Neither old-age assistance nor amounts payable to vendors out of public assistance funds are transferable or assignable at law or in equity and none of the money paid or payable under the provisions of this chapter is subject to execution, levy, attachment, garnishment or other legal process. [Amended by 1961 c.620 §16; 1969 c.203 §6]

413.140 Effect of removal by recipient to another county or state. Any recipient may move from one county in the state to another or to another state and on such removal is entitled to continue to receive old-age assistance in accordance with the rules and regulations of the Department of Human Services. [Amended by 1961 c.620 §17; 1969 c.203 §7; 2003 c.14 §186]

413.150 [Renumbered 413.025]

413.160 When assistance is paid to guardian or conservator. Whenever it is ascertained that any recipient is incapable of taking care of the person or of the funds granted, the Department of Human Services may direct the payment of the assistance granted to the person to any other person or corporation that has been duly appointed

guardian or conservator of the person if the payment does not result in the loss or reduction of federal matching moneys, if any, otherwise available. [Amended by 1957 c.56 §3; 1971 c.779 §43]

413.165 Payments to representative payee authorized; appointment of guardian, conservator or representative. (1) Money payments of old-age assistance with respect to a recipient may be made to a representative payee if it is determined by the Department of Human Services that the recipient, by reason of physical or mental condition, has such inability to manage funds that making payments to the recipient would be contrary to the welfare of the person and that, therefore, it is necessary to provide assistance through payments authorized by this section.

(2) The department may designate as representative payee any responsible individual who is interested in or concerned with the welfare of the recipient and who is willing to act in that capacity.

(3) If it appears to the department that the interests of the recipient would be best served thereby, the department may petition for the judicial appointment of a guardian, conservator or other legal representative of the recipient. If the person is appointed and duly qualified, money payments of assistance otherwise payable to the recipient, or representative payee, shall be made to the qualified person until the department determines that the conditions which would justify the protective payments no longer exist.

(4) Subject to funds made available to the department for administrative expenditures, the department may, with respect to any guardianship or conservatorship established pursuant to this section, pay all costs and fees, including any necessary bond premiums, reasonably incurred in the proceeding and in administering money payments. [1965 c.556 §26; 1971 c.779 §44; 1973 c.823 §130; 2001 c.900 §99a]

413.170 [Amended by 1961 c.620 §18; 1969 c.203 §8; repealed by 2001 c.900 §261]

413.180 [Amended by 1961 c.620 §19; 1969 c.203 §9; 1971 c.779 §45; repealed by 2001 c.900 §261]

413.190 [Renumbered 413.029]

413.200 Liability of certain estates for assistance paid; exceptions; certain transfers of property voidable. (1) The amount of any old-age assistance or medical assistance for the aged paid under this chapter or under ORS chapter 414 is a claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient, or if there be no estate the estate of the surviving spouse, if any,

shall be charged for such aid paid to either or both. However, there shall be no adjustment or recovery of any old-age assistance or medical assistance for the aged correctly paid to or on behalf of any individual under this chapter except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or who is blind or permanently and totally disabled. Transfers of real or personal property by recipients of such aid without adequate consideration are voidable and may be set aside under ORS 411.620 (2).

(2) Except where there is a surviving spouse, or a surviving child who is under 21 years of age or who is blind or permanently and totally disabled, the amount of any old-age assistance paid under this chapter is a claim against the estate in any 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 surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient. [Amended by 1955 c.444 §4; 1961 c.620 §20; subsection (2) enacted as 1961 c.620 §7; 1969 c.203 §10; 1971 c.455 §1; 1975 c.386 §3; 1985 c.522 §3; 1993 c.249 §4; 1995 c.664 §93]

413.210 [Repealed by 1953 c.500 §12]

413.211 [1957 c.705 §2; renumbered 413.035]

413.220 Jurisdiction of violations of chapter. Justice courts have concurrent jurisdiction with the circuit courts of the state for all violations of this chapter.

413.230 Conflict of this chapter with federal requirements. If any plan of administration of this chapter submitted to the federal Department of Health and Human Services is found to be not in conformity with the federal Social Security Act by reason of any conflict between any section, portion, clause or part of this chapter and the federal Social Security Act, the conflicting section, portion, clause or part of this chapter is inoperative to the extent that it is so in conflict, and such finding or determination shall not affect the remainder of this chapter. [Amended by 1961 c.620 §31; 1991 c.67 §106]

413.240 Rules. The Department of Human Services shall promulgate and enforce rules and regulations for the provision and administration of old-age assistance as may be necessary to render this state eligible for the receipt of federal grants-in-aid of old-age assistance under the federal Social Security Act. [1961 c.620 §30; 1969 c.203 §11; 2003 c.14 §187]

413.990 [Repealed by 1953 c.500 §12]

