

House Bill 3391

Sponsored by COMMITTEE ON HUMAN SERVICES (at the request of United Seniors of Oregon, Parkinson's Resources of Oregon, Oregon State Council for Retired Citizens, Save Oregon Seniors, Oregon Alliance for Retired Americans)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Department of Human Services to provide nursing facility, institutional or home- or community-based services to needy individual who cannot live independently without risk of harm. Specifies types of activities to consider in determining individual's ability to live independently. Permits individual to present independent evidence in hearing on denial, reduction or termination of services.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to long term care services; creating new provisions; amending ORS 411.099; and declaring
3 an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 411.099 is amended to read:

6 411.099. (1) As used in this section:

7 (a) "Activities of daily living" has the meaning given that term in ORS 410.600.

8 (b) "Assessment for service eligibility" means a process of evaluating the functional impairment
9 levels of an individual and an individual's requirements for assistance in performing activities of
10 daily living **to determine eligibility for and the level or scope of nursing facility, institutional
11 or home- or community-based services to be provided.**

12 **(2) The Department of Human Services shall provide nursing facility, institutional or
13 home- or community-based services under ORS 414.710 to a needy individual if the services
14 are required for the individual to live independently without serious risk of harm. An indi-
15 vidual requires services to live independently without serious risk of harm if the individual
16 is unable to perform one or more activities essential for the health, safety and well-being of
17 the individual including, but not limited to:**

18 **(a) Meal preparation and eating;**

19 **(b) Bathing and maintaining personal hygiene;**

20 **(c) Ambulation and moving to or from a chair, bed or wheelchair without risk of falling;
21 and**

22 **(d) Demonstrating cognitive skills necessary to independently manage medication, treat-
23 ment, rehabilitation and complex medical conditions, or to perform other functions necessary
24 to live independently without serious risk of harm as prescribed by the department by rule.**

25 **[(2)(a)] (3)(a)** No fewer than 14 days prior to conducting a reassessment for service eligibility,
26 the Department of Human Services shall mail a notice of the assessment process to the individual
27 to be assessed. The notice shall include a description and explanation of the assessment process, an
28 explanation of the process for appealing the results of the assessment and a description of the rights

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 described in paragraph (b) of this subsection.

2 (b) The individual being assessed has the right to set the date, time and place of the assessment
3 at a location that is convenient for the individual and to invite other persons to participate in the
4 assessment.

5 ~~[(3)]~~ **(4) If the department denies eligibility for services or denies the level or scope of**
6 **services requested, the individual is entitled to notice and a contested case hearing under**
7 **ORS chapter 183.** If the assessment for service eligibility results in a reduction or termination of
8 services, the individual is entitled to an expedited hearing under ORS 411.095 (4). **At the hearing**
9 **the individual has the right to representation and to present independent medical evidence**
10 **or other evidence to show that the individual cannot live independently without serious risk**
11 **of harm, based on the individual's inability to perform any one of the activities described in**
12 **subsection (2) of this section.**

13 **SECTION 2. The amendments to ORS 411.099 by section 1 of this 2009 Act apply to de-**
14 **terminations of eligibility for services and to reassessments of service eligibility conducted**
15 **on or after the effective date of this 2009 Act.**

16 **SECTION 3. This 2009 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
18 **on its passage.**