

House Bill 2725

Sponsored by Representative TOMEI (Presession filed.)

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**.

Creates General Assistance Program in Department of Human Services to help support Oregon residents who have disabilities and are pursuing Supplemental Security Income and Social Security disability benefits by providing monthly cash assistance, medical assistance and case management services. Revises provisions relating to general assistance. Specifies operative date of January 1, 2012.

Establishes General Assistance Program Fund. Continuously appropriates moneys in fund to Department of Human Services to provide grants of general assistance. Establishes eligibility requirements for individuals to receive grants.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to general assistance; creating new provisions; amending ORS 293.321, 411.010, 411.081,
3 411.141, 411.144, 411.710, 411.730 and 414.025; repealing ORS 411.720, 411.750, 411.790, 411.860,
4 411.865 and 416.810; appropriating money; and declaring an emergency.

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

6 **SECTION 1. Sections 2 and 3 of this 2011 Act are added to and made a part of ORS 411.710**
7 **to 411.730.**

8 **SECTION 2. (1) There is created in the Department of Human Services the General As-**
9 **istance Program.**

10 **(2) The purpose of the General Assistance Program is to help support residents of Oregon**
11 **who have disabilities and who are pursuing Supplemental Security Income and Social Secu-**
12 **urity disability benefits, by providing to recipients:**

13 **(a) Monthly cash assistance to enable recipients to meet their basic requirements for a**
14 **standard of living compatible with decency and health;**

15 **(b) Medical assistance including payment for medical documentation necessary to estab-**
16 **lish eligibility for Supplemental Security Income or Social Security disability benefits; and**

17 **(c) Case management services to assist recipients in successfully qualifying for Supple-**
18 **mental Security Income or Social Security disability benefits.**

19 **SECTION 3. (1) Within the moneys continuously appropriated to the Department of Hu-**
20 **man Services from the General Assistance Program Fund by the Legislative Assembly, the**
21 **department shall provide assistance and services under section 2 of this 2011 Act to an indi-**
22 **vidual:**

23 **(a) Who has a disability as defined in ORS 411.710;**

24 **(b) Whose resources are within the limits prescribed in ORS 411.730;**

25 **(c) Who is a resident of Oregon; and**

26 **(d) Who is 18 to 64 years of age and has no dependent children in the home.**

27 **(2) The department shall adopt standards for cash assistance paid under this section that**

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 are consistent with the requirements of ORS 411.070. However, payments may not exceed the
 2 Supplemental Security Income program benefit amounts adopted by the Social Security Ad-
 3 ministration under the authority of 20 C.F.R. part 416, subpart D.

4 **SECTION 4.** The General Assistance Program Fund is established in the State Treasury,
 5 separate and distinct from the General Fund. Interest earned by the General Assistance
 6 Program Fund shall be credited to the fund. All moneys in the fund are continuously appro-
 7 priated to the Department of Human Services and may be used only to provide grants of
 8 general assistance under ORS 411.710 to 411.730.

9 **SECTION 5.** ORS 411.081 is amended to read:

10 411.081. (1) A person seeking public assistance shall file an application for public assistance with
 11 the Department of Human Services. At the time of application, the applicant shall declare to the
 12 department any circumstance that directly affects the applicant's eligibility to receive assistance or
 13 the amount of assistance available to the applicant. Upon the receipt of property or income or upon
 14 any other change in circumstances that directly affects the eligibility of the recipient to receive
 15 assistance or the amount of assistance available to the recipient, the applicant, recipient or other
 16 person in the assistance household shall immediately notify the department of the receipt or pos-
 17 session of such property or income, or other change in circumstances. The department shall recover
 18 from the recipient the amount of assistance improperly disbursed by reason of failure to comply with
 19 the provision of this section.

20 *[(2) The department may recover any cash assistance granted for general assistance under ORS*
 21 *411.710 to 411.730 and the recipient's portion of the aid described in ORS 412.014 (3) that has been*
 22 *paid to any recipient 18 years of age or older, and for the costs incurred by the department to provide*
 23 *representation to the recipient under ORS 412.014 (2), when the recipient is presently receiving or*
 24 *subsequently receives Supplemental Security Income. The amount of recovery shall be limited to the*
 25 *total amount of Supplemental Security Income that was received for the same time period that the*
 26 *general assistance or the aid received under ORS 412.014 was being paid.]*

27 *[(3)]* (2) Nothing in *[subsection (1) or (2) of]* this section shall be construed as to prevent the
 28 department from entering into a compromise agreement for recovery of assistance improperly dis-
 29 bursed, if the department determines that the administration and collection costs involved would
 30 exceed the amount that can reasonably be expected to be recovered.

31 **SECTION 6.** ORS 411.144 is amended to read:

32 411.144. (1) **Except as provided in subsections (3) and (4) of this section,** the Department of
 33 Human Services shall deposit in the State Treasury to the credit of the General Fund all the
 34 amounts received by it from the United States Government or its agencies or from any other source
 35 for public assistance purposes. All such funds, together with any remaining balances of funds re-
 36 ceived for the purposes of public assistance of any type, hereby are appropriated for expenditure by
 37 the department for the type of public assistance for which such funds were granted to or received
 38 by the state or appropriated by the state, as the case may be.

39 (2) All moneys received from refunds, cancellations or recoveries *[resulting from]* of public as-
 40 sistance payments made from state funds, as differentiated from federal or county funds, **and mon-**
 41 **eys received under subsection (3) of this section** shall be paid into the State Treasury and
 42 credited to the Public Welfare Account and hereby are appropriated for expenditure by the depart-
 43 ment for public assistance purposes.

44 (3) **The department may recover from retroactive Supplemental Security Income owed**
 45 **to a recipient by the United States Government or the Social Security Administration the**

1 **portion of the aid described in ORS 412.014 (3) that was paid to a recipient when the recipient**
 2 **was 18 years of age or older.**

3 **(4) The department may recover from retroactive Supplemental Security Income owed**
 4 **to a recipient by the United States Government or the Social Security Administration the**
 5 **amount of any cash assistance granted as general assistance under ORS 411.710 to 411.730.**
 6 **The amount of recovery shall be limited to the total amount of Supplemental Security In-**
 7 **come owed for the time period during which the recipient received general assistance. All**
 8 **moneys received under this subsection shall be deposited to the General Assistance Program**
 9 **Fund established by section 4 of this 2011 Act.**

10 **SECTION 7.** ORS 411.710 is amended to read:

11 411.710. *[(1) General assistance shall be granted in accordance with the rules and regulations of*
 12 *the Department of Human Services and on the basis of need, taking into account the income, resources*
 13 *and maintenance available to the individual from whatever source derived and the necessary expen-*
 14 *ditures of the individual and the conditions existing in each case.]*

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

18 *[(a) The types and extent of health services and needs to be provided to applicants and*
 19 *recipients.]*

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

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

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

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

29 *[(4) Payments of general assistance for medical care and services shall constitute payment in full*
 30 *for all such care and services for which the payments were made.]*

31 **(1) As used in ORS 411.710 to 411.730:**

32 **(a) “Individual who has a disability” means an individual who is unable to do any sub-**
 33 **stantial gainful activity by reason of any medically determinable physical or mental impair-**
 34 **ment, or combination of impairments, that can be expected to result in death or that has**
 35 **lasted or can be expected to last for a continuous period of not less than 12 months. To meet**
 36 **this description, an individual must be unable to do the individual’s past relevant work or**
 37 **any other substantial gainful work that exists in the national economy, based on the**
 38 **individual’s mental and physical residual functional capacity, age, education and work expe-**
 39 **rience.**

40 **(b) “Resident of Oregon” means an individual who lives in Oregon with the intent to re-**
 41 **side in Oregon and who is:**

42 **(A) A United States citizen; or**

43 **(B) Otherwise lawfully residing in the United States.**

44 **(c) “Social Security disability benefits” means assistance paid to individuals on account**
 45 **of disability under Title II of the Social Security Act, 42 U.S.C. 402.**

1 (d) "Substantial gainful activity":

2 (A) Means work that involves doing significant and productive physical or mental duties
3 and is done or intended to be done for pay or profit.

4 (B) Does not mean an activity for which the earnings from the activity are below the
5 greater of:

6 (i) \$940 per month; or

7 (ii) An amount adjusted for national wage growth, calculated by multiplying \$700 by the
8 ratio of the national average wage index for the year two calendar years before the year for
9 which the amount is being calculated to the national average wage index for the year 1998,
10 rounded to the next higher multiple of \$10 if such amount is a multiple of \$5 but not of \$10
11 or to the nearest multiple of \$10 in any other case.

12 (e) "Supplemental Security Income" means assistance paid to needy individuals on ac-
13 count of disability under Title XVI of the Social Security Act, 42 U.S.C. 1382.

14 (2) In adopting rules to carry out the provisions of ORS 411.710 to 411.730, the Depart-
15 ment of Human Services shall prescribe a definition of "disability" that includes both
16 blindness and disability as those terms are defined in ORS 411.704.

17 **SECTION 8.** ORS 411.730 is amended to read:

18 411.730. *[The Department of Human Services shall receive all applications for general assistance,*
19 *and shall determine in accordance with its rules and regulations the eligibility for and the amount of*
20 *the assistance which any person shall receive.]*

21 (1) If an individual lives with a spouse, the individual meets the resource limit under
22 section 3 of this 2011 Act if the value of all countable resources owned by the couple does
23 not exceed \$3,000.

24 (2) If an individual does not live with a spouse, the individual meets the resource limit
25 under section 3 of this 2011 Act if the value of the individual's countable resources does not
26 exceed \$2,000.

27 (3) The Department of Human Services shall prescribe by rule the resources that are not
28 countable under this section, including but not limited to all of the following:

29 (a) A home in which the individual has an ownership interest and that serves as the
30 individual's principal place of residence.

31 (b) Household goods and personal effects.

32 (c) One motor vehicle if used for transporting the individual or a member of the
33 individual's household.

34 **SECTION 9.** ORS 293.321 is amended to read:

35 293.321. (1) A person having a claim against the state shall present the claim, with the evidence
36 in support thereof, to the Oregon Department of Administrative Services or the state agency that
37 incurred the obligation or made the expenditure on which the claim is based within two years after
38 the date on which the claim accrues. However, if any federal funding arrangement requires payment
39 of a claim within one year, that claim, with evidence in support thereof, must be presented within
40 one year after the date on which the claim accrues.

41 (2) All claims, with evidence in support thereof, presented for health services under *[ORS*
42 *411.710]* **ORS 414.705 to 414.750** must be presented within one year after the date in which the claim
43 accrues.

44 **SECTION 10.** ORS 411.010 is amended to read:

45 411.010. As used in this chapter and in other statutes providing for assistance and services to

1 needy persons, unless the context or a specially applicable statutory definition requires otherwise:

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

3 (2) "General assistance" means assistance or service of any character provided to needy persons
4 not otherwise provided for to the extent of such need and the availability of funds, including med-
5 ical, surgical and hospital or other remedial care.

6 (3) "Public assistance" means the following types of assistance:

7 (a) Temporary assistance for needy families granted under ORS 412.001 to 412.069 and 418.647;

8 (b) [*General assistance granted*] **Assistance provided by the General Assistance Program**
9 under ORS 411.710 to 411.730;

10 (c) Medical assistance;

11 (d) Assistance provided by the Oregon Supplemental Income Program;

12 (e) General assistance other than general assistance granted under ORS 411.710 to 411.730; and

13 (f) Any other **assistance provided by the department pursuant to** functions that [*may be*] **are**
14 delegated to the Director of Human Services by or in accordance with federal and state laws.

15 **SECTION 11.** ORS 411.141 is amended to read:

16 411.141. The Department of Human Services may, subject to the allotment system provided for
17 in ORS 291.234 to 291.260, expend such sums as are required to be expended in this state to provide
18 public assistance excluding medical assistance. Expenditures for public assistance include, but are
19 not limited to, expenditures for the following purposes:

20 (1) General assistance to needy persons and their dependents.

21 (2) Temporary assistance for needy families granted under ORS 412.001 to 412.069 and 418.647,
22 including services to relatives with whom dependent children applying for or receiving temporary
23 assistance for needy families are living in order to help such relatives attain the maximum self-
24 support or self-care consistent with the maintenance of continuing parental care and protection or
25 in order to maintain and strengthen family life for such children.

26 (3) Assistance provided by the Oregon Supplemental Income Program.

27 (4) [*General assistance granted*] **Assistance provided by the General Assistance Program**
28 under ORS 411.710 to 411.730.

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

30 (6) Scholarships or grants for qualified recipients to provide them education and professional,
31 technical or other helpful training, payable to a publicly supported career school or educational in-
32 stitution on behalf of the recipient.

33 (7) Other purposes for which the department is authorized to expend funds, including the ad-
34 ministration expenses of the department.

35 (8) Carrying out the provisions of ORS 411.116.

36 **SECTION 12.** ORS 414.025, as amended by section 1, chapter 73, Oregon Laws 2010, is amended
37 to read:

38 414.025. As used in this chapter, unless the context or a specially applicable statutory definition
39 requires otherwise:

40 (1) "Category of aid" means assistance provided by the Oregon Supplemental Income Program,
41 **the General Assistance Program under ORS 411.710 to 411.730, Supplemental Security Income**
42 **payments and** aid granted under ORS 412.001 to 412.069 and 418.647 [*or federal Supplemental Se-*
43 *curity Income payments*].

44 (2) "Categorically needy" [*means, insofar as funds are available for the category,*] **includes, to**
45 **the extent that moneys are appropriated to the Department of Human Services by the Leg-**

1 **islative Assembly for the category**, a person who is a resident of this state and who:

2 (a) Is receiving a category of aid.

3 (b) Would be eligible for a category of aid but is not receiving a category of aid.

4 (c) Is in a medical facility and, if the person left such facility, would be eligible for a category
5 of aid.

6 (d) Is under the age of 21 years and would be a dependent child as defined in ORS 412.001 except
7 for age and regular attendance in school or in a course of professional or technical training.

8 (e)(A) Is a caretaker relative, as defined in ORS 412.001, who cares for a child who would be a
9 dependent child except for age and regular attendance in school or in a course of professional or
10 technical training; or

11 (B) Is the spouse of the caretaker relative.

12 (f) Is under the age of 21 years and:

13 (A) Is in a foster family home or licensed child-caring agency or institution and is one for whom
14 a public agency of this state is assuming financial responsibility, in whole or in part; or

15 (B) Is 18 years of age or older, is one for whom federal financial participation is available under
16 Title XIX or XXI of the federal Social Security Act and who met the criteria in subparagraph (A)
17 of this paragraph immediately prior to the person's 18th birthday.

18 (g) Is a spouse of an individual receiving a category of aid and who is living with the recipient
19 of a category of aid, whose needs and income are taken into account in determining the cash needs
20 of the recipient of a category of aid, and who is determined by the Department of Human Services
21 to be essential to the well-being of the recipient of a category of aid.

22 (h) Is a caretaker relative as defined in ORS 412.001 who cares for a dependent child receiving
23 aid granted under ORS 412.001 to 412.069 and 418.647 or is the spouse of the caretaker relative.

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

26 (j) Is under the age of 21 years and is in an intermediate care facility which includes institutions
27 for persons with mental retardation.

28 (k) Is under the age of 22 years and is in a psychiatric hospital.

29 (L) Is under the age of 21 years and is in an independent living situation with all or part of the
30 maintenance cost paid by the Department of Human Services.

31 (m) Is a member of a family that received aid in the preceding month under ORS 412.006 or
32 412.014 and became ineligible for aid due to increased hours of or increased income from employ-
33 ment. As long as the member of the family is employed, such families will continue to be eligible for
34 medical assistance for a period of at least six calendar months beginning with the month in which
35 such family became ineligible for assistance due to increased hours of employment or increased
36 earnings.

37 (n) Is an adopted person under 21 years of age for whom a public agency is assuming financial
38 responsibility in whole or in part.

39 (o) Is an individual or is a member of a group who is required by federal law to be included in
40 the state's medical assistance program in order for that program to qualify for federal funds.

41 (p) Is an individual or member of a group who, subject to the rules of the department, may op-
42 tionally be included in the state's medical assistance program under federal law and regulations
43 concerning the availability of federal funds for the expenses of that individual or group.

44 (q) Is a pregnant woman who would be eligible for aid granted under ORS 412.001 to 412.069 and
45 418.647, whether or not the woman is eligible for cash assistance.

1 (r) Except as otherwise provided in this section, is a pregnant woman or child for whom federal
2 financial participation is available under Title XIX or XXI of the federal Social Security Act.

3 (s) Is not otherwise categorically needy and is not eligible for care under Title XVIII of the
4 federal Social Security Act or is not a full-time student in a post-secondary education program as
5 defined by the Department of Human Services by rule, but whose family income is less than the
6 federal poverty level and whose family investments and savings equal less than the investments and
7 savings limit established by the department by rule.

8 (t) Would be eligible for a category of aid but for the receipt of qualified long term care insur-
9 ance benefits under a policy or certificate issued on or after January 1, 2008. As used in this para-
10 graph, “qualified long term care insurance” means a policy or certificate of insurance as defined in
11 ORS 743.652 (6).

12 (u) Is eligible for the Health Care for All Oregon Children program established in ORS 414.231.

13 (3) “Income” has the meaning given that term in ORS 411.704.

14 (4) “Investments and savings” means cash, securities as defined in ORS 59.015, negotiable in-
15 struments as defined in ORS 73.0104 and such similar investments or savings as the Department of
16 Human Services may establish by rule that are available to the applicant or recipient to contribute
17 toward meeting the needs of the applicant or recipient.

18 (5) “Medical assistance” means so much of the following medical and remedial care and services
19 as may be prescribed by the Oregon Health Authority according to the standards established pur-
20 suant to ORS 413.032, including payments made for services provided under an insurance or other
21 contractual arrangement and money paid directly to the recipient for the purchase of medical care:

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

23 (b) Outpatient hospital services;

24 (c) Other laboratory and X-ray services;

25 (d) Skilled nursing facility services, other than services in an institution for mental diseases;

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

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

30 (g) Home health care services;

31 (h) Private duty nursing services;

32 (i) Clinic services;

33 (j) Dental services;

34 (k) Physical therapy and related services;

35 (L) Prescribed drugs, including those dispensed and administered as provided under ORS chapter
36 689;

37 (m) Dentures and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases
38 of the eye or by an optometrist, whichever the individual may select;

39 (n) Other diagnostic, screening, preventive and rehabilitative services;

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

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

43 (q) Periodic screening and diagnosis of individuals under the age of 21 years to ascertain their
44 physical or mental impairments, and such health care, treatment and other measures to correct or
45 ameliorate impairments and chronic conditions discovered thereby;

1 (r) Inpatient hospital services for individuals under 22 years of age in an institution for mental
 2 diseases; and

3 (s) Hospice services.

4 (6) "Medical assistance" includes any care or services for any individual who is a patient in a
 5 medical institution or any care or services for any individual who has attained 65 years of age or
 6 is under 22 years of age, and who is a patient in a private or public institution for mental diseases.
 7 "Medical assistance" includes "health services" as defined in ORS 414.705. "Medical assistance"
 8 does not include care or services for an inmate in a nonmedical public institution.

9 (7) "Medically needy" means a person who is a resident of this state and who is considered el-
 10 igible under federal law for medically needy assistance.

11 (8) "Resources" has the meaning given that term in ORS 411.704. For eligibility purposes, "re-
 12 sources" does not include charitable contributions raised by a community to assist with medical
 13 expenses.

14 **SECTION 13. ORS 411.720, 411.750, 411.790, 411.860, 411.865 and 416.810 are repealed.**

15 **SECTION 14. Except as provided in section 15 of this 2011 Act, sections 2 and 3 of this**
 16 **2011 Act, the amendments to ORS 293.321, 411.010, 411.081, 411.141, 411.144, 411.710, 411.730**
 17 **and 414.025 by sections 5 to 12 of this 2011 Act and the repeal of ORS 411.720, 411.750, 411.790,**
 18 **411.860, 411.865 and 416.810 by section 13 of this 2011 Act become operative on January 1, 2012.**

19 **SECTION 15. The Department of Human Services may take any action before the oper-**
 20 **ative date specified in section 14 of this 2011 Act that is necessary to exercise, on and after**
 21 **the operative date specified in section 14 of this 2011 Act, all the duties, functions and powers**
 22 **conferred on the department by sections 2 and 3 of this 2011 Act, the amendments to ORS**
 23 **293.321, 411.010, 411.081, 411.141, 411.144, 411.710, 411.730 and 414.025 by sections 5 to 12 of this**
 24 **2011 Act and the repeal of ORS 411.720, 411.750, 411.790, 411.860, 411.865 and 416.810 by section**
 25 **13 of this 2011 Act.**

26 **SECTION 16. This 2011 Act being necessary for the immediate preservation of the public**
 27 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 28 **on its passage.**