

House Bill 2859

Sponsored by COMMITTEE ON HEALTH CARE

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**.

Removes medical assistance from definition of "public assistance" and conforms applicable statutes to reflect definitional change. Requires grievance procedure for medical assistance applicants and recipients that parallels procedure for public assistance applicants and recipients. Establishes requirement for Oregon Health Authority to allocate funds for each category of medical assistance that parallels Department of Human Services requirement to allocate public assistance funds. Allows both authority and department to determine eligibility for medical assistance. Aligns state law with changes to federal Medicaid and Children's Health Insurance Program laws. Specifies medical assistance application procedures for authority, department and Oregon Health Insurance Exchange Corporation. Repeals obsolete provisions.

Becomes operative January 1, 2014.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to medical assistance; creating new provisions; amending ORS 1.198, 18.784, 18.838, 18.847,
3 25.381, 30.800, 93.967, 93.969, 97.939, 108.725, 109.811, 113.085, 113.086, 114.305, 114.515, 114.517,
4 115.125, 115.195, 125.170, 130.425, 166.715, 179.505, 183.458, 192.588, 293.231, 314.860, 409.010,
5 410.150, 410.490, 411.010, 411.060, 411.070, 411.081, 411.083, 411.087, 411.119, 411.141, 411.159,
6 411.400, 411.402, 411.404, 411.406, 411.408, 411.435, 411.439, 411.443, 411.610, 411.620, 411.630,
7 411.632, 411.640, 411.660, 411.670, 411.675, 411.690, 411.694, 411.703, 411.795, 411.802, 411.965,
8 411.967, 411.969, 411.970, 413.109, 413.175, 414.025, 414.041, 414.065, 414.095, 414.115, 414.231,
9 414.428, 414.534, 414.536, 414.706, 414.709, 414.727, 414.736, 414.740, 414.841, 414.842, 414.848,
10 414.862, 416.340, 416.350, 419B.373, 419C.550, 426.300, 435.215, 689.778 and 735.625 and section
11 6, chapter 290, Oregon Laws 1987, section 9, chapter 736, Oregon Laws 2003, section 20, chapter
12 595, Oregon Laws 2009, and section 1, chapter 867, Oregon Laws 2009; repealing ORS 411.431,
13 411.432, 414.707, 414.708, 414.750, 414.866, 414.868, 414.870 and 414.872; and declaring an emer-
14 gency.

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

16 **SECTION 1. (1) All applicants for and recipients of medical assistance, as defined in ORS**
17 **414.025, shall be treated in a courteous, fair and dignified manner by Oregon Health Author-**
18 **ity employees.**

19 **(2) Any applicant or recipient who alleges discourteous, unfair or undignified treatment**
20 **by an authority employee or alleges that an authority employee has provided incorrect or**
21 **inadequate information regarding medical assistance programs may file a grievance with the**
22 **authority. The authority shall publicize the grievance system in each office of the authority**
23 **that is open to the public.**

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

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 (4) The authority shall compile a monthly report that summarizes each grievance filed
 2 against an authority employee and the action taken. The report shall identify each grievance
 3 by office and indicate the number of grievances filed against each authority employee. The
 4 report shall protect the anonymity of authority employees. The report shall be provided to
 5 the Medicaid Advisory Committee established under ORS 414.211.

6 **SECTION 2.** The Oregon Health Authority, taking into consideration the total amount
 7 of funds available for medical assistance, as defined in ORS 414.025, in Oregon during the
 8 biennial period beginning July 1 of each odd-numbered year, the estimated number of bene-
 9 ficiaries in each category of medical assistance, the current and estimated costs of essential
 10 needs for an individual to maintain a standard of living compatible with decency and health
 11 and any other matters the authority may deem pertinent, shall estimate and allocate the
 12 funds available for each category of medical assistance on a monthly basis, subject to quar-
 13 terly revisions. Changes in the allocations, if any, shall be uniform and, as practicable as
 14 possible considering the relevant factors, proportionately equal in each such category. The
 15 monthly amounts estimated and allocated as described in this section shall be deemed to be
 16 the funds available for each category of medical assistance.

17 **SECTION 3.** ORS 1.198 is amended to read:

18 1.198. (1) ORS 1.197 does not apply to liquidated and delinquent accounts that are:

19 (a) Prohibited by state or federal law or regulation from assignment or collection; or

20 (b) Subject to collection through an offset of federal tax refunds pursuant to an agreement en-
 21 tered into under ORS 1.196.

22 (2) Notwithstanding ORS 1.197, a state court or a commission, department or division in the
 23 judicial branch of state government, acting in its sole discretion, may choose not to offer a liqui-
 24 dated and delinquent account to a private collection agency or to the Department of Revenue if the
 25 account:

26 (a) Is secured by a consensual security interest in real or personal property;

27 (b) Is based on that part of a judgment that requires payment of restitution or a payment to the
 28 Crime Victims' Assistance section of the Criminal Justice Division of the Department of Justice;

29 (c) Is in litigation, mediation or arbitration or is subject to a stay in bankruptcy proceedings;

30 (d) Is owed by a local or state government or by the federal government;

31 (e) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135 or who
 32 *[is on]* receives public assistance as defined in ORS 411.010 or **medical assistance as defined in**
 33 **ORS 414.025;**

34 (f) Consists of moneys for which a district attorney has assumed collection responsibility under
 35 ORS 8.680;

36 (g) Consists of moneys owed by a person who is incarcerated;

37 (h) Is an account that was previously offered to a private collection agency and was refused,
 38 or that was previously assigned to a private collection agency and the agency thereafter relin-
 39 quished the account;

40 (i) Is less than \$100, including penalties; or

41 (j) Would result in loss of federal funding if assigned.

42 **SECTION 4.** ORS 18.784 is amended to read:

43 18.784. (1) Except as provided in subsection (6) of this section, if a writ of garnishment is de-
 44 livered to a financial institution that has an account of the debtor, the financial institution shall
 45 conduct a garnishment account review of all accounts in the name of the debtor before taking any

1 other action that may affect funds in those accounts. If the financial institution determines from the
 2 garnishment account review that one or more payments described in subsection (3) of this section
 3 were deposited in an account of the debtor by direct deposit or electronic payment during the
 4 lookback period described in subsection (2) of this section, an amount equal to the lesser of the sum
 5 of those payments or the total balance in the debtor's account is not subject to garnishment.

6 (2) The provisions of this section apply only to payments described in subsection (3) of this
 7 section that are deposited during the lookback period that ends on the day before the day on which
 8 the garnishment account review is conducted and begins on:

9 (a) The day in the second calendar month preceding the month in which the garnishment ac-
 10 count review is conducted, that has the same number as the day on which the period ends; or

11 (b) If there is no day as described in paragraph (a) of this subsection, the last day of the second
 12 calendar month preceding the month in which the garnishment account review is conducted.

13 (3) The provisions of this section apply only to:

14 (a) Federal benefit payments;

15 (b) Payments from a public or private retirement plan as defined in ORS 18.358;

16 (c) Public assistance **or medical assistance, as defined in ORS 414.025**, payments from the
 17 State of Oregon or an agency of the State of Oregon;

18 (d) Unemployment compensation payments from the State of Oregon or an agency of the State
 19 of Oregon;

20 (e) Black lung benefits payments from the United States Department of Labor; and

21 (f) Workers' compensation payments from a workers' compensation carrier.

22 (4) The provisions of this section apply only to a payment that a financial institution can iden-
 23 tify as being one of the types of payments described in subsection (3) of this section from information
 24 transmitted to the financial institution by the payor.

25 (5) A financial institution shall perform a garnishment account review only one time for a spe-
 26 cific garnishment. If the same garnishment is served on a financial institution more than once, the
 27 financial institution may not perform a garnishment account review or take any other action relat-
 28 ing to the garnishment based on the second and subsequent service of the garnishment.

29 (6) A financial institution may not conduct a garnishment account review under this section if
 30 a Notice of Right to Garnish Federal Benefits from the United States Government or from a state
 31 child support enforcement agency is attached to or included in the garnishment as provided in 31
 32 C.F.R. part 212. If a Notice of Right to Garnish Federal Benefits is attached to or included in the
 33 garnishment, the financial institution shall proceed on the garnishment as otherwise provided in
 34 ORS 18.600 to 18.850.

35 (7) The provisions of this section do not affect the ability of a debtor to claim any exemption
 36 that otherwise may be available to the debtor under law for any amounts in an account in a finan-
 37 cial institution.

38 **SECTION 5.** ORS 18.838 is amended to read:

39 18.838. Instructions to garnishees must be in substantially the following form:

40
 41
 42 INSTRUCTIONS TO GARNISHEE
 43

44 Except as specifically provided in these instructions, you must complete and deliver the
 45 Garnishee Response within seven calendar days after you receive the writ of garnishment. If the

1 writ does not comply with Oregon law, the writ is not effective to garnish any property of the
 2 Debtor, but you still must complete and deliver the Garnishee Response. You must complete and
 3 deliver the response even though you cannot determine from the writ whether you hold any property
 4 or owe any debt to the Debtor. If the seventh calendar day is a Saturday, Sunday or legal holiday,
 5 you must deliver your response on or before the next following day that is not a Saturday, Sunday
 6 or legal holiday.

7
 8 The writ is not effective, and you need not make a Garnishee Response, if:

- 9
- 10 • You do not receive the writ within 60 days after the date of issuance shown on the face of
 - 11 the writ.
 - 12
 - 13 • You do not receive an original writ of garnishment or a copy of the writ.
 - 14

15 Statutes that may affect your rights and duties under the writ can be found in ORS 18.600 to
 16 18.850.

17
 18 NOTE: The Garnishor may be the Creditor, the attorney for the Creditor or some other person
 19 who is authorized by law to issue the writ of garnishment. See the writ to determine who the
 20 Garnishor is.

21
 22 STEP 1. FILL OUT THE GARNISHEE RESPONSE.

23
 24 All garnishees who are required to deliver a garnishee response must fill in Part I of the
 25 Garnishee Response. Garnishees who employ the Debtor must also fill in Part II of the response.
 26 You should keep a copy of the response for your records.

27
 28 Completing Part I of the Garnishee Response. If you discover before you deliver your response
 29 that a bankruptcy petition has been filed by or on behalf of the Debtor, and the bankruptcy petition
 30 was filed after a judgment was entered against the Debtor or after the debt otherwise became sub-
 31 ject to garnishment (see the date specified in the writ), you must put a check by the appropriate
 32 statement in Part I. If a bankruptcy petition has been filed, you should not make any payments to
 33 the Garnishor unless the court orders otherwise. You need not complete any other part of the re-
 34 sponse, but you still must sign the response and deliver it in the manner described in Step 2 of these
 35 instructions.

36 In all other cases you must list in Part I all money and personal property of the Debtor that is
 37 in your possession, control or custody at the time of delivery of the writ. You must also list all debts
 38 that you owe to the Debtor, whether or not those debts are currently due (e.g., money loaned to you
 39 by the Debtor that is to be repaid at a later time).

40 If you are the employer of the Debtor at the time the writ is delivered to you, you must put a
 41 check by the appropriate statement in Part I. In addition, you must complete Part II of the response.

42 If you believe that you may hold property of the Debtor or that you owe a debt to the Debtor,
 43 but you are not sure, you must put a check by the appropriate statement and provide an explana-
 44 tion. When you find out what property you hold that belongs to the Debtor, or you find out whether
 45 you owe money to the Debtor and how much, you must prepare and deliver an amended response.

1 You must do this even if you find out that you have no property of the Debtor or that you do not
 2 owe anything to the Debtor.

3 If you determine that the writ, on its face, does not comply with Oregon laws governing writs
 4 of garnishment, or if you are unable to determine the identity of the Debtor from the information
 5 in the writ, then the writ is not effective to garnish any property of the Debtor. You must put a
 6 check by the appropriate statement in Part I and provide an explanation. You still must complete
 7 the response and deliver the response in the manner described in Step 2 of these instructions.

8 If you have received an order to withhold income that applies to the income of the Debtor and
 9 that order has priority over the garnishment, and if compliance with the order will reduce or elim-
 10 inate the money or property that you would otherwise deliver under the garnishment, you must put
 11 a check by the appropriate statement in Part I. You still must fill out the remainder of the response
 12 and deliver the response in the manner described in Step 2 of these instructions. If you employ the
 13 Debtor, you still must complete Part II of the response.

14 If you receive notice of a challenge to the garnishment before you send your response, you must
 15 complete and deliver your response as otherwise required by these instructions. However, see Step
 16 3 of these instructions regarding payment of money or delivery of property after receipt of notice
 17 of a challenge to the garnishment.

18 If you owe a debt to the Debtor and the Debtor owes a debt to the holder of an underlying lien
 19 on your property, you may be able to offset the amount payable to the underlying lienholder. See
 20 ORS 18.620. You must note that you have made the offset in Part I of the response (under
 21 “Other”) and specify the amount that was offset.

22
 23 Completing Part II of the Garnishee Response (employers only). You must fill in Part II of the
 24 response if you employ the Debtor on the date the writ of garnishment is delivered to you, or if you
 25 previously employed the Debtor and still owe wages to the Debtor on the date the writ is delivered
 26 to you.

27
 28 Wages affected. Except as provided below, the writ garnishes all wages that you owe to the
 29 Debtor for work performed before the date you received the writ, even though the wages will not
 30 be paid until a later date. The writ also garnishes all wages that are attributable to services per-
 31 formed during the 90-day period following the date you received the writ, even though you would
 32 not pay the Debtor for all or part of those services until after the end of the 90-day period. Wages
 33 subject to garnishment under the writ include all amounts paid by you as an employer, whether on
 34 an hourly, weekly or monthly basis, and include commission payments and bonuses.

35
 36 Example 1: Debtor A is employed by you and is paid a monthly salary on the first day of
 37 each month. You receive a writ of garnishment on July 17. The writ garnishes all wages
 38 that you owe to Debtor A for work performed on or before July 17. If Debtor A was paid
 39 on July 1 for services performed in the month of June, the writ garnishes Debtor A’s salary
 40 for the period beginning July 1 and ending October 15 (90 days after receipt of the writ).

41
 42 The writ does not garnish any wages you owe to a Debtor for a specific pay period if:
 43 (a) The writ is delivered to you within two business days before the Debtor’s normal payday for
 44 the pay period;
 45 (b) When the writ is delivered to you, the Debtor’s wages are paid by direct deposit to a finan-

1 cial institution, or you use an independent contractor as payroll administrator for your payroll; and

2 (c) Before the writ was delivered to you, you issued instructions to the financial institution or
 3 the payroll administrator to pay the Debtor for the pay period.

4 If any wages are not garnishable by reason of the issuance of instructions to a financial insti-
 5 tution or a payroll administrator as described above, you must so note in the Garnishee Response.
 6 Thereafter, you must pay to the Garnishor all wages that are subject to garnishment that are at-
 7 tributable to services performed by the Debtor during the 90-day period following the date you re-
 8 ceived the writ.

9
 10 Calculation of wages subject to garnishment. A Wage Exemption Calculation form is attached
 11 to the writ of garnishment. You must use this form to calculate the amount of the Debtor's wages
 12 that is subject to garnishment. You should read the instructions printed on the Wage Exemption
 13 Calculation form to determine the normal wage exemption and the minimum wage exemption for
 14 each payment you make under the writ.

15 A Wage Exemption Calculation form must be sent with the first payment you make under the
 16 writ. For the 90-day period during which the writ is effective, you must also fill out and return a
 17 Wage Exemption Calculation form with a subsequent payment any time the initial calculation
 18 changes. Finally, you must fill out and return a Wage Exemption Calculation form with the final
 19 payment that you make under the writ.

20
 21 Payment of amount subject to garnishment. Payments under the writ must be made at the fol-
 22 lowing times, unless the amount owing on the judgment or other debt is fully paid before the final
 23 payment is made or the writ is released:

24 (a) You must make a payment to the Garnishor of all wages subject to garnishment at the time
 25 you next pay wages to the Debtor. Complete the wage exemption computation, using the Wage Ex-
 26 emption Calculation form, to determine the portion of the Debtor's wages that is subject to
 27 garnishment. Be sure to adjust the minimum exemption amount for any payment that covers less
 28 than a full pay period. You must include a copy of the Wage Exemption Calculation form with this
 29 first payment.

30
 31 Example 2: Using the facts given in Example 1, when you next make any payment of wages
 32 to Debtor A after you receive the writ on July 17, you must complete the Wage Exemption
 33 Calculation form and send the form to the Garnishor along with all amounts determined to
 34 be subject to garnishment that are attributable to the period covered by the payment. If you
 35 pay Debtor A on August 1, the payment will be for all wages attributable to the period be-
 36 ginning July 1 and ending July 31.

37
 38 (b) Unless the writ of garnishment is satisfied or released, during the 90-day period following the
 39 date you received the writ, you must pay to the Garnishor all wages that are determined to be
 40 subject to garnishment whenever you issue a paycheck to the Debtor. If the Debtor is paid on a
 41 weekly basis, you must make payment under the writ on a weekly basis. If the Debtor is paid on a
 42 monthly basis, you must make payment under the writ on a monthly basis. If the amount paid to the
 43 Debtor varies from paycheck to paycheck, or changes at any time from the amount being paid at the
 44 time the writ was delivered to you, you must perform a new wage exemption computation to deter-
 45 mine the amount of wages subject to garnishment under the writ. You must send a copy of the new

1 Wage Exemption Calculation form with your payment to the Garnishor.

2
3
4
5
6
7

Example 3: Using the facts given above, as you make each subsequent payment of wages to Debtor A you must make a payment of that portion of the Debtor’s wages that are subject to garnishment. If you continue to pay Debtor A on the first of each month, payments must be made on September 1 and October 1.

8 (c) Upon the expiration of the 90-day period, you must make a final payment to the Garnishor
9 for all wages that were owing to the Debtor for the work performed by the Debtor through the 90th
10 day following your receipt of the writ. This payment may be made at the time of the Debtor’s next
11 paycheck. You will need to complete another Wage Exemption Calculation form to determine the
12 amount of the wages subject to garnishment.

13
14
15
16
17
18
19
20
21

Example 4: Using the facts given above, you must make a final payment for the wages owing to Debtor A for the period beginning October 1 and ending October 15. You may make this payment at the time you issue Debtor A’s paycheck on November 1, but you must make the payment at any time you issue a paycheck to Debtor A after October 15. Be sure that in completing the wage exemption computation for the final payment you adjust the minimum exemption amount to take into account the fact that the period covered is only 15 days of the full month (see instructions on Wage Exemption Calculation form).

22 Processing fee. You may collect a \$2 processing fee for each week of wages, or fraction of a
23 week of wages, for which a payment is made under the writ. The fee must be collected after you
24 make the last payment under the writ. The fee must be withheld from the wages of the debtor, and
25 is in addition to the amounts withheld for payment to the garnishor under the writ or under any
26 other writ you have received.

27
28
29
30
31
32
33
34
35
36

If you receive more than one writ of garnishment. If you receive a second writ of garnishment for the same Debtor from another Garnishor, the first writ will have priority for wages. The priority of the first writ lasts for the 90-day period following delivery of that writ to you, or until the first writ is paid in full, whichever comes first. In your response to the second writ, you must put a check by the appropriate statement in Part II and indicate the date on which the first writ will expire (90 days after the date you received the writ). You should make no payments under the second writ until expiration of the first writ. The expiration date of the second writ is 90 days after the date you received the second writ; the expiration date is not affected by any delay in payment attributable to the priority of the first writ.

37
38 STEP 2. DELIVER THE GARNISHEE RESPONSE.

39
40
41
42

You must deliver your Garnishee Response and copies of the response in the manner provided in this step. The response and copies may be mailed or delivered personally.

43
44
45

You must complete and deliver the Garnishee Response within seven calendar days after you receive the writ of garnishment. If the seventh calendar day is a Saturday, Sunday or legal holiday, you must deliver your response on or before the next following day that is not a Saturday, Sunday

1 or legal holiday.

2
3 If you are required to hold any property under the writ or make any payment under the writ,
4 either at the time of making your response or later, you must:

5 (a) Send the original of your Garnishee Response to the Garnishor at the address indicated on
6 the writ under Important Addresses.

7 (b) Send a copy of your Garnishee Response to the court administrator at the address indicated
8 on the writ under Important Addresses.

9 (c) Send a copy of your Garnishee Response to the Debtor if an address is indicated on the writ
10 under Important Addresses.

11
12 If you are not required to hold any property under the writ or make any payment under the
13 writ, either at the time of making your response or later, you must:

14 (a) Send the original of your Garnishee Response to the Garnishor at the address indicated on
15 the writ under Important Addresses.

16 (b) Send a copy of your Garnishee Response to the Debtor if an address is indicated on the writ
17 under Important Addresses.

18
19 STEP 3. DELIVER THE FUNDS OR OTHER PROPERTY.

20
21 As long as the writ is in effect, you may be liable to the Creditor if you pay any debt or turn
22 over any property to the Debtor except as specifically allowed by law. If you have any money or
23 property of the Debtor in your possession, control or custody at the time of delivery of the writ, or
24 owe any debt to the Debtor, you must pay the money or hold the property as required by this step.
25 Exceptions to this requirement are listed below.

26
27 IF YOU ARE HOLDING MONEY FOR THE DEBTOR OR OWE A DEBT THAT IS CUR-
28 RENTLY DUE, you must pay the money to the Garnishor with your response. You must send your
29 payment to the Garnishor at the address indicated on the writ under Important Addresses. Make
30 your check payable to the Garnishor.

31
32 IF YOU OWE A DEBT TO THE DEBTOR THAT WILL BECOME DUE WITHIN 45 DAYS
33 AFTER THE DATE YOU RECEIVED THE WRIT, you must send your payment directly to the
34 Garnishor at the address provided in the writ when the debt becomes due. Make your check payable
35 to the Garnishor.

36
37 IF YOU ARE HOLDING PROPERTY THAT BELONGS TO THE DEBTOR, OR OWE A DEBT
38 TO THE DEBTOR THAT WILL NOT BECOME DUE WITHIN 45 DAYS AFTER THE DATE YOU
39 RECEIVED THE WRIT, you must keep the property or debt in your possession, control or custody
40 until you receive written notice from the Sheriff. The Sheriff's notice will tell you what to do with
41 the property or debt. If you have followed all of the instructions in the writ and you receive no
42 notice from the Sheriff within 30 days after the date on which you delivered your Garnishee Re-
43 sponse, you may treat the writ as being of no further force or effect.

44
45 EXCEPTIONS:

1 1. Challenge to garnishment or specific directions from court. If you are making any payments
2 under the garnishment and before making a payment you receive notice of a challenge to the
3 garnishment from the court, or receive a specific direction from the court to make payments to the
4 court, you must send or deliver the payment directly to the court administrator. If the money is
5 currently due when you receive the notice, send the payment promptly to the court. If the payment
6 is for a debt that is payable within 45 days after you receive the writ, make the payment to the
7 court promptly when it becomes due. If you make payment by check, make the check payable to the
8 State of Oregon. Because you may be liable for any payment that does not reach the court, it is
9 better not to send cash by mail.

10 A challenge to the garnishment does not affect your duty to follow the instructions you receive
11 from the Sheriff for property that belongs to the Debtor and debts that you owe to the Debtor that
12 do not become due within 45 days.

13
14 2. Previous writ of garnishment. If you receive a second writ of garnishment for the same Debtor
15 from another Garnishor, the first writ will have priority and you need not make payments or deliver
16 property under the second writ to the extent that compliance with the first writ will reduce or
17 eliminate the payment of money or delivery of property that you would otherwise make under the
18 garnishment. You must still deliver a Garnishee Response to the second writ, and must commence
19 payment under the second writ as soon as the first writ is satisfied or expires.

20
21 3. Offset for payment of underlying lien. If you owe a debt to the Debtor and the Debtor owes
22 a debt to the holder of an underlying lien on your property, you may be able to offset the amount
23 payable to the underlying lienholder. See ORS 18.620.

24
25 4. Subsequent events:

26
27 (a) Bankruptcy. If you make your response and then discover that a voluntary or involuntary
28 bankruptcy petition has been filed by or on behalf of the Debtor after the judgment was entered
29 against the Debtor or after the debt otherwise became subject to garnishment (see date in writ), you
30 may not make any further payments or delivery of property under the writ unless the court orders
31 otherwise. If you have not delivered all property that is subject to garnishment under this writ when
32 you discover that a bankruptcy petition has been filed, you must mail the following notice to the
33 Garnishor and to the Debtor.

34
35 (b) Order to withhold income. If you make your response and then receive an order to withhold
36 income that has priority over the writ, you may make payments or deliver property under the writ
37 only after payment of the amounts required under the order to withhold income. If you have not
38 delivered all property that is subject to garnishment under this writ when you receive an order to
39 withhold income that has priority, you must mail the following notice to the Garnishor and to the
40 Debtor.

41 _____

42

43 SUPPLEMENTAL GARNISHEE

44 RESPONSE

45

1 TO: The Garnishor and the Debtor

2
3 RE: Writ of garnishment received _____, 2__ (date), in the case of _____ (Plaintiff)
4 vs. _____ (Defendant), Circuit Court of _____ County, Oregon, Case No. _____.

5
6 The undersigned Garnishee furnished a Garnishee Response to this writ of garnishment on
7 _____, 2__ (date). Since that time (check appropriate statement):

8
9 ___ I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or
10 on behalf of the Debtor after the judgment was entered against the Debtor or after the debt
11 otherwise became subject to garnishment.

12
13 ___ I have received an order to withhold income of the Debtor by reason of a support obligation.
14 Under ORS 25.375, the order to withhold income has priority over any other legal process
15 under Oregon law against the same income. The withholding of income pursuant to the or-
16 der to withhold income might reduce or eliminate subsequent payments under the
17 garnishment. (Provide details, including the name of the agency serving the order to with-
18 hold, the date the order was served on you and the amounts to be withheld.)

19
20 Dated _____, 2__

21
22 _____
23 Name of Garnishee

24
25 _____
26 Signature

27
28 _____
29 Address

30
31
32 SPECIAL INSTRUCTIONS FOR BANKS
33 AND OTHER FINANCIAL INSTITUTIONS
34

35 Unless a Notice of Right to Garnish Federal Benefits from the United States Government or
36 from a state child support enforcement agency is attached to or included in the garnishment, you
37 must conduct a garnishment account review for each account that you hold for the debtor. If a
38 Notice of Right to Garnish Federal Benefits from the United States Government or from a state
39 child support enforcement agency is attached to or included in the garnishment, you should not
40 conduct a garnishment account review, and should proceed upon the garnishment in the normal
41 manner.

42 If you hold an account for the debtor, and any of the payments listed below has been deposited
43 in the account by direct deposit or electronic payment during the lookback period described in ORS
44 18.784 (2) (the period that begins on the date preceding the date of your garnishment account review
45 and that ends on the corresponding date of the month two months earlier, or on the last day of the

1 month two months earlier if the corresponding date does not exist), an amount equal to the lesser
 2 of the sum of those payments or the total balance in the debtor's account is not subject to
 3 garnishment, and you may not deliver that amount to the garnishor:

4 (a) Federal benefit payments as defined in ORS 18.600 (payments from the United States Social
 5 Security Administration, the United States Department of Veterans Affairs, the United States Office
 6 of Personnel Management or the Railroad Retirement Board);

7 (b) Payments from a public or private retirement plan as defined in ORS 18.358;

8 (c) Public assistance **or medical assistance, as defined in ORS 414.025**, payments from the
 9 State of Oregon or an agency of the State of Oregon;

10 (d) Unemployment compensation payments from the State of Oregon or an agency of the State
 11 of Oregon;

12 (e) Black lung benefits payments from the United States Department of Labor; and

13 (f) Workers' compensation payments from a workers' compensation carrier.

14
 15 If the Garnishor fails to pay the search fee required by ORS 18.790 and you do not employ the
 16 Debtor, you are not required to deliver a Garnishee Response and you may deal with any property
 17 of the Debtor as though the garnishment had not been issued.

18
 19 If the Debtor owes a debt to you that was due at the time you received the writ of garnishment,
 20 you may be able to offset the amount of that debt. See ORS 18.795. You must note that you have
 21 made the offset in Part I of the Garnishee Response (under "Other") and specify the amount that
 22 was offset.

23
 24 Before making a payment under the writ, you may first deduct any processing fee that you are
 25 allowed under ORS 18.790. If you are required to conduct a garnishment account review, you may
 26 not charge or collect a processing fee against any amount that is not subject to garnishment, and
 27 may not charge or collect a garnishment processing fee against any amounts in the account after
 28 the date that you conduct the review.

29
 30 You need not deliver any property contained in a safe deposit box unless the Garnishor pays
 31 you in advance for the costs that will be incurred in gaining entry to the box. See ORS 18.792.

32
 33 If you are required to conduct a garnishment account review and you determine from the review
 34 that one or more of the payments listed in ORS 18.784 (3) have been deposited into the debtor's
 35 account by direct deposit or electronic payment during the lookback period described in ORS 18.784
 36 (2), and that there is a positive balance in the account, you must issue a notice to the account
 37 holder in substantially the form set forth in ORS 18.847. The notice must be issued directly to the
 38 account holder or to a fiduciary who administers the account and receives communications on behalf
 39 of the account holder. The notice must be sent separately to the account holder and may not be
 40 included with other materials being provided to the account holder that do not relate to the
 41 garnishment. You must send the notice to the account holder within three business days after you
 42 complete the garnishment account review. You may issue one notice with information related to
 43 multiple accounts of a single account holder.

SECTION 6. ORS 18.847 is amended to read:

18.847. The notice given by a financial institution to a debtor under ORS 18.785 (1) must be in substantially the following form:

(Name, address of financial institution)

IMPORTANT INFORMATION ABOUT YOUR ACCOUNT

Date: _____
Notice to: _____
Account Number: _____

Why am I receiving this notice?

On _____ [date on which garnishment order was served], _____ [name of financial institution] received a garnishment order from a court to garnish funds in your account. The amount of the garnishment order was for \$_____ [amount of garnishment order]. We are sending you this notice to let you know what we have done in response to the garnishment order.

What is garnishment?

Garnishment is a legal process that allows a creditor to remove funds from your bank/credit union account to satisfy a debt that you have not paid. In other words, if you owe money to a person or company, they can obtain a court order directing your bank/credit union to take money out of your account to pay off your debt. If this happens, you cannot use that money in your account.

What has happened to my account?

On _____ [date of account review], we researched your account and identified that one or more payments identified by ORS 18.784 (1) have been deposited in the last two months (see below for a list of qualifying payments). In most cases, these payments are protected from garnishment. As required by state and federal regulations, therefore, we have established a “protected amount” of funds that will remain available to you and that will not be frozen or removed from your account in response to the garnishment order.

(Conditional paragraph if funds have been frozen)

_____ (check if applicable) Your account contained additional money that may not be protected from garnishment. As required by law, we have placed a hold on or removed these funds in the amount of \$_____ [amount frozen] and may have to turn these funds over to your creditor as

1 directed by the garnishment order.

2

3 The chart below summarizes this information about your account(s):

4

5 ACCOUNT SUMMARY AS OF _____ [DATE OF ACCOUNT REVIEW]

6

7 Amount

8 Account	in	Amount
9 Number	Account	Protected

10

11 _____

12 _____

13

14 Amount

15 Subject to

16 garnish-

17 ment (now Garnish-

18 frozen/ ment fee

19 removed) charged

20

21 _____

22 _____

23 (If the account holder has multiple accounts, use a separate row for each account)

24

25 Please note that these amount(s) may be affected by deposits or withdrawals after the protected
26 amount was calculated on _____ (date of garnishment account review).

27

28 Do I need to do anything to access my protected funds?

29

30 You may use the protected amount of money in your account as you normally would.

31

32 There is nothing else you need to do to make sure that the protected amount is safe.

33

34 Who garnished my account?

35

36 The creditor who obtained a garnishment order against you is _____ (name of credi-
37 tor).

38

39 What types of benefit payments are protected from garnishment?

40

41 In most cases, you have protections from garnishment if the funds in your account include one
42 or more of the following benefit payments:

43

- 44 • Social Security benefits
- 45 • Supplemental Security Income benefits

- 1 • Veterans' benefits
- 2 • Railroad retirement benefits
- 3 • Railroad Unemployment Insurance benefits
- 4 • Civil Service Retirement System benefits
- 5 • Federal Employees Retirement System benefits
- 6 • Payments from a public or private retirement plan as defined in ORS 18.358
- 7 • Public assistance **or medical assistance, as defined in ORS 414.025**, [payments] from the
- 8 State of Oregon or an agency of the State of Oregon
- 9 • Unemployment compensation payments from the State of Oregon or an agency of the State
- 10 of Oregon
- 11 • Black lung benefits payments from the United States Department of Labor
- 12 • Workers' compensation payments from a workers' compensation carrier

13

14 What should I do if I think that additional funds in my account are from protected benefit payments?

15

16 If you believe that funds in your account(s) should not have been frozen or removed, there are

17 several things you can do:

18

19 You can fill out a Challenge to Garnishment form and submit it to the court.

20 You may contact the creditor that garnished your account and explain that funds are from

21 protected benefit payments and should be released to you. The creditor may be contacted at

22 _____ (address of creditor).

23 You may consult an attorney to help you prove to the creditor that garnished your account that

24 additional funds are from protected benefit payments and cannot be taken. For information about

25 how to find an attorney, contact the Oregon State Bar's Lawyer Referral Service at (800) 452-7636

26 or go online to www.oregonlawhelp.org.

27

28 This notice contains all the information that we have about the garnishment order. However,

29 if you have a question about your account, you may contact us at _____ (telephone

30 number of financial institution).

31 _____

32

33 **SECTION 7.** ORS 25.381 is amended to read:

34 25.381. (1) Whenever services are being provided under ORS 25.080, support rights are not and

35 have not at any time during the past five months been assigned to this or another state, and no

36 arrearages under a support order are so assigned, the administrator shall provide, upon request of

37 an obligor or obligee, services sufficient to permit establishment of income withholding under ORS

38 25.378, including services necessary to establish a support payment record under ORS 25.164 and

39 25.167.

40 (2) Regardless of whether services are being provided under ORS 25.080, the administrator shall

41 provide, upon request of an obligor or obligee, services sufficient to permit establishment of income

42 withholding under ORS 25.378:

43 (a) For the payment of child support without the necessity of an application for support

44 enforcement services under Title IV-D of the Social Security Act (42 U.S.C. 651 et seq.); and

45 (b) For the payment of spousal support if the obligee is receiving supplemental nutrition assist-

1 ance or any other form of public assistance, as defined in ORS 411.010, from the Department of
2 Human Services **or medical assistance, as defined in ORS 414.025, from the department or the**
3 **Oregon Health Authority.**

4 **SECTION 8.** ORS 30.800 is amended to read:

5 30.800. (1) As used in this section **and ORS 30.805**, “emergency medical assistance” means:

6 (a) Medical or dental care not provided in a place where emergency medical or dental care is
7 regularly available, including but not limited to a hospital, industrial first-aid station or a
8 physician’s or dentist’s office, given voluntarily and without the expectation of compensation to an
9 injured person who is in need of immediate medical or dental care and under emergency circum-
10 stances that suggest that the giving of assistance is the only alternative to death or serious physical
11 aftereffects; or

12 (b) Medical care provided voluntarily in good faith and without expectation of compensation by
13 a physician licensed by the Oregon Medical Board in the physician’s professional capacity as a team
14 physician at a public or private school or college athletic event or as a volunteer physician at other
15 athletic events.

16 (2) No person may maintain an action for damages for injury, death or loss that results from acts
17 or omissions of a person while rendering emergency medical assistance unless it is alleged and
18 proved by the complaining party that the person was grossly negligent in rendering the emergency
19 medical assistance.

20 (3) The giving of emergency medical assistance by a person does not, of itself, establish the re-
21 lationship of physician and patient, dentist and patient or nurse and patient between the person
22 giving the assistance and the person receiving the assistance insofar as the relationship carries with
23 it any duty to provide or arrange for further medical care for the injured person after the giving
24 of emergency medical assistance.

25 **SECTION 9.** ORS 93.967 is amended to read:

26 93.967. During a transferor’s life, a transfer on death deed does not:

27 (1) Affect an interest or right of the transferor or any other owner, including the right to
28 transfer or encumber the property;

29 (2) Affect an interest or right of a designated beneficiary, even if the designated beneficiary has
30 actual or constructive notice of the deed;

31 (3) Affect an interest or right of a secured, unsecured or future creditor of the transferor even
32 if the creditor has actual or constructive notice of the deed;

33 (4) Affect the eligibility of the transferor or a designated beneficiary for any form of public as-
34 sistance **or medical assistance, as defined in ORS 414.025;**

35 (5) Create a legal or equitable interest in favor of the designated beneficiary; or

36 (6) Subject the property to claims or process of a secured, unsecured or future creditor of the
37 designated beneficiary.

38 **SECTION 10.** ORS 93.969 is amended to read:

39 93.969. (1) Except as provided otherwise in the transfer on death deed and subject to ORS
40 107.115, 112.455 to 112.555 or 112.570 to 112.590 and ORS 93.981, 93.983 and 93.985, when a transferor
41 dies, the following rules apply to property that is subject to a transfer on death deed and owned by
42 the transferor at death:

43 (a) A designated beneficiary’s interest in the property:

44 (A) Is transferred to the designated beneficiary in accordance with the deed if the designated
45 beneficiary survives the transferor; or

1 (B) Lapses if the designated beneficiary does not survive the transferor.

2 (b) If the transferor has identified multiple designated beneficiaries to receive concurrent inter-
 3 ests in the property:

4 (A) Concurrent interests are transferred to the designated beneficiaries in equal and undivided
 5 shares with no right of survivorship; and

6 (B) The share of a designated beneficiary that lapses or fails for any reason is transferred to the
 7 remaining designated beneficiaries in proportion to the interest of each designated beneficiary in the
 8 remaining part of the property held concurrently.

9 (2) A beneficiary takes the property subject to all conveyances, encumbrances, assignments,
 10 contracts, mortgages, liens and other interests to which the property is subject at the transferor's
 11 death, including a claim or lien by a state authorized to seek **reimbursement for** public assistance
 12 **or medical assistance, as defined in ORS 414.025, [reimbursement]** if assets of the transferor's
 13 probate estate are insufficient to pay the amount of the claim or lien.

14 (3) If a transferor is a joint owner and is:

15 (a) Survived by one or more joint owners, the property subject to a transfer on death deed be-
 16 longs to the surviving joint owners with a right of survivorship.

17 (b) The last surviving joint owner, the transfer on death deed is effective.

18 (4) A transfer on death deed transfers property without covenant or warranty of title even if the
 19 deed contains a contrary provision.

20 **SECTION 11.** ORS 97.939, as amended by section 7, chapter 7, Oregon Laws 2012, is amended
 21 to read:

22 97.939. (1) Three copies of a written sales contract shall be executed for each prearrangement
 23 sales contract or preconstruction sales contract sold by a certified provider. The certified provider
 24 shall retain one copy of the contract and a copy of the completed contract shall be given to:

25 (a) The purchaser; and

26 (b) The depository or the master trustee, if applicable.

27 (2) Upon receiving trust funds under ORS 97.941, the master trustee shall sign a copy of the
 28 contract received under subsection (1) of this section, retain a copy for its files and return the
 29 contract to the purchaser.

30 (3) Each completed contract shall:

31 (a) Comply with the plain language standards described in ORS 180.545 (1);

32 (b) Be consecutively numbered;

33 (c) Have a corresponding consecutively numbered receipt;

34 (d) Be preprinted or, if the certified provider uses a master trustee, be obtained from the master
 35 trustee;

36 (e) Identify the purchaser and certified provider who sold the contract;

37 (f) Specify whether the contract is a guaranteed contract or a nonguaranteed contract;

38 (g) Specify the specific funeral or cemetery merchandise or services or undeveloped interment
 39 spaces included and not included in the contract; and

40 (h) If a guaranteed contract, disclose that the certified provider is entitled to receive 10 percent
 41 of the sales price.

42 (4)(a) Notwithstanding ORS 97.943 (8), in the case of a prearrangement sales contract, if at the
 43 time of entering into the contract, the beneficiary of the contract is a recipient of public assistance
 44 **or medical assistance, as defined in ORS 414.025,** or reasonably anticipates becoming a recipient
 45 of public assistance **or medical assistance,** the contract may provide that the contract is irrev-

1 ocable.

2 (b) The contract may provide for an election by the beneficiary, or by the purchaser on behalf
 3 of the beneficiary, to make the contract thereafter irrevocable if after the contract is entered into,
 4 the beneficiary becomes eligible or seeks to become eligible for public assistance **or medical as-**
 5 **sistance.**

6 **SECTION 12.** ORS 108.725 is amended to read:

7 108.725. (1) A premarital agreement is not enforceable if the party against whom enforcement
 8 is sought proves that:

9 (a) That party did not execute the agreement voluntarily; or

10 (b) The agreement was unconscionable when it was executed and, before execution of the
 11 agreement, that party:

12 (A) Was not provided a fair and reasonable disclosure of the property or financial obligations
 13 of the other party;

14 (B) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property
 15 or financial obligations of the other party beyond the disclosure provided; and

16 (C) Did not have, or reasonably could not have had, an adequate knowledge of the property or
 17 financial obligations of the other party.

18 (2) If a provision of a premarital agreement modifies or eliminates spousal support and that
 19 modification or elimination causes one party to the agreement to be eligible for support under a
 20 program of public assistance **or medical assistance** at the time of separation or marital dissolution,
 21 a court, notwithstanding the terms of the agreement, may require the other party to provide support
 22 to the extent necessary to avoid that eligibility.

23 (3) An issue of whether a premarital agreement is unconscionable shall be decided by the court
 24 as a matter of law.

25 **SECTION 13.** ORS 109.811 is amended to read:

26 109.811. (1) The court shall award the prevailing party, including a state, necessary and rea-
 27 sonable expenses incurred by or on behalf of the party, including costs, communication expenses,
 28 attorney fees, investigative fees, expenses for witnesses, travel expenses and child care expenses
 29 during the course of the proceedings, unless the party from whom fees or expenses are sought es-
 30 tablishes that the award would be clearly inappropriate. An award may be inappropriate if the
 31 award would cause the parent or child to seek public assistance **or medical assistance, as defined**
 32 **in ORS 414.025.**

33 (2) The court may not assess fees, costs or expenses against a state unless authorized by law
 34 other than ORS 109.701 to 109.834.

35 **SECTION 14.** ORS 113.085 is amended to read:

36 113.085. (1) Except as provided in subsection (2) of this section, upon the filing of the petition,
 37 if there is no will or there is a will and it has been proved, the court shall appoint a qualified person
 38 it finds suitable as personal representative, giving preference in the following order:

39 (a) The executor named in the will.

40 (b) The surviving spouse of the decedent or the nominee of the surviving spouse of the decedent.

41 (c) The nearest of kin of the decedent or the nominee of the nearest of kin of the decedent.

42 (d) The Director of Human Services or the Director of the Oregon Health Authority, or an at-
 43 torney approved under ORS 113.086, if the decedent received public assistance as defined in ORS
 44 411.010, **received medical assistance as defined in ORS 414.025** or received care at an institution
 45 described in ORS 179.321 (1) or (2) and it appears that the assistance or the cost of care may be

1 recovered from the estate of the decedent.

2 (e) The Department of Veterans' Affairs, if the decedent was a protected person under ORS
3 406.050 (8), and the department has joined in the petition for such appointment.

4 (f) Any other person.

5 (2) Except as provided in subsection (3) of this section, the court shall appoint the Department
6 of State Lands as personal representative if it appears that the decedent died wholly intestate and
7 without known heirs. The Attorney General shall represent the Department of State Lands in the
8 administration of the estate. Any funds received by the Department of State Lands in the capacity
9 of personal representative may be deposited in accounts, separate and distinct from the General
10 Fund, established with the State Treasurer. Interest earned by such account shall be credited to that
11 account.

12 (3) The court may appoint a person other than the Department of State Lands to administer the
13 estate of a decedent who died wholly intestate and without known heirs if the person filing a peti-
14 tion under ORS 113.035 attaches written authorization from an estate administrator of the Depart-
15 ment of State Lands appointed under ORS 113.235 approving the filing of the petition by the person.
16 Except as provided by rule adopted by the Director of the Department of State Lands, an estate
17 administrator may consent to the appointment of another person to act as personal representative
18 only if it appears after investigation that the estate is insolvent.

19 **SECTION 15.** ORS 113.086 is amended to read:

20 113.086. The Director of Human Services, or the director's designated representative, or the
21 Director of the Oregon Health Authority, or the director's designated representative, may approve
22 in writing attorneys who are eligible to be appointed as personal representatives under ORS 113.085
23 if the decedent received public assistance [*pursuant to ORS chapter 411 or 414*] **as defined in ORS**
24 **411.010, received medical assistance as defined in ORS 414.025** or received care at an institution
25 as defined in ORS 179.010, and it appears that the assistance or the cost of care may be recovered
26 from the estate of the decedent. An attorney approved under this section does not represent the
27 Director of Human Services or the Director of the Oregon Health Authority when appointed as a
28 personal representative.

29 **SECTION 16.** ORS 114.305 is amended to read:

30 114.305. Subject to the provisions of ORS 97.130 (2) and (10) and except as restricted or other-
31 wise provided by the will of the decedent, a document of anatomical gift under ORS 97.965 or by
32 court order, a personal representative, acting reasonably for the benefit of interested persons, is
33 authorized to:

34 (1) Direct and authorize disposition of the remains of the decedent pursuant to ORS 97.130 and
35 incur expenses for the funeral, burial or other disposition of the remains in a manner suitable to the
36 condition in life of the decedent. Only those funeral expenses necessary for a plain and decent fu-
37 neral and disposition of the remains of the decedent may be paid from the estate if the assets are
38 insufficient to pay the claims of the Department of Human Services and the Oregon Health Au-
39 thority for the net amount of public assistance, as defined in ORS 411.010, **or medical assistance,**
40 **as defined in ORS 414.025,** paid to or for the decedent and for care and maintenance of any
41 decedent who was at a state institution to the extent provided in ORS 179.610 to 179.770.

42 (2) Retain assets owned by the decedent pending distribution or liquidation.

43 (3) Receive assets from fiduciaries or other sources.

44 (4) Complete, compromise or refuse performance of contracts of the decedent that continue as
45 obligations of the estate, as the personal representative may determine under the circumstances. In

1 performing enforceable contracts by the decedent to convey or lease real property, the personal
 2 representative, among other courses of action, may:

3 (a) Execute and deliver a deed upon satisfaction of any sum remaining unpaid or upon receipt
 4 of the note of the purchaser adequately secured; or

5 (b) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with
 6 the escrow agreement, be paid to the successors of the decedent, as designated in the escrow
 7 agreement.

8 (5) Satisfy written pledges of the decedent for contributions, whether or not the pledges consti-
 9 tuted binding obligations of the decedent or were properly presented as claims.

10 (6) Deposit funds not needed to meet currently payable debts and expenses, and not immediately
 11 distributable, in bank or savings and loan association accounts, or invest the funds in bank or
 12 savings and loan association certificates of deposit, or federally regulated money-market funds and
 13 short-term investment funds suitable for investment by trustees under ORS 130.750 to 130.775, or
 14 short-term United States Government obligations.

15 (7) Abandon burdensome property when it is valueless, or is so encumbered or is in a condition
 16 that it is of no benefit to the estate.

17 (8) Vote stocks or other securities in person or by general or limited proxy.

18 (9) Pay calls, assessments and other sums chargeable or accruing against or on account of se-
 19 curities.

20 (10) Sell or exercise stock subscription or conversion rights.

21 (11) Consent, directly or through a committee or other agent, to the reorganization, consol-
 22 idation, merger, dissolution or liquidation of a corporation or other business enterprise.

23 (12) Hold a security in the name of a nominee or in other form without disclosure of the interest
 24 of the estate, but the personal representative is liable for any act of the nominee in connection with
 25 the security so held.

26 (13) Insure the assets of the estate against damage and loss, and insure the personal represen-
 27 tative against liability to third persons.

28 (14) Advance or borrow money with or without security.

29 (15) Compromise, extend, renew or otherwise modify an obligation owing to the estate. A per-
 30 sonal representative who holds a mortgage, pledge, lien or other security interest may accept a
 31 conveyance or transfer of the encumbered asset in lieu of foreclosure in full or partial satisfaction
 32 of the indebtedness.

33 (16) Accept other real property in part payment of the purchase price of real property sold by
 34 the personal representative.

35 (17) Pay taxes, assessments and expenses incident to the administration of the estate.

36 (18) Employ qualified persons, including attorneys, accountants and investment advisers, to ad-
 37 vise and assist the personal representative and to perform acts of administration, whether or not
 38 discretionary, on behalf of the personal representative.

39 (19) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of
 40 the estate and of the personal representative in the performance of duties as personal represen-
 41 tative.

42 (20) Prosecute claims of the decedent including those for personal injury or wrongful death.

43 (21) Continue any business or venture in which the decedent was engaged at the time of death
 44 to preserve the value of the business or venture.

45 (22) Incorporate or otherwise change the business form of any business or venture in which the

1 decedent was engaged at the time of death.

2 (23) Discontinue and wind up any business or venture in which the decedent was engaged at the
3 time of death.

4 (24) Provide for exoneration of the personal representative from personal liability in any con-
5 tract entered into on behalf of the estate.

6 (25) Satisfy and settle claims and distribute the estate as provided in ORS chapters 111, 112, 113,
7 114, 115, 116 and 117.

8 (26) Perform all other acts required or permitted by law or by the will of the decedent.

9 **SECTION 17.** ORS 114.515 is amended to read:

10 114.515. (1) If the estate of a decedent meets the requirements of subsection (2) of this section,
11 any of the following persons may file an affidavit with the clerk of the probate court in any county
12 where there is venue for a proceeding seeking the appointment of a personal representative for the
13 estate:

14 (a) One or more of the claiming successors of the decedent.

15 (b) If the decedent died testate, any person named as personal representative in the decedent's
16 will.

17 (c) The Director of Human Services, the Director of the Oregon Health Authority or an attorney
18 approved under ORS 114.517, if the decedent received public assistance [*pursuant to ORS chapter*
19 *411 or 414*] **as defined in ORS 411.010, received medical assistance as defined in ORS 414.025**
20 or received care at an institution as defined in ORS 179.010, and it appears that the assistance or
21 the cost of care may be recovered from the estate of the decedent.

22 (2) An affidavit under this section may be filed only if:

23 (a) The fair market value of the estate is \$275,000 or less;

24 (b) Not more than \$75,000 of the fair market value of the estate is attributable to personal
25 property; and

26 (c) Not more than \$200,000 of the fair market value of the estate is attributable to real property.

27 (3) An affidavit under this section may not be filed until 30 days after the death of the decedent.

28 (4) An affidavit filed under the provisions of this section must contain the information required
29 in ORS 114.525 and shall be made a part of the probate records. If the affiant is an attorney ap-
30 proved by the Director of Human Services or the Director of the Oregon Health Authority, a copy
31 of the document approving the attorney must be attached to the affidavit.

32 (5) In determining fair market value under this section, the fair market value of the entire in-
33 terest in the property included in the estate shall be used without reduction for liens or other debts.

34 (6) The clerk of the probate court shall charge and collect the fee established under ORS 21.145
35 for the filing of any affidavit under this section.

36 (7) Any error or omission in an affidavit filed under this section may be corrected by filing an
37 amended affidavit within four months after the filing of the affidavit.

38 (8) One or more supplemental affidavits may be filed at any time after the filing of an affidavit
39 under this section for the purpose of including property not described in the original affidavit.
40 Copies of all previously filed affidavits must be attached to the supplemental affidavit and all infor-
41 mation required in ORS 114.525 must be reflected in the supplemental affidavit. A supplemental af-
42 fidavit may not be filed if by reason of the additional property described in the supplemental
43 affidavit any limitation imposed by subsection (2) of this section is exceeded.

44 **SECTION 18.** ORS 114.517 is amended to read:

45 114.517. The Director of Human Services, or the director's designated representative, or the

1 Director of the Oregon Health Authority, or the director's designated representative, may approve
 2 in writing attorneys who are eligible to file an affidavit under ORS 114.515 if the decedent received
 3 public assistance [pursuant to ORS chapter 411 or 414] **as defined in ORS 411.010, received med-**
 4 **ical assistance as defined in ORS 414.025** or received care at an institution as defined in ORS
 5 179.010, and it appears that the assistance or the cost of care may be recovered from the estate of
 6 the decedent. An attorney approved under this section does not represent the Director of Human
 7 Services or the Director of the Oregon Health Authority when the attorney files an affidavit under
 8 ORS 114.515.

9 **SECTION 19.** ORS 115.125 is amended to read:

10 115.125. (1) If the applicable assets of the estate are insufficient to pay all expenses and claims
 11 in full, the personal representative shall make payment in the following order:

12 (a) Support of spouse and children, subject to the limitations imposed by ORS 114.065.

13 (b) Expenses of administration.

14 (c) Expenses of a plain and decent funeral and disposition of the remains of the decedent.

15 (d) Debts and taxes with preference under federal law.

16 (e) Reasonable and necessary medical and hospital expenses of the last illness of the decedent,
 17 including compensation of persons attending the decedent.

18 (f) Taxes with preference under the laws of this state that are due and payable while possession
 19 of the estate of the decedent is retained by the personal representative.

20 (g) Debts owed employees of the decedent for labor performed within 90 days immediately pre-
 21 ceding the date of death of the decedent.

22 (h) Child support arrearages.

23 (i) The claim of the Department of Human Services or the Oregon Health Authority for the
 24 amount of the state's monthly contribution to the federal government to defray the costs of outpa-
 25 tient prescription drug coverage provided to a person who is eligible for Medicare Part D pre-
 26 scription drug coverage and who receives benefits under the state medical assistance program or
 27 Title XIX of the Social Security Act.

28 (j) The claim of the Department of Human Services or the Oregon Health Authority for the net
 29 amount of assistance paid to or for the decedent, in the following order:

30 (A) Public assistance, as defined in ORS 411.010, **and medical assistance, as defined in ORS**
 31 **414.025**, funded entirely by moneys from the General Fund; and

32 (B) Public assistance, as defined in ORS 411.010, **and medical assistance, as defined in ORS**
 33 **414.025, that may be recovered from an estate under ORS 416.350**, funded by a combination of
 34 state and federal funds.

35 (k) The claim of the Department of Human Services or the Oregon Health Authority for the care
 36 and maintenance of the decedent at a state institution, as provided in ORS 179.610 to 179.770.

37 (L) The claim of the Department of Corrections for care and maintenance of any decedent who
 38 was at a state institution to the extent provided in ORS 179.610 to 179.770.

39 (m) All other claims against the estate.

40 (2) If the applicable assets of the estate are insufficient to pay in full all expenses or claims of
 41 any one class specified in subsection (1) of this section, each expense or claim of that class shall
 42 be paid only in proportion to the amount thereof.

43 **SECTION 20.** ORS 115.195 is amended to read:

44 115.195. (1) A claim that has been disallowed by the personal representative may not be allowed
 45 by any court except upon some competent, satisfactory evidence other than the testimony of the

1 claimant.

2 (2) Notwithstanding subsection (1) of this section, claims for recovery of public assistance as
 3 defined by ORS 411.010 **or medical assistance as defined in ORS 414.025** may be allowed based
 4 on evidence in the form of documents from the Department of Human Services or the Oregon Health
 5 Authority that contain information relating to that public assistance **or medical assistance**, such
 6 as the date that services were provided to the decedent, the classification of those services, the
 7 name of the provider or the provider's identification number, and the amount of the public assistance
 8 **or medical assistance** payment made for the services. The documents may be prints obtained from
 9 microfilm or microfiche, or printouts from computer records or other electronic storage medium.
 10 Notwithstanding ORS 40.460 and 40.510, a document described in this subsection is prima facie evi-
 11 dence of the information contained in the document and is not excluded from introduction as
 12 hearsay, and extrinsic evidence of authenticity of the document as a condition precedent to
 13 admissibility is not required, if the document bears a seal that on its face is the seal of the Director
 14 of Human Services or the designee of the director, or the Director of the Oregon Health Authority
 15 or the designee of the director, and:

16 (a) For a print obtained from microfilm or microfiche, also bears a statement indicating that the
 17 print is a true copy of the microfilm or microfiche record, signed by a person who purports to be
 18 an officer or employee of the department or the authority; or

19 (b) For a printout from computer records or other electronic storage medium, also bears a
 20 statement indicating that the printout accurately reflects the data retrieved, signed by a person who
 21 purports to be an officer or employee of the department or the authority.

22 **SECTION 21.** ORS 125.170 is amended to read:

23 125.170. (1) Not more than once each calendar year, the court may charge a respondent or
 24 protected person for any visitor services provided during the year. The court may order reimburse-
 25 ment to the state from the assets of the respondent or protected person for the cost of any interview
 26 or report unless the court finds that the assessment would impose a hardship on the respondent or
 27 protected person. If the respondent or protected person is receiving public assistance **or medical**
 28 **assistance, as defined in ORS 414.025**, there is a rebuttable presumption that charging a re-
 29 spondent or protected person for the services of a visitor would impose a hardship.

30 (2) The presiding judge by court order shall establish fees for visitors conducting interviews and
 31 preparing reports.

32 (3) All amounts collected under this section in reimbursement for visitor services shall be for-
 33 warded to the State Court Administrator and are continuously appropriated to the State Court Ad-
 34 ministrator. Funds appropriated to the State Court Administrator under this section may be used
 35 by the State Court Administrator for the purpose of funding visitor services provided under ORS
 36 125.150 and 125.155.

37 **SECTION 22.** ORS 130.425 is amended to read:

38 130.425. (1) Claims allowed against the trust estate under ORS 130.350 to 130.450 must be paid
 39 by the trustee in the following order of priority:

- 40 (a) Expenses of administering the trust estate.
- 41 (b) Expenses of a plain and decent funeral and disposition of the remains of the settlor.
- 42 (c) Debts and taxes with preference under federal law.
- 43 (d) Reasonable and necessary medical and hospital expenses of the last illness of the settlor,
 44 including compensation of persons attending the settlor.
- 45 (e) Taxes with preference under the laws of this state that are due and payable while possession

1 of the trust estate of the settlor is retained by the trustee.

2 (f) Debts owed employees of the settlor for labor performed within 90 days immediately preced-
3 ing the date of death of the settlor.

4 (g) Child support arrearages.

5 (h) Claims of the Department of Human Services and the Oregon Health Authority for the net
6 amount of public assistance, as defined in ORS 411.010, **and for the net amount of medical as-**
7 **sistance that may be recovered from an estate under ORS 416.350.**

8 (i) Claims of the Department of Human Services and the Oregon Health Authority for the care
9 and maintenance of any settlor who was a patient at a state institution under ORS 179.610 to
10 179.770.

11 (j) All other claims against the trust estate.

12 (2) If the assets of the trust estate are insufficient to pay in full all expenses or claims of any
13 one class specified in subsection (1) of this section, each expense or claim of that class shall be paid
14 only in proportion to the amount thereof.

15 **SECTION 23.** ORS 166.715 is amended to read:

16 166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

17 (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart,
18 photograph, phonograph record, magnetic tape, computer printout, other data compilation from
19 which information can be obtained or from which information can be translated into usable form,
20 or other tangible item.

21 (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business
22 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-
23 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-
24 ernmental and nongovernmental entities.

25 (3) "Investigative agency" means the Department of Justice or any district attorney.

26 (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering
27 activity that have the same or similar intents, results, accomplices, victims or methods of commis-
28 sion or otherwise are interrelated by distinguishing characteristics, including a nexus to the same
29 enterprise, and are not isolated incidents, provided at least one of such incidents occurred after
30 November 1, 1981, and that the last of such incidents occurred within five years after a prior inci-
31 dent of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other
32 provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct
33 that constitutes an incident of racketeering activity may be used to establish a pattern of
34 racketeering activity without regard to whether the conduct previously has been the subject of a
35 criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted
36 in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within
37 the jurisdiction of the juvenile court.

38 (5) "Person" means any individual or entity capable of holding a legal or beneficial interest in
39 real or personal property.

40 (6) "Racketeering activity" includes conduct of a person committed both before and after the
41 person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to
42 commit, or to solicit, coerce or intimidate another person to commit:

43 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following
44 provisions of the Oregon Revised Statutes:

45 (A) ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995, relating to securities;

- 1 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;
 2 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing
 3 governmental administration;
 4 (D) ORS 162.405 to 162.425, relating to abuse of public office;
 5 (E) ORS 162.455, relating to interference with legislative operation;
 6 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;
 7 (G) ORS 163.160 to 163.205, relating to assault and related offenses;
 8 (H) ORS 163.225 and 163.235, relating to kidnapping;
 9 (I) ORS 163.275, relating to coercion;
 10 (J) ORS 163.665 to 163.693, relating to sexual conduct of children;
 11 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135,
 12 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and
 13 related offenses;
 14 (L) ORS 164.315 to 164.335, relating to arson and related offenses;
 15 (M) ORS 164.345 to 164.365, relating to criminal mischief;
 16 (N) ORS 164.395 to 164.415, relating to robbery;
 17 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a
 18 recording;
 19 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and
 20 related offenses;
 21 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;
 22 (R) ORS 165.540 and 165.555, relating to communication crimes;
 23 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating
 24 to firearms and other weapons;
 25 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.057,
 26 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365,
 27 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual conduct, gambling,
 28 computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting
 29 bird and related offenses;
 30 (U) ORS 171.990, relating to legislative witnesses;
 31 (V) ORS 260.575 and 260.665, relating to election offenses;
 32 (W) ORS 314.075, relating to income tax;
 33 (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco
 34 products taxes and the directories developed under ORS 180.425 and 180.477;
 35 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments **or medical**
 36 **assistance benefits**, and ORS 411.990 (2) and (3);
 37 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;
 38 (AA) ORS 463.995, relating to boxing, mixed martial arts and entertainment wrestling, as defined
 39 in ORS 463.015;
 40 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,
 41 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS
 42 chapter 471 relating to licenses issued under the Liquor Control Act;
 43 (CC) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled substances;
 44 (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;
 45 (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

- 1 (FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;
- 2 (GG) ORS chapter 706, relating to banking law administration;
- 3 (HH) ORS chapter 714, relating to branch banking;
- 4 (II) ORS chapter 716, relating to mutual savings banks;
- 5 (JJ) ORS chapter 723, relating to credit unions;
- 6 (KK) ORS chapter 726, relating to pawnbrokers;
- 7 (LL) ORS 166.382 and 166.384, relating to destructive devices;
- 8 (MM) ORS 165.074;
- 9 (NN) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;
- 10 (OO) ORS chapter 496, 497 or 498, relating to wildlife;
- 11 (PP) ORS 163.355 to 163.427, relating to sexual offenses;
- 12 (QQ) ORS 166.015, relating to riot;
- 13 (RR) ORS 166.155 and 166.165, relating to intimidation;
- 14 (SS) ORS chapter 696, relating to real estate and escrow;
- 15 (TT) ORS chapter 704, relating to outfitters and guides;
- 16 (UU) ORS 165.692, relating to making a false claim for health care payment;
- 17 (VV) ORS 162.117, relating to public investment fraud;
- 18 (WW) ORS 164.170 or 164.172;
- 19 (XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;
- 20 (YY) ORS 164.886;
- 21 (ZZ) ORS 167.312 and 167.388;
- 22 (AAA) ORS 164.889;
- 23 (BBB) ORS 165.800; or
- 24 (CCC) ORS 163.263, 163.264 or 163.266.

25 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

26 (7) “Unlawful debt” means any money or other thing of value constituting principal or interest
27 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred
28 or contracted:

29 (a) In violation of any one of the following:

30 (A) ORS chapter 462, relating to racing;

31 (B) ORS 167.108 to 167.164, relating to gambling; or

32 (C) ORS 82.010 to 82.170, relating to interest and usury.

33 (b) In gambling activity in violation of federal law or in the business of lending money at a rate
34 usurious under federal or state law.

35 (8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute
36 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions
37 from what the statute was when this section was enacted, the reference shall extend to and include
38 amendments to the statute.

39 **SECTION 24.** ORS 179.505 is amended to read:

40 179.505. (1) As used in this section:

41 (a) “Disclosure” means the release of, transfer of, provision of access to or divulgence in any
42 other manner of information outside the health care services provider holding the information.

43 (b) “Health care services provider” means:

44 (A) Medical personnel or other staff employed by or under contract with a public provider to
45 provide health care or maintain written accounts of health care provided to individuals; or

1 (B) Units, programs or services designated, operated or maintained by a public provider to pro-
 2 vide health care or maintain written accounts of health care provided to individuals.

3 (c) “Individually identifiable health information” means any health information that is:

4 (A) Created or received by a health care services provider; and

5 (B) Identifiable to an individual, including demographic information that identifies the individual,
 6 or for which there is a reasonable basis to believe the information can be used to identify an indi-
 7 vidual, and that relates to:

8 (i) The past, present or future physical or mental health or condition of an individual;

9 (ii) The provision of health care to an individual; or

10 (iii) The past, present or future payment for the provision of health care to an individual.

11 (d) “Personal representative” includes but is not limited to:

12 (A) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
 13 authority to make medical and health care decisions;

14 (B) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
 15 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
 16 decisions; and

17 (C) A person appointed as a personal representative under ORS chapter 113.

18 (e) “Psychotherapy notes” means notes recorded in any medium:

19 (A) By a mental health professional, in the performance of the official duties of the mental
 20 health professional;

21 (B) Documenting or analyzing the contents of conversation during a counseling session; and

22 (C) That are maintained separately from the rest of the individual’s record.

23 (f) “Psychotherapy notes” does not mean notes documenting:

24 (A) Medication prescription and monitoring;

25 (B) Counseling session start and stop times;

26 (C) Modalities and frequencies of treatment furnished;

27 (D) Results of clinical tests; or

28 (E) Any summary of the following items:

29 (i) Diagnosis;

30 (ii) Functional status;

31 (iii) Treatment plan;

32 (iv) Symptoms;

33 (v) Prognosis; or

34 (vi) Progress to date.

35 (g) “Public provider” means:

36 (A) The Blue Mountain Recovery Center, the Eastern Oregon Training Center and the Oregon
 37 State Hospital campuses;

38 (B) Department of Corrections institutions as defined in ORS 421.005;

39 (C) A contractor of the Department of Corrections, the Department of Human Services or the
 40 Oregon Health Authority that provides health care to individuals residing in a state institution op-
 41 erated by the agencies;

42 (D) A community mental health program or community developmental disabilities program as
 43 described in ORS 430.610 to 430.695 and the public and private entities with which it contracts to
 44 provide mental health or developmental disabilities programs or services;

45 (E) A program or service provided under ORS 431.250, 431.375 to 431.385 or 431.416;

1 (F) A program or service established or maintained under ORS 430.630 or 430.664;

2 (G) A program or facility providing an organized full-day or part-day program of treatment that
 3 is licensed, approved, established, maintained or operated by or contracted with the Oregon Health
 4 Authority for alcoholism, drug addiction or mental or emotional disturbance;

5 (H) A program or service providing treatment by appointment that is licensed, approved, estab-
 6 lished, maintained or operated by or contracted with the authority for alcoholism, drug addiction
 7 or mental or emotional disturbance; or

8 (I) The impaired health professional program established under ORS 676.190.

9 (h) "Written account" means records containing only individually identifiable health information.

10 (2) Except as provided in subsections (3), (4), (6), (7), (8), (9), (11), (12), (14), (15), (16) and (17) of
 11 this section or unless otherwise permitted or required by state or federal law or by order of the
 12 court, written accounts of the individuals served by any health care services provider maintained
 13 in or by the health care services provider by the officers or employees thereof who are authorized
 14 to maintain written accounts within the official scope of their duties are not subject to access and
 15 may not be disclosed. This subsection applies to written accounts maintained in or by facilities of
 16 the Department of Corrections only to the extent that the written accounts concern the medical,
 17 dental or psychiatric treatment as patients of those under the jurisdiction of the Department of
 18 Corrections.

19 (3) If the individual or a personal representative of the individual provides an authorization, the
 20 content of any written account referred to in subsection (2) of this section must be disclosed ac-
 21 cordingly, if the authorization is in writing and is signed and dated by the individual or the personal
 22 representative of the individual and sets forth with specificity the following:

23 (a) Name of the health care services provider authorized to make the disclosure, except when
 24 the authorization is provided by recipients of or applicants for public assistance **or medical as-**
 25 **sistance, as defined in ORS 414.025**, to a governmental entity for purposes of determining eligi-
 26 bility for benefits or investigating for fraud;

27 (b) Name or title of the persons or organizations to which the information is to be disclosed or
 28 that information may be disclosed to the public;

29 (c) Name of the individual;

30 (d) Extent or nature of the information to be disclosed; and

31 (e) Statement that the authorization is subject to revocation at any time except to the extent
 32 that action has been taken in reliance thereon, and a specification of the date, event or condition
 33 upon which it expires without express revocation. However, a revocation of an authorization is not
 34 valid with respect to inspection or records necessary to validate expenditures by or on behalf of
 35 governmental entities.

36 (4) The content of any written account referred to in subsection (2) of this section may be dis-
 37 closed without an authorization:

38 (a) To any person to the extent necessary to meet a medical emergency.

39 (b) At the discretion of the responsible officer of the health care services provider, which in the
 40 case of any Oregon Health Authority facility or community mental health program is the Director
 41 of the Oregon Health Authority, to persons engaged in scientific research, program evaluation, peer
 42 review and fiscal audits. However, individual identities may not be disclosed to such persons, except
 43 when the disclosure is essential to the research, evaluation, review or audit and is consistent with
 44 state and federal law.

45 (c) To governmental agencies when necessary to secure compensation for services rendered in

1 the treatment of the individual.

2 (5) When an individual's identity is disclosed under subsection (4) of this section, a health care
3 services provider shall prepare, and include in the permanent records of the health care services
4 provider, a written statement indicating the reasons for the disclosure, the written accounts dis-
5 closed and the recipients of the disclosure.

6 (6) The content of any written account referred to in subsection (2) of this section and held by
7 a health care services provider currently engaged in the treatment of an individual may be disclosed
8 to officers or employees of that provider, its agents or cooperating health care services providers
9 who are currently acting within the official scope of their duties to evaluate treatment programs,
10 to diagnose or treat or to assist in diagnosing or treating an individual when the written account
11 is to be used in the course of diagnosing or treating the individual. Nothing in this subsection
12 prevents the transfer of written accounts referred to in subsection (2) of this section among health
13 care services providers, the Department of Human Services, the Department of Corrections, the
14 Oregon Health Authority or a local correctional facility when the transfer is necessary or beneficial
15 to the treatment of an individual.

16 (7) When an action, suit, claim, arbitration or proceeding is brought under ORS 34.105 to 34.240
17 or 34.310 to 34.730 and involves a claim of constitutionally inadequate medical care, diagnosis or
18 treatment, or is brought under ORS 30.260 to 30.300 and involves the Department of Corrections or
19 an institution operated by the department, nothing in this section prohibits the disclosure of any
20 written account referred to in subsection (2) of this section to the Department of Justice, Oregon
21 Department of Administrative Services, or their agents, upon request, or the subsequent disclosure
22 to a court, administrative hearings officer, arbitrator or other administrative decision maker.

23 (8)(a) When an action, suit, claim, arbitration or proceeding involves the Department of Human
24 Services, the Oregon Health Authority or an institution operated by the department or authority,
25 nothing in this section prohibits the disclosure of any written account referred to in subsection (2)
26 of this section to the Department of Justice, Oregon Department of Administrative Services, or their
27 agents.

28 (b) Disclosure of information in an action, suit, claim, nonlabor arbitration or proceeding is
29 limited by the relevancy restrictions of ORS 40.010 to 40.585, 183.710 to 183.725, 183.745 and 183.750
30 and ORS chapter 183. Only written accounts of a plaintiff, claimant or petitioner shall be disclosed
31 under this paragraph.

32 (c) Disclosure of information as part of a labor arbitration or proceeding to support a personnel
33 action taken against staff is limited to written accounts directly relating to alleged action or in-
34 action by staff for which the personnel action was imposed.

35 (9)(a) The copy of any written account referred to in subsection (2) of this section, upon written
36 request of the individual or a personal representative of the individual, shall be disclosed to the
37 individual or the personal representative of the individual within a reasonable time not to exceed
38 five working days. The individual or the personal representative of the individual shall have the
39 right to timely access to any written accounts.

40 (b) If the disclosure of psychiatric or psychological information contained in the written account
41 would constitute an immediate and grave detriment to the treatment of the individual, disclosure
42 may be denied, if medically contraindicated by the treating physician or a licensed health care
43 professional in the written account of the individual.

44 (c) The Department of Corrections may withhold psychiatric or psychological information if:

45 (A) The information relates to an individual other than the individual seeking it.

1 (B) Disclosure of the information would constitute a danger to another individual.

2 (C) Disclosure of the information would compromise the privacy of a confidential source.

3 (d) However, a written statement of the denial under paragraph (c) of this subsection and the
4 reasons therefor must be entered in the written account.

5 (10) A health care services provider may require a person requesting disclosure of the contents
6 of a written account under this section to reimburse the provider for the reasonable costs incurred
7 in searching files, abstracting if requested and copying if requested. However, an individual or a
8 personal representative of the individual may not be denied access to written accounts concerning
9 the individual because of inability to pay.

10 (11) A written account referred to in subsection (2) of this section may not be used to initiate
11 or substantiate any criminal, civil, administrative, legislative or other proceedings conducted by
12 federal, state or local authorities against the individual or to conduct any investigations of the in-
13 dividual. If the individual, as a party to an action, suit or other judicial proceeding, voluntarily
14 produces evidence regarding an issue to which a written account referred to in subsection (2) of this
15 section would be relevant, the contents of that written account may be disclosed for use in the
16 proceeding.

17 (12) Information obtained in the course of diagnosis, evaluation or treatment of an individual
18 that, in the professional judgment of the health care services provider, indicates a clear and imme-
19 diate danger to others or to society may be reported to the appropriate authority. A decision not
20 to disclose information under this subsection does not subject the provider to any civil liability.
21 Nothing in this subsection may be construed to alter the provisions of ORS 146.750, 146.760,
22 419B.010, 419B.015, 419B.020, 419B.025, 419B.030, 419B.035, 419B.040 and 419B.045.

23 (13) The prohibitions of this section apply to written accounts concerning any individual who
24 has been treated by any health care services provider irrespective of whether or when the individual
25 ceases to receive treatment.

26 (14) Persons other than the individual or the personal representative of the individual who are
27 granted access under this section to the contents of a written account referred to in subsection (2)
28 of this section may not disclose the contents of the written account to any other person except in
29 accordance with the provisions of this section.

30 (15) Nothing in this section prevents the Department of Human Services or the Oregon Health
31 Authority from disclosing the contents of written accounts in its possession to individuals or agen-
32 cies with whom children in its custody are placed.

33 (16) The system described in ORS 192.517 (1) shall have access to records, as defined in ORS
34 192.515, as provided in ORS 192.517.

35 (17)(a) Except as provided in paragraph (b) of this subsection, a health care services provider
36 must obtain an authorization from an individual or a personal representative of the individual to
37 disclose psychotherapy notes.

38 (b) A health care services provider may use or disclose psychotherapy notes without obtaining
39 an authorization from the individual or a personal representative of the individual to carry out the
40 following treatment, payment and health care operations:

41 (A) Use by the originator of the psychotherapy notes for treatment;

42 (B) Disclosure by the health care services provider for its own training program in which stu-
43 dents, trainees or practitioners in mental health learn under supervision to practice or improve their
44 skills in group, joint, family or individual counseling; or

45 (C) Disclosure by the health care services provider to defend itself in a legal action or other

1 proceeding brought by the individual or a personal representative of the individual.

2 (c) An authorization for the disclosure of psychotherapy notes may not be combined with an
3 authorization for a disclosure of any other individually identifiable health information, but may be
4 combined with another authorization for a disclosure of psychotherapy notes.

5 **SECTION 25.** ORS 183.458 is amended to read:

6 183.458. (1) Notwithstanding any other provision of law, in any contested case hearing before a
7 state agency involving child support, public assistance as defined in ORS 411.010, **medical assist-**
8 **ance as defined in ORS 414.025** or the right to be free from potentially unusual or hazardous
9 treatment procedures under ORS 426.385 (3), a party may be represented by any of the following
10 persons:

11 (a) An authorized representative who is an employee of a nonprofit legal services program that
12 receives funding pursuant to ORS 9.572. The authorized representative must be supervised by an
13 attorney also employed by a legal services program.

14 (b) An authorized representative who is an employee of the system described in ORS 192.517 (1).
15 The authorized representative must be supervised by an attorney also employed by the system.

16 (2) In any contested case hearing before a state agency involving child support, a party may be
17 represented by a law student who is:

18 (a) Handling the child support matter as part of a law school clinical program in which the
19 student is enrolled; and

20 (b) Supervised by an attorney employed by the program.

21 (3) A person authorized to represent a party under this section may present evidence in the
22 proceeding, examine and cross-examine witnesses and present factual and legal arguments in the
23 proceeding.

24 **SECTION 26.** ORS 192.588 is amended to read:

25 192.588. (1) Upon the request of the Department of Human Services **or the Oregon Health**
26 **Authority** and the receipt of the certification required under subsection (2) of this section, a fi-
27 nancial institution shall advise whether a person has one or more accounts with the financial in-
28 stitution, and if so, the balance on deposit in each such account on the date this information is
29 provided.

30 (2) In requesting information under subsection (1) of this section, the department **or authority**
31 shall specify the name and Social Security number of the person upon whom the account information
32 is sought, and shall certify to the financial institution in writing, signed by an agent of the depart-
33 ment **or authority**:

34 (a) That the person upon whom account information is sought is an applicant for or recipient
35 of public assistance, as [described] **defined** in ORS 411.010, [to 411.116] **or medical assistance, as**
36 **defined in ORS 414.025**; and

37 (b) That the department **or authority** has authorization from the person for release of the ac-
38 count information.

39 (3) Any financial institution supplying account information under ORS 192.583 to 192.588 and
40 411.632 shall be reimbursed for actual costs incurred.

41 (4) No financial institution that supplies account information to the department **or authority**
42 pursuant to this section shall be liable to any person for any loss, damage or injury arising out of
43 or in any way pertaining to the disclosure of account information under this section.

44 (5) Each financial institution that is requested to supply account information under this section
45 may specify to the department **or authority** that requests for account information and responses

1 from the financial institution shall be submitted in written, tape or electronic format. A reasonable
2 time shall be provided the financial institution for response.

3 (6) The department **or authority** shall seek account information under this section only with
4 respect to persons who are applicants for or recipients of public assistance, as [described] **defined**
5 in ORS 411.010, [to 411.116] **or medical assistance, as defined in ORS 414.025.**

6 **SECTION 27.** ORS 293.231 is amended to read:

7 293.231. (1) Except as provided in subsections (4) to (9) of this section, a state agency, unless
8 otherwise prohibited by law, shall offer for assignment every liquidated and delinquent account to
9 a private collection agency or to the Department of Revenue as provided in ORS 293.250 not later
10 than:

11 (a) Ninety days from the date the account was liquidated if no payment has been received on
12 the account within the 90-day period; or

13 (b) Ninety days from the date of receipt of the most recent payment on the account.

14 (2) Nothing in subsection (1) of this section prohibits a state agency from offering for assignment
15 a liquidated and delinquent account to a private collection agency at any time within the 90-day
16 period.

17 (3) If, after a reasonable time, the private collection agency is unable to collect the account, the
18 private collection agency shall notify the state agency that assigned the account that it has been
19 unable to collect the account and shall relinquish the account to the state agency. A private col-
20 lection agency that collects an account under this section shall be held to the same standard of
21 confidentiality, service and courtesy imposed on the state agency that assigned the account.

22 (4) If a state agency assigns a liquidated and delinquent account to the Department of Revenue
23 as provided in ORS 293.250, the department shall have six months from the date of assignment to
24 collect a payment. If the department does not collect a payment within that six-month period or if
25 six months have elapsed since the date of receipt of the most recent payment on the account, the
26 department shall notify the state agency. The state agency shall then immediately offer for assign-
27 ment the debt to a private collection agency.

28 (5) The provisions of subsection (1) of this section do not apply to a liquidated and delinquent
29 account that is prohibited by state or federal law or regulation from assignment or collection.

30 (6) The Oregon Department of Administrative Services may adopt rules exempting specified
31 kinds of liquidated and delinquent accounts from the time periods established in subsections (1), (2)
32 and (4) of this section.

33 (7) The Oregon Department of Administrative Services shall adopt rules exempting liquidated
34 and delinquent accounts that originate in the Department of Revenue or the Employment Depart-
35 ment from the time periods established in subsections (1), (2) and (4) of this section.

36 (8) A liquidated and delinquent account that is subject to assignment under this section shall
37 be assigned to a private collection agency if more than one year has elapsed without a payment on
38 the account.

39 (9) Notwithstanding subsection (1) of this section, a state agency may, at its discretion, choose
40 not to offer for assignment to a private collection agency a liquidated and delinquent account that:

41 (a) Is secured by a consensual security interest in real or personal property;

42 (b) Is a court-ordered judgment that includes restitution or a payment to the Department of
43 Justice Crime Victims' Assistance Section;

44 (c) Is in litigation, including bankruptcy, arbitration and mediation;

45 (d) Is a student loan owed by a student who is attending school;

1 (e) Is owed to a state agency by a local or state government or by the federal government;

2 (f) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135, [or who
3 is on] **who receives** public assistance as defined in ORS 411.010 **or who receives medical assist-**
4 **ance as defined in ORS 414.025;**

5 (g) Is owed by a debtor who is imprisoned;

6 (h) Is less than \$100, including penalties; or

7 (i) Would result in loss of federal funding if assigned.

8 (10) Nothing in this section prohibits a state agency from collecting a tax offset after a liqui-
9 dated and delinquent account is assigned to a private collection agency.

10 (11) For the purposes of this section, a state agency shall be deemed to have offered for as-
11 signment an account if:

12 (a) The terms of the offer are of a type generally acceptable within the collections industry for
13 the type of account offered for assignment; and

14 (b) The offer is made to a private collection agency that engages in collecting on accounts of
15 the type sought to be assigned or is made generally available to private collection agencies through
16 a bid or request for proposal process.

17 (12) A state agency that retains a private collection agency under this section may add a fee
18 to the amount of the liquidated and delinquent account as provided in ORS 697.105. A fee may not
19 be added under this subsection unless the state agency has provided notice to the debtor:

20 (a) Of the existence of the debt;

21 (b) That the debt may be assigned to a private collection agency for collection; and

22 (c) Of the amount of the fee that may be added to the debt under this subsection.

23 (13) Except as provided by federal law, the state agency may not add a fee under subsection (12)
24 of this section that exceeds the collection fee of the private collection agency.

25 **SECTION 28.** ORS 314.860 is amended to read:

26 314.860. (1) The Department of Revenue may disclose certain information relative to applicants
27 for elderly rental assistance to the [*Director of Human Services or to employees of the*] Department
28 of Human Services **or the Oregon Health Authority**. The information disclosed by the Department
29 of Revenue shall be confined to the names, addresses and Social Security numbers of applicants
30 under ORS 310.630 to 310.706 for the current and preceding calendar year. The information re-
31 quested shall be confined to those names, addresses and Social Security numbers which will assist
32 in the collection of debts due and owing to the State of Oregon arising from client-caused overpay-
33 ments of public assistance **or medical assistance, as defined in ORS 414.025**, and shall be used
34 solely for such purpose and shall not be used or disclosed for any other purpose. Any person who
35 violates this prohibition against disclosure, upon conviction, is punishable as provided in ORS
36 314.991 (2).

37 (2) Disclosure under this section shall be given only upon written request of the Director of
38 Human Services **or the Director of the Oregon Health Authority**. The form for the request shall
39 be prescribed by the Director of Human Services **or the Director of the Oregon Health Authority**
40 and approved by the Director of the Department of Revenue.

41 (3) The Department of Revenue shall keep on file the requests for disclosure made pursuant to
42 this section. The requests constitute a public record within the meaning of ORS 192.410 to 192.505.

43 **SECTION 29.** ORS 409.010 is amended to read:

44 409.010. (1) The Department of Human Services is created.

45 (2) The department is responsible for the delivery and administration of programs and services

1 relating to:

2 (a) Children and families, including but not limited to child protective services, foster care,
3 residential care for children and adoption services;

4 (b) Elderly persons and persons with disabilities, including but not limited to social, health and
5 protective services and promotion of hiring of otherwise qualified persons who are certifiably dis-
6 abled;

7 (c) Persons who, as a result of the person's or the person's family's economic, social or health
8 condition, require financial assistance or other social services;

9 (d) Developmental disabilities;

10 (e) Vocational rehabilitation for individuals with disabilities;

11 (f) Licensing and regulation of individuals, facilities, institutions and programs providing health
12 and human services and long term care services delegated to the department by or in accordance
13 with the provisions of state and federal law;

14 (g) Services provided in long term care facilities, home-based and community-based care settings
15 and residential facilities to individuals with physical disabilities or developmental disabilities and
16 to seniors who receive residential facility care; and

17 (h) All other human service programs and functions delegated to the department by or in ac-
18 cordance with the provisions of state and federal law.

19 (3) The department shall be the recipient of all federal funds paid or to be paid to the state to
20 enable the state to provide the programs and services assigned to the department except for
21 Medicaid funds that are granted to the Oregon Health Authority.

22 (4)(a) All personnel of the department, including those engaged in the administration of voca-
23 tional rehabilitation programs, public assistance programs, **medical assistance programs** and ser-
24 vices to families or children in compliance with the federal Social Security laws, shall be subject to
25 the merit system prescribed in the State Personnel Relations Law. For purposes of the State Per-
26 sonnel Relations Law, the department is the appointing authority of all employees in the department.

27 (b) The Director of Human Services, in conformity with the State Personnel Relations Law, may
28 appoint and employ such personnel as may be necessary for the department, and may appoint and
29 fix the compensation of all assistants and employees of the department.

30 (c) The director may authorize reimbursement of such expenses as are approved by the depart-
31 ment and incurred by assistants and employees of the department, and by volunteers or other per-
32 sons not employed by the department, in carrying out duties assigned or authorized by the
33 department.

34 (5) The director may designate employees to be custodians of records within any of the organ-
35 izational units of the department, and persons so designated shall have the duties and powers of
36 custodians of public records as prescribed by law. Such designation shall be in writing and notice
37 thereof shall be filed in the office of the Secretary of State, with the director and in the organiza-
38 tional unit to which the authorization applies.

39 **SECTION 30.** ORS 410.150 is amended to read:

40 410.150. For the protection of applicants for and recipients of services, the Department of Hu-
41 man Services shall not disclose or use the contents of any records, files, papers or communications
42 for purposes other than those directly connected with the administration of the laws of Oregon, and
43 these records, files, papers and communications are considered confidential subject to the rules of
44 the Department of Human Services, except as otherwise provided in ORS 411.320. In any judicial
45 proceedings, except proceedings directly connected with the administration of public assistance **or**

1 **medical assistance** laws, their contents are considered privileged communications.

2 **SECTION 31.** ORS 410.490 is amended to read:

3 410.490. (1) To provide greater flexibility and availability of services, the Department of Human
4 Services shall apply for waiver of federal statutory and regulatory requirements to make adult day
5 care services available under ORS chapter 414.

6 (2) The Department of Human Services shall adopt rules consistent with the rules adopted under
7 ORS 410.495, that include a provision identifying adult day care as a service available for recipients
8 eligible for medical assistance **as defined in ORS 414.025.**

9 (3) As used in ORS 410.485 and this section, “adult day care” means community-based group
10 programs designed to meet the needs of adults with functional or cognitive impairments through
11 individual plans of care that are structured, comprehensive and provide a variety of health, social
12 and related support services in protective settings during part of the day but provide less than
13 24-hour care.

14 **SECTION 32.** ORS 411.010 is amended to read:

15 411.010. As used in this chapter and in other statutes providing for assistance and services to
16 needy persons, unless the context or a specially applicable statutory definition requires
17 otherwise[:],

18 [(1) “General assistance” means assistance or service of any character provided to needy persons
19 not otherwise provided for to the extent of such need and the availability of funds, including medical,
20 surgical and hospital or other remedial care.]

21 [(2)] “public assistance” means the following types of assistance:

22 [(a)] (1) Temporary assistance for needy families granted under ORS 412.001 to 412.069 and
23 418.647;

24 [(b)] (2) General assistance granted under ORS 411.710 to 411.730;

25 [(c) Medical assistance;]

26 [(d)] (3) Assistance provided by the Oregon Supplemental Income Program;

27 [(e)] (4) General assistance other than general assistance granted under ORS 411.710 to 411.730;
28 and

29 [(f)] (5) Any other functions, except the administration of medical assistance by the Oregon
30 Health Authority, that may be delegated to the Director of Human Services by or in accordance
31 with federal and state laws.

32 **SECTION 33.** ORS 411.060 is amended to read:

33 411.060. Subject to ORS 417.300 and 417.305, the Department of Human Services shall adopt and
34 enforce rules necessary to ensure full compliance with federal and state laws relating to public as-
35 sistance programs, **medical assistance programs** and functions administered by the department.

36 **SECTION 34.** ORS 411.070 is amended to read:

37 411.070. (1) The [*Oregon Health Authority and the*] Department of Human Services shall adopt
38 by rule statewide uniform standards for all public assistance programs and shall effect uniform
39 observance of the rules throughout the state.

40 (2) In establishing uniform statewide standards for public assistance, the department [*and the*
41 *authority*], within the limits of available funds, shall:

42 (a) Take into consideration all basic requirements for a standard of living compatible with de-
43 cency and health, including food, shelter, clothing, fuel, public utilities, telecommunications service,
44 medical care and other essential items and, upon the basis of investigations of the facts, shall pro-
45 vide budgetary guides for determining minimum costs of meeting such requirements.

1 (b) Develop standards for making payments and providing support services in the job opportu-
2 nity and basic skills program described in ORS 412.006.

3 **SECTION 35.** ORS 411.081 is amended to read:

4 411.081. (1) A person seeking public assistance shall file an application for public assistance with
5 the Department of Human Services [*or the Oregon Health Authority*]. At the time of application, the
6 applicant shall declare to the department [*or the authority*] any circumstance that directly affects
7 the applicant's eligibility to receive assistance or the amount of assistance available to the appli-
8 cant. Upon the receipt of property or income or upon any other change in circumstances that di-
9 rectly affects the eligibility of the recipient to receive assistance or the amount of assistance
10 available to the recipient, the applicant, recipient or other person in the assistance household shall
11 immediately notify the department [*or the authority*] of the receipt or possession of such property
12 or income, or other change in circumstances. The department [*or the authority*] shall recover from
13 the recipient the amount of assistance improperly disbursed by reason of failure to comply with the
14 provision of this section.

15 (2) The department may recover any cash assistance granted for general assistance under ORS
16 411.710 to 411.730, and the recipient's portion of the aid described in ORS 412.014 (3), that has been
17 paid to any recipient 18 years of age or older when the recipient is presently receiving or subse-
18 quently receives Supplemental Security Income. The amount of recovery shall be limited to the total
19 amount of Supplemental Security Income that was received for the same time period that the general
20 assistance or the aid received under ORS 412.014 was being paid.

21 (3) Nothing in subsection (1) or (2) of this section shall be construed as to prevent the depart-
22 ment [*or the authority*] from entering into a compromise agreement for recovery of assistance im-
23 properly disbursed, if the department [*or the authority*] determines that the administration and
24 collection costs involved would exceed the amount that can reasonably be expected to be recovered.

25 **SECTION 36.** ORS 411.083 is amended to read:

26 411.083. (1) The Department of Human Services, in consultation with the Oregon Health Au-
27 thority, may prescribe by rule that income and resources may be disregarded in the determination
28 of eligibility and the amount of need with respect to a recipient of or applicant for public assistance
29 under ORS 411.706 and **medical assistance under** ORS chapter 414, if required by federal law or
30 rules adopted pursuant thereto or if authorized by the Legislative Assembly, including the following:

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

33 (b) Any increase in the amount of assistance that is authorized by section 4, Public Law 93-233
34 (87 Stat. 953) and which is also being paid on March 5, 1974, shall be disregarded in determining
35 eligibility and need.

36 (2) The department, in consultation with the authority, shall prescribe by rule that in the de-
37 termination of eligibility and the amount of need with respect to a recipient of or applicant for
38 public assistance under ORS 411.706 and **medical assistance under** ORS chapter 414:

39 (a) Any increase in the amount of assistance provided under Title XVI of the Social Security
40 Act to meet changes in the cost of living that is an increase over that amount being paid on January
41 1, 1977, pursuant to an Act of Congress and which will first be paid after January 1, 1977, shall be
42 disregarded.

43 (b) Up to \$10,000 equity value of any licensed and unlicensed vehicles owned by the applicant
44 or recipient is exempt from consideration as a resource.

45 (3) The department shall implement subsection (2)(b) of this section statewide to the extent

1 possible that is consistent with federal regulation to maintain state eligibility for federal partic-
 2 ipation in public assistance programs. In the event the department determines that this policy has
 3 a net fiscal cost to the state, the department shall present the fiscal analysis to the Emergency
 4 Board for additional funding or direction to modify or suspend the policy.

5 **SECTION 37.** ORS 411.087 is amended to read:

6 411.087. (1) Every person 18 years of age or over who applies for or receives any type of general
 7 assistance or public assistance, as defined in ORS 411.010, whether the general assistance or public
 8 assistance is applied for or received for the benefit of the person or of another individual, shall ex-
 9 ecute to the Department of Human Services at the time of making the application, and at such times
 10 as may be required by the department [*or by the Oregon Health Authority by rule*], written state-
 11 ments relating to each individual for whose benefit the general assistance or public assistance is
 12 applied for or received, and to any person who has a duty to support the individual, or to whom the
 13 individual owes a duty of support. The statements must include, but need not be limited to, as much
 14 of the following information, relating to each individual or other person, as may be specified or re-
 15 quired by the department [*or the authority*]:

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

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

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

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

26 (C) Other information as may be required by the department [*or the authority*] pursuant to state
 27 or federal laws applicable to general assistance or public assistance.

28 (2) All applications for general assistance or public assistance and all statements referred to in
 29 subsection (1) of this section shall be upon forms prescribed and furnished by the department [*or the*
 30 *authority*]. Each statement shall be subscribed by each individual who executes or joins in the exe-
 31 cution of the statement.

32 (3) The spouse of any individual who applies for or receives general assistance or public assist-
 33 ance may be required by the department [*or the authority*] to join in the execution of, or separately
 34 to execute, any statement referred to in subsection (1) of this section, under oath or affirmation,
 35 except during any period in which it appears to the department [*or the authority*] that:

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

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

38 (c) The spouse is physically or mentally incapable of executing the statement or of providing
 39 any information referred to in subsection (1) of this section.

40 **SECTION 38.** ORS 411.119 is amended to read:

41 411.119. (1) Except as provided in subsection (2) of this section, a person who is otherwise eli-
 42 gible to receive public assistance, including supplemental nutrition assistance, **or medical assist-**
 43 **ance** may not be denied assistance because the person has been convicted of a drug-related felony.

44 (2) The Department of Human Services may suspend a person's supplemental nutrition assistance
 45 if:

1 (a) The person has been convicted of the manufacture or delivery of a controlled substance un-
 2 der ORS 475.752 (1)(a) to (c); and

3 (b) The person is on probation, parole or post-prison supervision and the agency supervising the
 4 person makes a recommendation to the department, pursuant to subsection (3) of this section, that
 5 the department suspend the person's supplemental nutrition assistance.

6 (3) When making a recommendation to the department regarding the continuation or suspension
 7 of a person's supplemental nutrition assistance, a supervising authority shall consider, at a mini-
 8 mum, whether there is reason to believe:

9 (a) That the person traded the person's supplemental nutrition assistance for controlled sub-
 10 stances; and

11 (b) That, as a result of the trading, a member of the person's household who is a dependent of
 12 the person did not receive the supplemental nutrition assistance for which the member is eligible.

13 (4) The department shall reinstate the supplemental nutrition assistance of a person whose
 14 benefits were suspended under subsection (2) of this section if the department receives a recom-
 15 mendation from the supervising authority to reinstate the benefits pursuant to subsection (5) of this
 16 section.

17 (5) When making a recommendation to the department regarding the reinstatement of supple-
 18 mental nutrition assistance, the supervising authority shall consider, at a minimum, the following:

19 (a) Whether members of the person's household are also receiving supplemental nutrition as-
 20 sistance; and

21 (b) Whether the person is enrolled in and successfully participating in a rehabilitation program.

22 **SECTION 39.** ORS 411.141 is amended to read:

23 411.141. The Department of Human Services may, subject to the allotment system provided for
 24 in ORS 291.234 to 291.260, expend such sums as are required to be expended in this state to provide
 25 public assistance [*excluding medical assistance*]. Expenditures for public assistance include, but are
 26 not limited to, expenditures for the following purposes:

27 [(1) *General assistance to needy persons and their dependents.*]

28 [(2)] (1) Temporary assistance for needy families granted under ORS 412.001 to 412.069 and
 29 418.647, including services to relatives with whom dependent children applying for or receiving
 30 temporary assistance for needy families are living in order to help such relatives attain the maxi-
 31 mum self-support or self-care consistent with the maintenance of continuing parental care and pro-
 32 tection or in order to maintain and strengthen family life for such children.

33 [(3)] (2) Assistance provided by the Oregon Supplemental Income Program.

34 [(4)] (3) General assistance granted under ORS 411.710 to 411.730.

35 [(5)] (4) Carrying out the provisions of law for child welfare purposes.

36 [(6)] (5) Scholarships or grants for qualified recipients to provide them education and profes-
 37 sional, technical or other helpful training, payable to a publicly supported career school or educa-
 38 tional institution on behalf of the recipient.

39 [(7)] (6) Other purposes for which the department is authorized to expend funds, including the
 40 administration expenses of the department.

41 [(8)] (7) Carrying out the provisions of ORS 411.116.

42 **SECTION 40.** ORS 411.159 is amended to read:

43 411.159. A person who is hired as a housekeeper or homemaker, or home care worker [*as defined*
 44 *in ORS 410.600*], and is not otherwise employed by the Department of Human Services, an area
 45 agency or other public agency, shall not for any purposes be deemed to be an employee of the State

1 of Oregon or an area agency whether or not the department or agency selects the person for em-
 2 ployment or exercises any direction or control over the person's employment. However, nothing in
 3 this section precludes the state or an area agency from being considered the employer of the person
 4 for purposes of ORS chapter 657.

5 **SECTION 41.** ORS 411.400 is amended to read:

6 411.400. (1) **An** application for any category of aid shall also constitute **an** application for med-
 7 ical assistance.

8 *[(2) Except as otherwise provided in this section, a person shall request medical assistance by filing*
 9 *an application as provided in ORS 411.081.]*

10 *[(3) The Department of Human Services shall determine eligibility for and fix the date on which*
 11 *medical assistance may begin, and shall obtain such other information required by the rules of the*
 12 *department and the Oregon Health Authority under ORS 411.402.]*

13 *[(4) If an applicant is unable to make application for medical assistance, an application may be*
 14 *made by someone acting responsibly for the applicant.]*

15 *[(5) The department may modify the application requirements in ORS 411.081 for a person whose*
 16 *basis of eligibility for medical assistance changes from one category of aid to another category of aid*
 17 *under ORS 414.025 (2).]*

18 **(2) Except as provided in subsection (6) of this section, the Department of Human Ser-**
 19 **VICES and the Oregon Health Authority shall accept an application for medical assistance and**
 20 **any required verification of eligibility from the applicant, an adult who is in the applicant's**
 21 **household or family, an authorized representative of the applicant or, if the applicant is a**
 22 **minor or incapacitated, someone acting responsible for the applicant:**

23 **(a) Over the Internet;**

24 **(b) By telephone;**

25 **(c) By mail;**

26 **(d) In person; and**

27 **(e) Through other commonly available electronic means.**

28 **(3) The department and the authority may require an applicant or person acting on behalf**
 29 **of an applicant to provide only the information necessary for the purpose of making an el-**
 30 **igibility determination or for a purpose directly connected to the administration of medical**
 31 **assistance or the health insurance exchange.**

32 **(4) The department and the authority shall provide application and recertification as-**
 33 **sistance to individuals with disabilities, individuals with limited English proficiency, individ-**
 34 **uals facing physical or geographic barriers and individuals seeking help with the application**
 35 **for medical assistance or recertification of eligibility for medical assistance:**

36 **(a) Over the Internet;**

37 **(b) By telephone; and**

38 **(c) In person.**

39 **(5) The department and the authority shall promptly transfer information received under**
 40 **this section to the Oregon Health Insurance Exchange Corporation as necessary for the**
 41 **corporation to determine eligibility for the exchange, premium tax credits or cost-sharing**
 42 **reductions.**

43 **(6) The department and the authority shall accept from the corporation an application**
 44 **and any verification that was submitted to the corporation by an applicant or on behalf of**
 45 **an applicant for the determination of eligibility for medical assistance.**

SECTION 42. ORS 411.402 is amended to read:

411.402. (1) The Department of Human Services and the Oregon Health Authority shall adopt by rule, **consistent with federal requirements, the procedures for verifying eligibility for medical assistance, including but not limited to all of the following:**

(a) **The department and the authority shall access all relevant state and federal electronic databases for any eligibility information available through the databases.**

(b) **The department and the authority shall verify the following factors through self-attestation:**

(A) **Pregnancy;**

(B) **Date of birth;**

(C) **Household composition; and**

(D) **Residency.**

(c) **The department and the authority may not use self-attestation to verify citizenship and immigration status.**

(d) **The department and the authority may require the applicant to provide verification in addition to the verification specified in this subsection only if the department and the authority are unable to obtain the information electronically or if the information obtained electronically is not reasonably compatible with information provided by or on behalf of the applicant.**

(e) **The department and the authority shall use methods of administration that are in the best interests of applicants and recipients and that are necessary for the proper and efficient operation of the medical assistance program.** *[the documentation required from each person applying for medical assistance, including documentation of:]*

[(a) The identity of the person;]

[(b) The category of aid that makes the person eligible for medical assistance or the way in which the person qualifies as categorically needy;]

[(c) The status of the person as a resident of this state; and]

[(d) Information concerning the income and resources of the person, which may include income tax return information and Social Security number, as necessary to establish financial eligibility for medical assistance, premium tax credits and cost-sharing reductions.]

(2) Information obtained by the department or the authority under this section may be exchanged with **the health insurance exchange and with** other state or federal agencies for the purpose of:

(a) Verifying eligibility for medical assistance, participation in the *[Oregon Health Insurance]* exchange or other health benefit programs;

(b) Establishing the amount of any tax credit due to the person, cost-sharing reduction or premium assistance;

(c) Improving the provision of services; and

(d) Administering health benefit programs.

SECTION 43. ORS 411.404 is amended to read:

411.404. (1) The Department of Human Services **or the Oregon Health Authority** shall determine eligibility for medical assistance according to criteria prescribed by rule **and in accordance with the requirements for securing federal financial participation in the costs of administering Titles XIX and XXI of the Social Security Act.** *[in consultation with the Oregon Health Authority that take into account:]*

1 [(a) *The requirements and needs of the applicant and of the spouse and dependents of the*
2 *applicant;*]

3 [(b) *The income, resources and maintenance available to the applicant; and*]

4 [(c) *The responsibility of the spouse of the applicant and, with respect to an applicant who is blind*
5 *or is permanently and totally disabled or is under 21 years of age, the responsibility of the parents.*]

6 [(2) *Rules adopted by the department under subsection (1) of this section:*]

7 [(a) *Shall disregard resources for those who are eligible for medical assistance only by reason of*
8 *ORS 414.025 (3)(s), except for the resources described in ORS 414.025 (3)(s).*]

9 [(b) *May disregard income and resources within the limits required or permitted by federal law,*
10 *regulations or orders.*]

11 [(c)] **(2) Rules adopted under this section** may not require any needy person over 65 years of
12 age, as a condition of entering or remaining in a hospital, nursing home or other congregate care
13 facility, to sell any real property normally used as the person's home.

14 [(3) *Notwithstanding subsections (1) and (2) of this section, the authority may adopt rules necessary*
15 *to implement the Health Care for All Oregon Children program established by ORS 414.231 or appli-*
16 *cable provisions of federal law.*]

17 **SECTION 44.** ORS 411.406 is amended to read:

18 411.406. *[Upon the receipt of property or income or upon any other change in circumstances which*
19 *directly affects the eligibility of the recipient to receive medical assistance or the amount of medical*
20 *assistance available to the recipient, the recipient]*

21 **(1) A medical assistance recipient** shall immediately notify the Department of Human Services
22 or the Oregon Health Authority, if required, of the receipt or possession of [*such*] property or
23 income[, or other change in circumstances **that directly affects the eligibility of the recipient**
24 **to receive medical assistance, or that directly affects the amount of medical assistance for**
25 **which the recipient is eligible.** Failure to give the notice shall entitle the department or the au-
26 thority to recover from the recipient the amount of assistance improperly disbursed by reason
27 thereof.

28 **(2)(a) The department or the authority shall redetermine the eligibility of a medical as-**
29 **istance recipient only once every 12 months.**

30 **(b) The department and the authority shall redetermine eligibility under this subsection**
31 **on the basis of information available to the department and the authority and may not re-**
32 **quire the recipient to provide information if the department or the authority is able to de-**
33 **termine eligibility based on information in the recipient's record or through other**
34 **information that is available to the department or the authority.**

35 **(3) Notwithstanding subsection (2) of this section, if the department or the authority re-**
36 **ceives information about a change in a medical assistance recipient's circumstances that**
37 **may affect eligibility for medical assistance, the department or the authority shall promptly**
38 **redetermine eligibility.**

39 **(4) If the department or the authority determines that a medical assistance recipient no**
40 **longer qualifies for the medical assistance program in which the recipient is enrolled, the**
41 **department or the authority must determine eligibility for other medical assistance pro-**
42 **grams, potential eligibility for the health insurance exchange, premium tax credits and**
43 **cost-sharing reductions before terminating the recipient's medical assistance. If the recipi-**
44 **ent qualifies for the exchange, premium tax credits or cost-sharing reductions, the depart-**
45 **ment or the authority shall promptly transfer the recipient's record to the exchange to**

1 **process those benefits.**

2 **SECTION 45.** ORS 411.408 is amended to read:

3 411.408. **In addition to the requirements in ORS 414.635 (3) and 414.712 (5)**, if the Oregon
4 Health Authority or the Department of Human Services denies a claim for medical assistance or
5 fails to act with reasonable promptness on a claim for medical assistance, the person making the
6 claim may request a contested case hearing. The hearing shall be held at a time and place and shall
7 be conducted in accordance with rules adopted by the authority or the department, as appropriate.

8 **SECTION 46.** ORS 411.435 is amended to read:

9 411.435. The Oregon Health Authority and the Department of Human Services shall endeavor
10 to develop agreements with local governments to facilitate the enrollment of medical assistance
11 program clients. Subject to the availability of funds therefor, the agreement shall be structured to
12 allow flexibility by the state and local governments and may allow any of the following options for
13 enrolling clients in medical assistance programs:

14 (1) Initial processing [*shall*] **may** be done at the county health department by employees of the
15 county, with eligibility determination completed at the local office of the Department of Human
16 Services **or by the authority**;

17 (2) Initial processing and eligibility determination [*shall*] **may** be done at the county health de-
18 partment by employees of the local health department; or

19 (3) Application forms [*shall*] **may** be made available at the county health department with initial
20 processing and eligibility determination [*shall be*] done at the local office of the Department of Hu-
21 man Services **or by the authority**.

22 **SECTION 47.** ORS 411.439 is amended to read:

23 411.439. (1) As used in this section:

24 (a) "Person with a serious mental illness" means a person who is diagnosed by a psychiatrist,
25 a licensed clinical psychologist or a certified nonmedical examiner as having dementia,
26 schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental
27 disorder other than a disorder caused primarily by substance abuse.

28 (b) "Public institution" means:

29 (A) A state hospital as defined in ORS 162.135;

30 (B) A local correctional facility as defined in ORS 169.005;

31 (C) A Department of Corrections institution as defined in ORS 421.005; or

32 (D) A youth correction facility as defined in ORS 162.135.

33 (2) Except as provided in subsections (6) and (7) of this section, the Department of Human Ser-
34 vices or the Oregon Health Authority shall suspend, instead of terminate, the medical assistance of
35 a person with a serious mental illness when:

36 (a) The person receives medical assistance because of a serious mental illness; and

37 (b) The person becomes an inmate residing in a public institution.

38 (3) The department or the authority shall continue to determine the eligibility of the person [*as*
39 *categorically needy*] **for medical assistance**.

40 (4) Upon notification that a person described in subsection (2) of this section is no longer an
41 inmate residing in a public institution, the department or the authority shall reinstate the person's
42 medical assistance if the person is otherwise eligible for medical assistance.

43 (5) This section does not extend eligibility to an otherwise ineligible person or extend medical
44 assistance to a person if matching federal funds are not available to pay for medical assistance.

45 (6) Subsection (2) of this section does not apply to a person with a serious mental illness residing

1 in a state hospital as defined in ORS 162.135 who is under 22 years of age or who is 65 years of age
2 or older.

3 (7) A person with a serious mental illness may apply for medical assistance between 90 and 120
4 days prior to the expected date of the person's release from a public institution. If the person is
5 found to be eligible, the effective date of the person's medical assistance shall be the date of the
6 person's release from the institution.

7 **SECTION 48.** ORS 411.443 is amended to read:

8 411.443. (1) When a woman who is enrolled in medical assistance as a pregnant woman becomes
9 an inmate residing in a public institution, the Department of Human Services **or the Oregon Health**
10 **Authority** shall suspend medical assistance.

11 (2) The department **or the authority** shall continue to determine the eligibility of the pregnant
12 woman [*as categorically needy*] **for medical assistance**.

13 (3) Upon notification that a pregnant woman described under subsection (1) of this section is
14 no longer an inmate residing in a public institution, the department **or the authority** shall reinstate
15 medical assistance if the woman is otherwise eligible for medical assistance.

16 **SECTION 49.** ORS 411.610 is amended to read:

17 411.610. Any check or warrant issued by the Department of Human Services or the Oregon
18 Health Authority to a recipient of public assistance **or medical assistance** who subsequently dies
19 may be indorsed in the name of the deceased by the surviving spouse or a next of kin in the order
20 described in ORS 293.490 (3); and payment may be made and the proceeds used without any of the
21 restrictions enumerated in ORS 293.495 (1).

22 **SECTION 50.** ORS 411.620 is amended to read:

23 411.620. (1) The Department of Human Services or the Oregon Health Authority may prosecute
24 a civil suit or action against any person who has obtained, for personal benefit or for the benefit
25 of any other person, any amount or type of [*general assistance or*] public assistance **or medical as-**
26 **sistance**, or has aided any other person to obtain [*such general assistance or*] public assistance **or**
27 **medical assistance**, in violation of any provision of ORS 411.630[,] or in violation of ORS 411.640.
28 In such suit or action, the department or the authority may recover the amount or value of [*such*
29 *general assistance or*] public assistance [*so*] **or medical assistance** obtained in violation of ORS
30 411.630[,] or in violation of ORS 411.640, with interest [*thereon*], together with costs and disburse-
31 ments incurred [*therein*] **in recovering the public assistance or medical assistance**.

32 (2) [*Excepting as to*] **Except with respect to** bona fide purchasers for value, the department, the
33 authority, the conservator for the recipient or the personal representative of the estate of a de-
34 ceased recipient may prosecute a civil suit or action to set aside the transfer, gift or other disposi-
35 tion of any money or property made in violation of any provisions of ORS 411.630, 411.708 and
36 416.350 and the department or the authority may recover out of such money or property, or other-
37 wise, the amount or value of any [*general assistance or*] public assistance **or medical assistance**
38 obtained as a result of [*such*] **the** violation, with interest [*thereon*], together with costs and dis-
39 bursements incurred [*therein*] **in recovering the public assistance or medical assistance**.

40 **SECTION 51.** ORS 411.630 is amended to read:

41 411.630. (1) A person may not knowingly obtain or attempt to obtain, for the benefit of the per-
42 son or of another person, any public assistance **or medical assistance** to which the person or other
43 person is not entitled under state law by means of:

44 (a) Any false representation or fraudulent device, or

45 (b) Failure to immediately notify the Department of Human Services or the Oregon Health Au-

1 thority, if required, of the receipt or possession of property or income, or of any other change of
 2 circumstances, which directly affects the eligibility for, or the amount of, the assistance.

3 (2) A person may not transfer, conceal or dispose of any money or property with the intent:

4 (a) To enable the person to meet or appear to meet any requirement of eligibility prescribed by
 5 state law or by rule of the department or the authority for any type of *[general assistance or]* public
 6 assistance **or medical assistance**; or

7 (b) Except as to a conveyance by the person to create a tenancy by the entirety, to hinder or
 8 prevent the department or the authority from recovering any part of any claim it may have against
 9 the person or the estate of the person.

10 (3) A person may not knowingly aid or abet any person to violate any provision of this section.

11 (4) A person may not receive, possess or conceal any money or property of an applicant for or
 12 recipient of any type of *[general assistance or]* public assistance **or medical assistance** with the
 13 intent to enable the applicant or recipient to meet or appear to meet any requirement of eligibility
 14 referred to in subsection (2)(a) of this section or, except as to a conveyance by the applicant or re-
 15 cipient to create a tenancy by the entirety, with the intent to hinder or prevent the department or
 16 the authority from recovering any part of any claim it may have against the applicant or recipient
 17 or the estate of the applicant or recipient.

18 **SECTION 52.** ORS 411.632 is amended to read:

19 411.632. If it reasonably appears that a recipient of public assistance **or a recipient of medical**
 20 **assistance** has assets in excess of those allowed to a recipient of such assistance under applicable
 21 federal and state statutes, rules and regulations, and it reasonably appears that such assets may be
 22 transferred, removed, secreted or otherwise disposed, then the Department of Human Services or the
 23 Oregon Health Authority may seek appropriate relief under ORCP 83 and 84 or any other provision
 24 of law, but only to the extent of the liability. The state shall not be required to post a bond in
 25 seeking the relief.

26 **SECTION 53.** ORS 411.640 is amended to read:

27 411.640. A person has received an overpayment of public assistance **or medical assistance**, for
 28 purposes of ORS 411.703, if the person has:

29 (1) Received, either for the benefit of the person or for the benefit of any other person, any
 30 amount or type of *[general assistance or]* public assistance **or medical assistance** to which the
 31 person or the other person is not entitled under state law;

32 (2) Spent lawfully received public assistance **or medical assistance** that was designated by the
 33 Department of Human Services or the Oregon Health Authority for a specific purpose on an expense
 34 not approved by the department or the authority and not considered a basic requirement under ORS
 35 411.070 (2)(a) **or a health service**;

36 (3) Misappropriated public assistance **or medical assistance** by cashing and retaining the pro-
 37 ceeds of a check on which the person is not the payee and the check has not been lawfully indorsed
 38 or assigned to the person; or

39 (4) Failed to reimburse the department or the authority, when required by law, for public as-
 40 sistance **or medical assistance** furnished for a need for which the person is compensated by an-
 41 other source.

42 **SECTION 54.** ORS 411.660 is amended to read:

43 411.660. (1) If any person is convicted of a violation of any provision of ORS 411.630, any grant
 44 of *[general assistance or]* public assistance **or medical assistance benefits** made wholly or partially
 45 to meet the needs of such person shall be modified, canceled or suspended for such time and under

1 such terms and conditions as may be prescribed by or pursuant to rules or regulations of the De-
 2 partment of Human Services or the Oregon Health Authority.

3 (2) Subsection (1) of this section does not [*prohibit*] **apply to** a grant of [*general assistance or*]
 4 public assistance **or to medical assistance provided** to meet the needs of a child under the age
 5 of 18 years.

6 **SECTION 55.** ORS 411.670 is amended to read:

7 411.670. As used in this section and ORS 411.640, 411.675 and 411.690:

8 (1) "Claims for payment" includes bills, invoices, electronic transmissions and any other docu-
 9 ment requesting money in compensation for or reimbursement of needs which have been furnished
 10 to any public assistance **or medical assistance** recipient.

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

12 (3) "Person" includes individuals, corporations, associations, firms, partnerships, governmental
 13 subdivisions and agencies and public and private organizations of any character.

14 **SECTION 56.** ORS 411.675 is amended to read:

15 411.675. A person may not obtain or attempt to obtain, for personal benefit or the benefit of
 16 another person, a payment for furnishing any need to or for the benefit of a public assistance **or**
 17 **medical assistance** recipient by knowingly:

18 (1) Submitting or causing to be submitted to the Department of Human Services or the Oregon
 19 Health Authority a false claim for payment;

20 (2) Submitting or causing to be submitted to the department or the authority a claim for pay-
 21 ment that already has been submitted for payment unless the claim is clearly labeled as a duplicate;

22 (3) Submitting or causing to be submitted to the department or the authority a claim for pay-
 23 ment that is a claim that already has been paid by any source unless clearly labeled as already paid;
 24 or

25 (4) Accepting a payment from the department or the authority for the costs of items or services
 26 that have not been provided to or for the benefit of a public assistance **or medical assistance** re-
 27 cipient.

28 **SECTION 57.** ORS 411.690 is amended to read:

29 411.690. (1) A person who accepts from the Department of Human Services or the Oregon Health
 30 Authority a payment for furnishing any need to or for the benefit of a public assistance **or medical**
 31 **assistance** recipient is liable to refund or credit the amount of the payment to the department or
 32 the authority if the person has obtained or subsequently obtains from the recipient or from any
 33 source any additional payment for furnishing the same need. However, the liability of the person is
 34 limited to the lesser of the following amounts:

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

36 (b) The amount by which the aggregate sum of all payments accepted or received by the person
 37 exceeds the maximum amount payable for the need under rules adopted by the department or the
 38 authority.

39 (2) Notwithstanding subsection (1) of this section, a person who, after having been afforded an
 40 opportunity for a contested case hearing pursuant to ORS chapter 183, is found to have violated
 41 ORS 411.675 is liable to the department or the authority for treble the amount of the payment re-
 42 ceived as a result of the violation.

43 (3) The department and the authority may prosecute civil actions to recover moneys claimed due
 44 under this section and for costs and disbursements incurred in such actions.

45 **SECTION 58.** ORS 411.694 is amended to read:

1 411.694. (1) When an individual receives public assistance as defined in ORS 411.010 **or medical**
2 **assistance as defined in ORS 414.025** and the individual is the holder of record title to real prop-
3 erty or the purchaser under a land sale contract, the Department of Human Services or the Oregon
4 Health Authority may present to the county clerk for recordation in the deed and mortgage records
5 of a county a request for notice of transfer or encumbrance of the real property.

6 (2) A title insurance company or agent shall provide the state agency that filed the request with
7 a notice of transfer or encumbrance as required by ORS 93.268.

8 (3) If the department or the authority has filed a request for notice of transfer or encumbrance
9 for recording in the deed and mortgage records, the department or the authority shall file with the
10 county clerk a termination of request for notice of transfer or encumbrance when it is no longer
11 necessary or appropriate to monitor transfers or encumbrances related to the real property.

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

15 (a) Contains the name of the public assistance **or medical assistance** recipient, a case identifier
16 or other appropriate information that links the individual who is the holder of record title to real
17 property or the purchaser under a land sale contract to the individual's public assistance **or med-**
18 **ical assistance** records;

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

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

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

24 (5) The authority shall use the forms adopted by the department under subsection (4) of this
25 section and may designate the department to receive, on behalf of the authority, a notice of transfer
26 or encumbrance provided in accordance with subsection (2) of this section.

27 (6) The department or the authority shall pay the recordation fee required by the county clerk
28 under ORS 205.320.

29 (7) The request for notice of transfer or encumbrance described in this section does not affect
30 title to real property and is not a lien on, encumbrance of or other interest in the real property.

31 **SECTION 59.** ORS 411.703 is amended to read:

32 411.703. (1) If an overpayment of public assistance, including supplemental nutrition assistance
33 issued under ORS 411.806 to 411.845, **or medical assistance** is not repaid within 30 days of the
34 payment due date, after an individual has been afforded an opportunity for a contested case hearing
35 under ORS chapter 183 relating to the overpayment, the Department of Human Services or the
36 Oregon Health Authority may:

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

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

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

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

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

3 (5) Upon issuance of the warrant, the department or the authority may issue a notice of
 4 garnishment in accordance with ORS 18.854.

5 (6) Upon recording, the warrant:

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

7 (b) May be enforced as provided in ORS 18.854 and 205.126.

8 **SECTION 60.** ORS 411.795 is amended to read:

9 411.795. (1) The amount of any general assistance paid under ORS chapter 411 is a claim against
 10 the property or any interest therein belonging to and a part of the estate of any deceased recipient
 11 or if there be no estate or the estate does not have sufficient assets to satisfy the claim, the estate
 12 of the surviving spouse shall be charged for such aid paid to either or both; provided, however, that
 13 there shall be no adjustment or recovery of any general assistance correctly paid to or on behalf
 14 of any individual under ORS chapter 411 except after the death of such individual and the surviving
 15 spouse of the individual, if any, and only at a time when the individual has no surviving child who
 16 is under 21 years of age or is blind or permanently and totally disabled.

17 (2) Except where there is a surviving spouse, or a surviving child who is under 21 years of age
 18 or is blind or permanently and totally disabled, the amount of any general assistance paid under
 19 ORS chapter 411 is a claim against the estate in any conservatorship proceedings and may be paid
 20 pursuant to ORS 125.495.

21 (3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or
 22 the surviving spouse of a recipient to the extent that the need for aid resulted from a crime com-
 23 mitted against the recipient.

24 *[(4) As used in this section, "general assistance" includes the state's monthly contribution to the
 25 federal government to defray the costs of outpatient prescription drug coverage provided to a person
 26 who is eligible for Medicare Part D prescription drug coverage and who receives benefits under the
 27 state medical assistance program or Title XIX of the Social Security Act.]*

28 **SECTION 61.** ORS 411.802 is amended to read:

29 411.802. If an approved provider **who is compensated by the Department of Human Services**
 30 **for** providing in-home care to a recipient of public assistance *[for compensation]* **or medical as-**
 31 **sistance** marries the recipient, the department *[of Human Services]* shall consider the care provided
 32 as compensable even though provided by a spouse. The standard of compensation under this section
 33 shall be the same as the standard applied for in-home care provided by an approved provider not
 34 residing in the home of the recipient.

35 **SECTION 62.** ORS 411.965 is amended to read:

36 411.965. The Legislative Assembly finds:

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

40 (2) That program inaccessibility stems from barriers that arise in learning of the availability of
 41 benefits, in applying for benefits and in maintaining eligibility once eligibility is established;

42 (3) That a gap often exists between the reading and literacy skills possessed by potential appli-
 43 cants to programs and the skills demanded for completion of agency application forms and proce-
 44 dures. Most persons eligible for public assistance **and medical assistance** programs read at below
 45 the eighth-grade level and most public assistance **and medical assistance** forms require more than

1 an eighth-grade reading level;

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

4 (5) That the Department of Human Services **and the Oregon Health Authority** would better
5 serve the people of the State of Oregon by making public assistance **and medical assistance** pro-
6 grams accessible to those low-income persons legally entitled to assistance.

7 **SECTION 63.** ORS 411.967 is amended to read:

8 411.967. Every form, notice, brochure or other written material of the Department of Human
9 Services **or the Oregon Health Authority** intended for use by persons inquiring about, applicants
10 for or recipients of public assistance **or medical assistance** shall be written in plain language. A
11 form, notice, or brochure is written in plain language if it substantially complies with all of the
12 following tests:

13 (1) Uses short sentences and paragraphs;

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

15 (3) Uses simple and active verb forms;

16 (4) Uses type of readable size;

17 (5) Uses uppercase and lowercase letters;

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

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

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

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

25 (10) Is readable at the sixth-grade level of reading ability except for vocabulary referred to in
26 subsection (2) of this section.

27 **SECTION 64.** ORS 411.969 is amended to read:

28 411.969. (1) The Department of Human Services **and the Oregon Health Authority** shall pub-
29 lish, make available and publicize to all persons inquiring about, applicants for and recipients of
30 public assistance **or medical assistance** the following informational materials:

31 (a) Brochures enumerating and explaining the public assistance **and medical assistance** pro-
32 grams administered by the department **and the authority**; and

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

37 (2) All notices of overpayments shall show the calculation of the overpayment and contain an
38 explanation of the calculation.

39 **SECTION 65.** ORS 411.970 is amended to read:

40 411.970. (1) **As used in this section:**

41 (a) **“Non-English-speaking household” means a household that does not have an adult**
42 **member who is fluent in English.**

43 (b) **“Written materials” includes all forms, notices and other documents that the De-**
44 **partment of Human Services or the Oregon Health Authority provides to any English-**
45 **speaking client for the establishment, maintenance and explanation of eligibility for public**

1 **assistance or medical assistance.**

2 [(1)] (2) [When the caseload of] **If** a Department of Human Services local office **has a caseload**
 3 **that** consists of 35 or more non-English-speaking households [which] **that** share the same language,
 4 the department shall provide at [that] **the** local office written materials in that language and access
 5 to a bilingual assistance worker or caseworker **who is** fluent in both that language and English.

6 [(2) As used in this section:]

7 [(a) A “non-English-speaking household” is a household that does not have an adult member who
 8 is fluent in English.]

9 [(b) “Written materials” includes all forms, notices and other documents which the department of
 10 Human Services provides to any English-speaking client for the establishment, maintenance and expla-
 11 nation of eligibility for public assistance.]

12 (3) **If an Oregon Health Authority office that processes applications for, or recertif-**
 13 **ications of, medical assistance has a caseload that consists of 35 or more non-English-**
 14 **speaking households that share the same language, the authority shall provide at the office**
 15 **written materials in that language and access to a bilingual assistance worker or caseworker**
 16 **who is fluent in both that language and English.**

17 [(3)] (4) The Personnel Division of the Oregon Department of Administrative Services shall re-
 18 cruit qualified individuals and shall maintain lists of such individuals for purposes of meeting the
 19 requirements of this section.

20 **SECTION 66.** ORS 413.109 is amended to read:

21 413.109. (1) The Oregon Health Authority may accept funds, money or other valuable things from
 22 relatives, corporations or interested persons or organizations for the care and support of needy
 23 persons and may expend the same for the care and support of the individual or individuals for whom
 24 the moneys were paid.

25 (2) The authority may accept from individuals, corporations and organizations contributions or
 26 gifts in cash or otherwise that shall be disbursed in the same manner as moneys appropriated for
 27 [public] **medical** assistance purposes, unless the donor of a gift stipulates a different manner in
 28 which a gift must be expended. Moneys received under this section shall be deposited with the State
 29 Treasurer in an account separate and distinct from the General Fund. Interest earned by the ac-
 30 count shall be credited to the account. Moneys in the account are continuously appropriated to the
 31 department for the purposes specified in this section.

32 **SECTION 67.** ORS 413.175 is amended to read:

33 413.175. (1) For the protection of applicants for and recipients of public assistance **and medical**
 34 **assistance, as defined in ORS 414.025,** except as otherwise provided in this section, the Oregon
 35 Health Authority may not disclose or use the contents of any public assistance **or medical assist-**
 36 **ance** records, files, papers or communications for purposes other than those directly connected with
 37 the administration of the public assistance **and medical assistance** programs or necessary to assist
 38 public assistance **or medical assistance** applicants and recipients in accessing and receiving other
 39 governmental or private nonprofit services, and these records, files, papers and communications are
 40 considered confidential subject to the rules of the authority. In any judicial or administrative pro-
 41 ceeding, except proceedings directly connected with the administration of public assistance, **medical**
 42 **assistance** or child support enforcement, their contents are considered privileged communications.

43 (2) Nothing in this section prohibits the disclosure or use of contents of records, files, papers
 44 or communications for purposes directly connected with the establishment and enforcement of sup-
 45 port obligations pursuant to [the] Title IV-D of the Social Security Act.

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

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

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

7 (c) Has information that is necessary for the officer to conduct the official duties of the officer
 8 and the location or apprehension of the applicant or recipient is within such official duties.

9 (4) Nothing in this section prohibits disclosure of information between the authority and the
 10 Department of Human Services for the purpose of administering public assistance **and medical as-**
 11 **sistance** programs that the authority and the department are responsible for administering.

12 **SECTION 68.** ORS 414.025 is amended to read:

13 414.025. As used in this chapter and ORS chapters 411 and 413, unless the context or a specially
 14 applicable statutory definition requires otherwise:

15 (1)(a) "Alternative payment methodology" means a payment other than a fee-for-services pay-
 16 ment, used by coordinated care organizations as compensation for the provision of integrated and
 17 coordinated health care and services.

18 (b) "Alternative payment methodology" includes, but is not limited to:

19 (A) Shared savings arrangements;

20 (B) Bundled payments; and

21 (C) Payments based on episodes.

22 (2) "Category of aid" means assistance provided by the Oregon Supplemental Income Program,
 23 aid granted under ORS 412.001 to 412.069 and 418.647 or federal Supplemental Security Income
 24 payments.

25 [(3) "Categorically needy" means, insofar as funds are available for the category, a person who is
 26 a resident of this state and who:]

27 [(a) Is receiving a category of aid.]

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

29 [(c) Is in a medical facility and, if the person left such facility, would be eligible for a category of
 30 aid.]

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

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

36 [(B) Is the spouse of the caretaker relative.]

37 [(f) Is under the age of 21 years and:]

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

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

43 [(g) Is a spouse of an individual receiving a category of aid and who is living with the recipient
 44 of a category of aid, whose needs and income are taken into account in determining the cash needs of
 45 the recipient of a category of aid, and who is determined by the Department of Human Services to be

1 *essential to the well-being of the recipient of a category of aid.]*

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

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

6 *[(j) Is under the age of 21 years and is in an intermediate care facility which includes institutions*
7 *for persons with developmental disabilities.]*

8 *[(k) Is under the age of 22 years and is in a psychiatric hospital.]*

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

11 *[(m) Is a member of a family that received aid in the preceding month under ORS 412.006 or*
12 *412.014 and became ineligible for aid due to increased hours of or increased income from employment.*
13 *As long as the member of the family is employed, such families will continue to be eligible for medical*
14 *assistance for a period of at least six calendar months beginning with the month in which such family*
15 *became ineligible for assistance due to increased hours of employment or increased earnings.]*

16 *[(n) Is an adopted person under 21 years of age for whom a public agency is assuming financial*
17 *responsibility in whole or in part.]*

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

20 *[(p) Is an individual or member of a group who, subject to the rules of the department or the*
21 *Oregon Health Authority, may optionally be included in the state's medical assistance program under*
22 *federal law and regulations concerning the availability of federal funds for the expenses of that indi-*
23 *vidual or group.]*

24 *[(q) Is a pregnant woman who would be eligible for aid granted under ORS 412.001 to 412.069 and*
25 *418.647, whether or not the woman is eligible for cash assistance.]*

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

28 *[(s) Is not otherwise categorically needy and is not eligible for care under Title XVIII of the fed-*
29 *eral Social Security Act or is not a full-time student in a post-secondary education program as defined*
30 *by the department or the authority by rule, but whose family income is at or below the federal poverty*
31 *level and whose family investments and savings equal less than the investments and savings limit es-*
32 *tablished by the department or the authority by rule.]*

33 *[(t) Would be eligible for a category of aid but for the receipt of qualified long term care insurance*
34 *benefits under a policy or certificate issued on or after January 1, 2008. As used in this paragraph,*
35 *"qualified long term care insurance" means a policy or certificate of insurance as defined in ORS*
36 *743.652 (7).]*

37 *[(u) Is eligible for the Health Care for All Oregon Children program established in ORS*
38 *414.231.]*

39 *[(v) Is dually eligible for Medicare and Medicaid and receiving care through a coordinated care*
40 *organization.]*

41 *[(4)] (3) "Community health worker" means an individual who:*

42 *(a) Has expertise or experience in public health;*

43 *(b) Works in an urban or rural community, either for pay or as a volunteer in association with*
44 *a local health care system;*

45 *(c) To the extent practicable, shares ethnicity, language, socioeconomic status and life experi-*

1 ences with the residents of the community where the worker serves;

2 (d) Assists members of the community to improve their health and increases the capacity of the
3 community to meet the health care needs of its residents and achieve wellness;

4 (e) Provides health education and information that is culturally appropriate to the individuals
5 being served;

6 (f) Assists community residents in receiving the care they need;

7 (g) May give peer counseling and guidance on health behaviors; and

8 (h) May provide direct services such as first aid or blood pressure screening.

9 [(5)] (4) “Coordinated care organization” means an organization meeting criteria adopted by the
10 Oregon Health Authority under ORS 414.625.

11 [(6)] (5) “Dually eligible for Medicare and Medicaid” means, with respect to eligibility for en-
12 rollment in a coordinated care organization, that an individual is eligible for health services funded
13 by Title XIX of the Social Security Act and is:

14 (a) Eligible for or enrolled in Part A of Title XVIII of the Social Security Act; or

15 (b) Enrolled in Part B of Title XVIII of the Social Security Act.

16 [(7)] (6) “Global budget” means a total amount established prospectively by the Oregon Health
17 Authority to be paid to a coordinated care organization for the delivery of, management of, access
18 to and quality of the health care delivered to members of the coordinated care organization.

19 [(8)] (7) “Health services” means at least so much of each of the following as are funded by the
20 Legislative Assembly based upon the prioritized list of health services compiled by the Health Evi-
21 dence Review Commission under ORS 414.690:

22 (a) Services required by federal law to be included in the state’s medical assistance program in
23 order for the program to qualify for federal funds;

24 (b) Services provided by a physician as defined in ORS 677.010, a nurse practitioner certified
25 under ORS 678.375 or other licensed practitioner within the scope of the practitioner’s practice as
26 defined by state law, and ambulance services;

27 (c) Prescription drugs;

28 (d) Laboratory and X-ray services;

29 (e) Medical equipment and supplies;

30 (f) Mental health services;

31 (g) Chemical dependency services;

32 (h) Emergency dental services;

33 (i) Nonemergency dental services;

34 (j) Provider services, other than services described in paragraphs (a) to (i), (k), (L) and (m) of
35 this subsection, defined by federal law that may be included in the state’s medical assistance pro-
36 gram;

37 (k) Emergency hospital services;

38 (L) Outpatient hospital services; and

39 (m) Inpatient hospital services.

40 [(9)] (8) “Income” has the meaning given that term in ORS 411.704.

41 [(10)] (9) “Investments and savings” means cash, securities as defined in ORS 59.015, negotiable
42 instruments as defined in ORS 73.0104 and such similar investments or savings as the department
43 or the authority may establish by rule that are available to the applicant or recipient to contribute
44 toward meeting the needs of the applicant or recipient.

45 [(11)] (10) “Medical assistance” means so much of the medical, mental health, preventive, sup-

1 portive, palliative and remedial care and services as may be prescribed by the authority according
2 to the standards established pursuant to ORS 414.065, including premium assistance and payments
3 made for services provided under an insurance or other contractual arrangement and money paid
4 directly to the recipient for the purchase of health services and for services described in ORS
5 414.710.

6 [(12)] (11) "Medical assistance" includes any care or services for any individual who is a patient
7 in a medical institution or any care or services for any individual who has attained 65 years of age
8 or is under 22 years of age, and who is a patient in a private or public institution for mental dis-
9 eases. "Medical assistance" does not include care or services for an inmate in a nonmedical public
10 institution.

11 [(13)] (12) "Patient centered primary care home" means a health care team or clinic that is or-
12 ganized in accordance with the standards established by the Oregon Health Authority under ORS
13 414.655 and that incorporates the following core attributes:

- 14 (a) Access to care;
- 15 (b) Accountability to consumers and to the community;
- 16 (c) Comprehensive whole person care;
- 17 (d) Continuity of care;
- 18 (e) Coordination and integration of care; and
- 19 (f) Person and family centered care.

20 [(14)] (13) "Peer wellness specialist" means an individual who is responsible for assessing mental
21 health service and support needs of the individual's peers through community outreach, assisting
22 individuals with access to available services and resources, addressing barriers to services and
23 providing education and information about available resources and mental health issues in order to
24 reduce stigmas and discrimination toward consumers of mental health services and to provide direct
25 services to assist individuals in creating and maintaining recovery, health and wellness.

26 [(15)] (14) "Person centered care" means care that:

- 27 (a) Reflects the individual patient's strengths and preferences;
- 28 (b) Reflects the clinical needs of the patient as identified through an individualized assessment;
- 29 and
- 30 (c) Is based upon the patient's goals and will assist the patient in achieving the goals.

31 [(16)] (15) "Personal health navigator" means an individual who provides information, assistance,
32 tools and support to enable a patient to make the best health care decisions in the patient's par-
33 ticular circumstances and in light of the patient's needs, lifestyle, combination of conditions and
34 desired outcomes.

35 [(17)] (16) "Quality measure" means the measures and benchmarks identified by the authority
36 in accordance with ORS 414.638.

37 [(18)] (17) "Resources" has the meaning given that term in ORS 411.704. For eligibility purposes,
38 "resources" does not include charitable contributions raised by a community to assist with medical
39 expenses.

40 **SECTION 69.** ORS 414.041 is amended to read:

41 414.041. (1) The Oregon Health Authority, under the direction of the Oregon Health Policy
42 Board and in collaboration with the Department of Human Services, shall implement a streamlined
43 and simple application process for the medical assistance and premium assistance programs admin-
44 istered by the Oregon Health Authority and the Office of Private Health Partnerships. The process
45 **must meet the requirements of ORS 411.400, 411.402, 411.404, 411.406, 411.408 and 411.967.**

1 [shall include, but not be limited to:]

2 [(a) An online application that may be submitted via the Internet;]

3 [(b) Application forms that are readable at a sixth grade level and that request the minimum
4 amount of information necessary to begin processing the application; and]

5 [(c) Application assistance from qualified staff to aid individuals who have language, cognitive,
6 physical or geographic barriers to applying for medical assistance or premium assistance.]

7 (2) In developing the simplified application [forms, the department] **process, the authority** shall
8 consult with persons not employed by the [department] **authority** who have experience in serving
9 vulnerable and hard-to-reach populations.

10 (3) The [Oregon Health] authority **and the department** shall facilitate outreach and enrollment
11 efforts to connect eligible individuals with all available publicly funded health programs, including
12 but not limited to the Family Health Insurance Assistance Program.

13 **SECTION 70.** ORS 414.065, as amended by section 19, chapter 8, Oregon Laws 2012, is amended
14 to read:

15 414.065. (1)(a) With respect to health care and services to be provided in medical assistance
16 during any period, the Oregon Health Authority shall determine, subject to such revisions as it may
17 make from time to time and subject to legislative funding and paragraph (b) of this subsection:

18 (A) The types and extent of health care and services to be provided to each eligible group of
19 recipients of medical assistance.

20 (B) Standards, including outcome and quality measures, to be observed in the provision of health
21 care and services.

22 (C) The number of days of health care and services toward the cost of which [public] **medical**
23 assistance funds will be expended in the care of any person.

24 (D) Reasonable fees, charges, daily rates and global payments for meeting the costs of providing
25 health services to an applicant or recipient.

26 (E) Reasonable fees for professional medical and dental services which may be based on usual
27 and customary fees in the locality for similar services.

28 (F) The amount and application of any copayment or other similar cost-sharing payment that the
29 authority may require a recipient to pay toward the cost of health care or services.

30 (b) The authority shall adopt rules establishing timelines for payment of health services under
31 paragraph (a) of this subsection.

32 (2) The types and extent of health care and services and the amounts to be paid in meeting the
33 costs thereof, as determined and fixed by the authority and within the limits of funds available
34 therefor, shall be the total available for medical assistance and payments for such medical assistance
35 shall be the total amounts from [public] **medical** assistance funds available to providers of health
36 care and services in meeting the costs thereof.

37 (3) Except for payments under a cost-sharing plan, payments made by the authority for medical
38 assistance shall constitute payment in full for all health care and services for which such payments
39 of medical assistance were made.

40 (4) Notwithstanding subsections (1) and (2) of this section, the Department of Human Services
41 shall be responsible for determining the payment for Medicaid-funded long term care services and
42 for contracting with the providers of long term care services.

43 (5) In determining a global budget for a coordinated care organization:

44 (a) The allocation of the payment, the risk and any cost savings shall be determined by the
45 governing body of the organization; and

1 (b) The authority shall consider the community health assessment conducted by the organization
 2 and reviewed annually, and the organization’s health care costs.

3 (6) Under the supervision of the Governor, the authority may work with the Centers for Medi-
 4 care and Medicaid Services to develop, in addition to global budgets, payment streams:

5 (a) To support improved delivery of health care to recipients of medical assistance; and

6 (b) That are funded by coordinated care organizations, counties or other entities other than the
 7 state whose contributions qualify for federal matching funds under Title XIX or XXI of the Social
 8 Security Act.

9 **SECTION 71.** ORS 414.095 is amended to read:

10 414.095. Neither medical assistance nor amounts payable to vendors out of *[public]* **medical** as-
 11 sistance funds are transferable or assignable at law or in equity and none of the money paid or
 12 payable under the provisions of this chapter is subject to execution, levy, attachment, garnishment
 13 or other legal process.

14 **SECTION 72.** ORS 414.115 is amended to read:

15 414.115. (1) In lieu of providing one or more of the health care and services available under
 16 medical assistance by direct payments to providers thereof and in lieu of providing such health care
 17 and services made available pursuant to ORS 414.065, the Oregon Health Authority *[shall]* **may** use
 18 available medical assistance funds to purchase and pay premiums on policies of insurance, or enter
 19 into and pay the expenses on health care service contracts, or medical or hospital service contracts
 20 that provide one or more of the health care and services available under medical assistance *[for the*
 21 *benefit of the categorically needy]*. Notwithstanding other specific provisions, the use of available
 22 medical assistance funds to purchase health care and services may provide the following insurance
 23 or contract options:

24 (a) Differing services or levels of service among groups of eligibles as defined by rules of the
 25 authority; and

26 (b) Services and reimbursement for these services may vary among contracts and need not be
 27 uniform.

28 (2) The policy of insurance or the contract by its terms, or the insurer or contractor by written
 29 acknowledgment to the authority must guarantee:

30 (a) To provide health care and services of the type, within the extent and according to standards
 31 prescribed under ORS 414.065;

32 (b) To pay providers of health care and services the amount due, based on the number of days
 33 of care and the fees, charges and costs established under ORS 414.065, except as to medical or
 34 hospital service contracts which employ a method of accounting or payment on other than a fee-
 35 for-service basis;

36 (c) To provide health care and services under policies of insurance or contracts in compliance
 37 with all laws, rules and regulations applicable thereto; and

38 (d) To provide such statistical data, records and reports relating to the provision, administration
 39 and costs of providing health care and services to the authority as may be required by the authority
 40 for its records, reports and audits.

41 **(3) The authority may purchase insurance under this section through the health insur-
 42 ance exchange.**

43 **SECTION 73.** ORS 414.231 is amended to read:

44 414.231. (1) As used in this section, “child” means a person under 19 years of age.

45 (2) The Health Care for All Oregon Children program is established to make affordable, acces-

1 sible health care available to all of Oregon’s children. The program is composed of:

2 (a) Medical assistance funded in whole or in part by Title XIX of the Social Security Act, by the
 3 State Children’s Health Insurance Program under Title XXI of the Social Security Act and by mon-
 4 eys appropriated or allocated for that purpose by the Legislative Assembly; and

5 (b) A private health option administered by the Office of Private Health Partnerships under ORS
 6 414.826.

7 (3) A child is eligible for the program if the child is lawfully present in this state and the income
 8 of the child’s family is at or below 300 percent of the federal poverty guidelines. There is no asset
 9 limit to qualify for the program.

10 (4)(a) A child receiving medical assistance under the program is continuously eligible for a
 11 minimum period of 12 months.

12 (b) The Department of Human Services **and the Oregon Health Authority** shall reenroll a child
 13 for successive 12-month periods of enrollment as long as the child is eligible for medical assistance
 14 on the date of reenrollment.

15 (c) The department **and the authority** may not require a new application as a condition of re-
 16 enrollment under paragraph (b) of this subsection and must determine the child’s eligibility for
 17 medical assistance using information and sources available to the department **and the authority**
 18 or documentation readily available.

19 *[(5) Except for medical assistance funded by Title XIX of the Social Security Act, the department*
 20 *or the Oregon Health Authority may prescribe by rule a period of uninsurance prior to enrollment in*
 21 *the program.]*

22 **SECTION 74.** ORS 414.428 is amended to read:

23 414.428. (1) An individual [*described in ORS 414.025 (3)(s)*] who is eligible for or receiving med-
 24 ical assistance, **as defined in ORS 414.025, pursuant to a demonstration project under section**
 25 **1115 of the Social Security Act** and who is an American Indian and Alaskan Native beneficiary
 26 shall receive the [*benefit*] **same** package of health services **as individuals** described in ORS [*414.707*
 27 *(1)*] **414.706 (1), (2) and (3)** if:

28 (a) The Oregon Health Authority receives 100 percent federal medical assistance percentage for
 29 payments made by the authority for the **package of** health services provided [*as part of the benefit*
 30 *package described in ORS 414.707 (1)*]; or

31 (b) The authority receives funding from the Indian tribes for which federal financial partic-
 32 ipation is available.

33 (2) As used in this section, “American Indian and Alaskan Native beneficiary” has the meaning
 34 given that term in ORS 414.631.

35 **SECTION 75.** ORS 414.534 is amended to read:

36 414.534. (1) The Oregon Health Authority shall provide medical assistance, **as defined in ORS**
 37 **414.025**, to a woman who:

38 (a) Is found by a provider to be in need of treatment for breast or cervical cancer;

39 (b) Meets the eligibility criteria for the Oregon Breast and Cervical Cancer Program prescribed
 40 by rule by the authority;

41 (c) Does not otherwise have creditable coverage, as defined in 42 U.S.C. 300gg(c); and

42 (d) Is 64 years of age or younger.

43 (2) The period of time a woman can receive medical assistance based on the eligibility criteria
 44 of subsection (1) of this section:

45 (a) Begins:

1 (A) On the date the Department of Human Services or the Oregon Health Authority makes a
 2 formal determination that the woman is eligible for medical assistance in accordance with sub-
 3 section (1) of this section; or

4 (B) Up to three months prior to the month in which the woman applied for medical assistance
 5 if on the earlier date the woman met the eligibility criteria of subsection (1) of this section.

6 (b) Ends when:

7 (A) The woman is no longer in need of treatment; or

8 (B) The department **or the authority** determines the woman no longer meets the eligibility
 9 criteria of subsection (1) of this section.

10 **SECTION 76.** ORS 414.536 is amended to read:

11 414.536. (1) If the Department of Human Services **or the Oregon Health Authority** determines
 12 that a woman likely is eligible for medical assistance under ORS 414.534, the department **or the**
 13 **authority** shall determine her to be presumptively eligible for medical assistance until a formal
 14 determination on eligibility is made.

15 (2) The period of time a woman may receive medical assistance based on presumptive eligibility
 16 is limited. The period of time:

17 (a) Begins on the date that the department **or the authority** determines the woman likely meets
 18 the eligibility criteria under ORS 414.534; and

19 (b) Ends on the earlier of the following dates:

20 (A) If the woman applies for medical assistance following the determination by the department
 21 **or the authority** that the woman is presumptively eligible for medical assistance, the date on which
 22 a formal determination on eligibility is made by the department **or the authority** in accordance
 23 with ORS 414.534; or

24 (B) If the woman does not apply for medical assistance following the determination by the de-
 25 partment **or the authority** that the woman is presumptively eligible for medical assistance, the last
 26 day of the month following the month in which presumptive eligibility begins.

27 **SECTION 77.** ORS 414.706 is amended to read:

28 414.706. [*The Legislative Assembly shall approve and fund health services to the following*
 29 *persons:]*

30 [*(1) Persons who are categorically needy as described in ORS 414.025 (3)(o) and (p);]*

31 [*(2) Pregnant women with incomes no more than 185 percent of the federal poverty guidelines;]*

32 [*(3) Persons under 19 years of age with incomes no more than 200 percent of the federal poverty*
 33 *guidelines;]*

34 [*(4) Persons described in ORS 414.708; and]*

35 [*(5) Persons 19 years of age or older with incomes no more than 100 percent of the federal poverty*
 36 *guidelines who do not have federal Medicare coverage.]* **Within available funds and subject to the**
 37 **rules of the Oregon Health Authority, medical assistance shall be provided to an individual**
 38 **who is a resident of this state and who:**

39 (1) **Is receiving a category of aid;**

40 (2) **Would be eligible for a category of aid but is not receiving a category of aid;**

41 (3) **Is required by federal law to be included in the state's medical assistance program in**
 42 **order for that program to qualify for federal funds; and**

43 (4) **Is not described in subsection (3) of this section but for whom federal funding is**
 44 **available under Title XIX or XXI of the Social Security Act.**

45 **SECTION 78.** ORS 414.709 is amended to read:

1 414.709. [(1) *Except as provided in subsection (2) of this section,*] If insufficient resources are
 2 available during a biennium, the population of eligible persons receiving health services may not be
 3 reduced below the population of eligible persons approved and funded in the legislatively adopted
 4 budget for the Oregon Health Authority for the biennium.

5 [(2) *The Oregon Health Authority may periodically limit enrollment of persons described in ORS*
 6 *414.708 in order to stay within the legislatively adopted budget for the authority.*]

7 **SECTION 79.** ORS 414.727 is amended to read:

8 414.727. (1) A prepaid managed care health services organization, as defined in ORS 414.736, that
 9 contracts with the Oregon Health Authority [*under ORS 414.651 (1)*] to provide prepaid managed
 10 care health services, including hospital services, shall reimburse Type A and Type B hospitals and
 11 rural critical access hospitals, as described in ORS 442.470 and identified by the Office of Rural
 12 Health as rural hospitals, fully for the cost of covered services based on the cost-to-charge ratio
 13 used for each hospital in setting the capitation rates paid to the prepaid managed care health ser-
 14 vices organization for the contract period.

15 (2) The authority shall base the capitation rates described in subsection (1) of this section on
 16 the most recent audited Medicare cost report for Oregon hospitals adjusted to reflect the Medicaid
 17 mix of services.

18 (3) This section may not be construed to prohibit a prepaid managed care health services or-
 19 ganization and a hospital from mutually agreeing to reimbursement other than the reimbursement
 20 specified in subsection (1) of this section.

21 (4) Hospitals reimbursed under subsection (1) of this section are not entitled to any additional
 22 reimbursement for services provided.

23 **SECTION 80.** ORS 414.736 is amended to read:

24 414.736. As used in ORS 192.493, this chapter, ORS chapter 416 and section 9, chapter 867,
 25 Oregon Laws 2009:

26 (1) “Designated area” means a geographic area of the state defined by the Oregon Health Au-
 27 thority by rule that is served by a prepaid managed care health services organization.

28 (2) “Fully capitated health plan” means an organization that contracts with the authority on a
 29 prepaid capitated basis under ORS 414.618.

30 (3) “Physician care organization” means an organization that contracts with the authority on a
 31 prepaid capitated basis under ORS 414.618 to provide the health services described in ORS 414.025
 32 [(8)(b)] (7)(b), (c), (d), (e), (f), (g) and (j). A physician care organization may also contract with the
 33 authority on a prepaid capitated basis to provide the health services described in ORS 414.025
 34 [(8)(k)] (7)(k) and (L).

35 (4) “Prepaid managed care health services organization” means a managed physical health,
 36 dental, mental health or chemical dependency organization that contracts with the authority on a
 37 prepaid capitated basis under ORS 414.618. A prepaid managed care health services organization
 38 may be a dental care organization, fully capitated health plan, physician care organization, mental
 39 health organization or chemical dependency organization.

40 **SECTION 81.** ORS 414.740, as amended by section 26, chapter 8, Oregon Laws 2012, is amended
 41 to read:

42 414.740. (1) Notwithstanding ORS 414.738 (1), the Oregon Health Authority shall contract under
 43 ORS 414.651 with a prepaid group practice health plan that serves at least 200,000 members in this
 44 state and that has been issued a certificate of authority by the Department of Consumer and Busi-
 45 ness Services as a health care service contractor to provide health services as described in ORS

1 414.025 [(8)(b)] **(7)(b)**, (c), (d), (e), (g) and (j). A health plan may also contract with the authority on
 2 a prepaid capitated basis to provide the health services described in ORS 414.025 [(8)(k)] **(7)(k)** and
 3 (L). The authority may accept financial contributions from any public or private entity to help im-
 4 plement and administer the contract. The authority shall seek federal matching funds for any fi-
 5 nancial contributions received under this section.

6 (2) In a designated area, in addition to the contract described in subsection (1) of this section,
 7 the authority shall contract with prepaid managed care health services organizations to provide
 8 health services under ORS 414.631, 414.651 and 414.688 to 414.750.

9 **SECTION 82.** ORS 414.841 is amended to read:

10 414.841. For purposes of ORS 414.841 to 414.864:

11 (1) “Carrier” has the meaning given that term in ORS 735.700.

12 (2) “Dental plan” means a policy or certificate of group or individual health insurance, as de-
 13 fined in ORS 731.162, providing payment or reimbursement only for the expenses of dental care.

14 (3) “Eligible individual” means an individual who:

15 (a) Is a resident of the State of Oregon;

16 (b) Is not eligible for Medicare;

17 [(c) *Is either:*]

18 [(A) *For health benefit plan coverage other than dental plans, a person who has been without*
 19 *health benefit plan coverage for a period of time established by the Office of Private Health Partner-*
 20 *ships or meets exception criteria established by the office; or]*

21 [(B) *For dental plan coverage, an individual under 19 years of age who is uninsured or*
 22 *underinsured with respect to dental plan coverage;]*

23 [(d)] (c) Except as otherwise provided by the office, has family income that is at or below 200
 24 percent of the federal poverty level; and

25 [(e)] (d) Meets other eligibility criteria established by the office.

26 (4) “Family” means an eligible individual and all other related individuals, as prescribed by the
 27 office by rule.

28 (5)(a) “Health benefit plan” means a policy or certificate of group or individual health insurance,
 29 as defined in ORS 731.162, [*providing payment or reimbursement for hospital, medical and surgical*
 30 *expenses or for dental care expenses*] **that provides benchmark coverage as described in 42 U.S.C.**
 31 **1396u-7(b)**. “Health benefit plan” includes a health care service contractor or health maintenance
 32 organization subscriber contract[, *the Oregon Medical Insurance Pool*] and any plan provided by a
 33 less than fully insured multiple employer welfare arrangement or by another benefit arrangement
 34 defined in the federal Employee Retirement Income Security Act of 1974, as amended.

35 (b) “Health benefit plan” does not include coverage for accident only, specific disease or condi-
 36 tion only, credit, disability income, coverage of Medicare services pursuant to contracts with the
 37 federal government, Medicare supplement insurance, student accident and health insurance, long
 38 term care insurance, hospital indemnity only, vision only, coverage issued as a supplement to li-
 39 ability insurance, insurance arising out of a workers’ compensation or similar law, automobile med-
 40 ical payment insurance, insurance under which the benefits are payable with or without regard to
 41 fault and that is legally required to be contained in any liability insurance policy or equivalent
 42 self-insurance or coverage obtained or provided in another state but not available in Oregon.

43 (6) “Income” means gross income in cash or kind available to the applicant or the applicant’s
 44 family. Income does not include earned income of the applicant’s children or income earned by a
 45 spouse if there is a legal separation.

1 (7) "Resident" means an individual who meets the residency requirements established by rule
2 by the office.

3 (8) "Subsidy" means payment or reimbursement to an eligible individual toward the purchase
4 of a health benefit plan, and may include a net billing arrangement with carriers or a prospective
5 or retrospective payment for health benefit plan premiums and eligible copayments or deductible
6 expenses directly related to the eligible individual.

7 (9) "Third party administrator" means any insurance company or other entity licensed under the
8 Insurance Code to administer health benefit plans.

9 **SECTION 83.** ORS 414.842 is amended to read:

10 414.842. (1) There is established the Family Health Insurance Assistance Program in the Office
11 of Private Health Partnerships. The purpose of the program is to remove economic barriers to
12 health insurance coverage for residents of the State of Oregon with family income that is at or be-
13 low 200 percent of the federal poverty level while encouraging individual responsibility, promoting
14 health benefit plan coverage of children, building on the private sector health benefit plan system
15 and encouraging employer and employee participation in employer-sponsored health benefit plan
16 coverage.

17 (2) The Office of Private Health Partnerships shall be responsible for the implementation and
18 operation of the Family Health Insurance Assistance Program. The Administrator of the Office for
19 Oregon Health Policy and Research, in consultation with the Oregon Health Policy Board, shall
20 make recommendations to the Office of Private Health Partnerships regarding program policy, in-
21 cluding but not limited to eligibility requirements, assistance levels, benefit criteria and carrier
22 participation.

23 (3) The Office of Private Health Partnerships may contract with one or more third party ad-
24 ministrators to administer one or more components of the Family Health Insurance Assistance Pro-
25 gram. Duties of a third party administrator may include but are not limited to:

26 [(a) *Eligibility determination;*]

27 [(b)] (a) Data collection;

28 [(c)] (b) Assistance payments;

29 [(d)] (c) Financial tracking and reporting; and

30 [(e)] (d) Such other services as the office may deem necessary for the administration of the
31 program.

32 (4) If the office decides to enter into a contract with a third party administrator pursuant to
33 subsection (3) of this section, the office shall engage in competitive bidding. The office shall evaluate
34 bids according to criteria established by the office, including but not limited to:

35 (a) The bidder's proven ability to administer a program of the size of the Family Health Insur-
36 ance Assistance Program;

37 (b) The efficiency of the bidder's payment procedures;

38 (c) The estimate provided of the total charges necessary to administer the program; and

39 (d) The bidder's ability to operate the program in a cost-effective manner.

40 **SECTION 84.** ORS 414.848 is amended to read:

41 414.848. (1) Notwithstanding eligibility criteria and subsidy amounts established pursuant to ORS
42 414.841 to 414.864, subsidies shall be provided only to the extent the Legislative Assembly specifi-
43 cally appropriates funds to provide such assistance.

44 (2) The Office of Private Health Partnerships shall prohibit or limit enrollment in the Family
45 Health Insurance Assistance Program to ensure that program expenditures are within legislatively

1 appropriated amounts. Prohibitions or limitations allowed under this section may include but are
2 not limited to:

3 (a) Lowering the allowable income level necessary to qualify as an eligible individual **unless**
4 **the individual is younger than 19 years of age**; and

5 (b) Establishing a waiting list of eligible individuals **with incomes above 138 percent of the**
6 **federal poverty level** who shall receive subsidies only when sufficient funds are available.

7 **SECTION 85.** ORS 414.862 is amended to read:

8 414.862. The Administrator of the Office for Oregon Health Policy and Research shall report
9 biennially to the appropriate interim [*human resources*] **health care** committee and to the Legisla-
10 tive Assembly on the effectiveness and efficiency of the Family Health Insurance Assistance Pro-
11 gram, including services and benefits covered under the purchased health insurance plans, consumer
12 satisfaction and other program operational issues.

13 **SECTION 86.** ORS 416.340 is amended to read:

14 416.340. (1) With respect to any claim against the estate of a deceased person, the Department
15 of Human Services and the Oregon Health Authority may:

16 (a) Secure payment of the claim in whole or in part by the acceptance of assignments,
17 conveyances, notes, mortgages and other transfers of property or interests therein.

18 (b) Waive the claim to the extent that the department or the authority finds that enforcement
19 would tend to defeat the purpose of the public assistance **or medical assistance** laws.

20 (2) To the extent that the need for aid resulted from a crime committed against the recipient,
21 a claim for recovery of the amount of such aid defeats the purpose of the public assistance **or**
22 **medical assistance** laws.

23 **SECTION 87.** ORS 416.350 is amended to read:

24 416.350. (1) The Department of Human Services or the Oregon Health Authority may recover
25 from any person the amounts of medical assistance the department or the authority incorrectly paid
26 to or on behalf of the person.

27 (2) Medical assistance pursuant to ORS chapter 414 paid to or on behalf of an individual who
28 was 55 years of age or older when the individual received the assistance, or paid to or on behalf
29 of a person of any age who was a permanently institutionalized inpatient in a nursing facility,
30 intermediate care facility for persons with [*mental retardation*] **intellectual disabilities** or other
31 medical institution, may be recovered from the estate of the individual or from any recipient of
32 property or other assets held by the individual at the time of death including the estate of the sur-
33 viving spouse. Claim for such medical assistance correctly paid to or on behalf of the individual may
34 be established against the estate, but the claim may not be adjusted or recovered until after the
35 death of the surviving spouse, if any, and only at a time when the individual has no surviving child
36 who is under 21 years of age or who is blind or permanently and totally disabled. Transfers of real
37 or personal property by recipients of such aid without adequate consideration are voidable and may
38 be set aside under ORS 411.620 (2).

39 (3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or
40 surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed
41 against the recipient.

42 (4) In any action or proceeding under this section to recover medical assistance paid, it is the
43 legal burden of the person who receives the property or other assets from a medical assistance re-
44 cipient to establish the extent and value of the recipient's legal title or interest in the property or
45 assets in accordance with rules established by the authority.

1 (5) Amounts recovered under this section do not include the value of benefits paid to or on be-
 2 half of a beneficiary under a **policy or certificate of** qualified long term care insurance [*policy or*
 3 *certificate, described in ORS 414.025 (3)(t)*] **as defined in ORS 743.652**, that were disregarded in de-
 4 termining eligibility for or the amount of medical assistance provided to the beneficiary.

5 (6) As used in this section[,]:

6 (a) "Estate" includes all real and personal property and other assets in which the deceased in-
 7 dividual had any legal title or interest at the time of death including assets conveyed to a survivor,
 8 heir or assign of the deceased individual through joint tenancy, tenancy in common, survivorship,
 9 life estate, living trust or other similar arrangement.

10 (b) **"Medical assistance" includes the state's monthly contribution to the federal govern-**
 11 **ment to defray the costs of outpatient prescription drug coverage provided to a person who**
 12 **is eligible for Medicare Part D prescription drug coverage and who receives medical assist-**
 13 **ance.**

14 **SECTION 88.** ORS 419B.373 is amended to read:

15 419B.373. A person, agency or institution having legal custody of a ward has the following duties
 16 and authority:

17 (1) To have physical custody and control of the ward.

18 (2) To supply the ward with food, clothing, shelter and incidental necessities.

19 (3) To provide the ward with care, education and discipline.

20 (4) To authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial
 21 care and treatment for the ward, and, in an emergency where the ward's safety appears urgently to
 22 require it, to authorize surgery or other extraordinary care.

23 (5) To make such reports and to supply such information to the court as the court may from time
 24 to time require.

25 (6) To apply for any Social Security benefits, [*or*] public assistance **or medical assistance, as**
 26 **defined in ORS 414.025**, to which the ward is otherwise entitled and to use the benefits or assist-
 27 ance to [*pay*] **provide** for the care of the ward.

28 **SECTION 89.** ORS 419C.550 is amended to read:

29 419C.550. A person, agency or institution having legal custody of a youth or youth offender has
 30 the following duties and authority:

31 (1) To have physical custody and control of the youth or youth offender.

32 (2) To supply the youth or youth offender with food, clothing, shelter and incidental necessities.

33 (3) To provide the youth or youth offender with care, education and discipline.

34 (4) To authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial
 35 care and treatment for the youth or youth offender, and, in an emergency when the youth or youth
 36 offender's safety appears urgently to require it, to authorize surgery or other extraordinary care.

37 (5) To make such reports and to supply such information to the court as the court may from time
 38 to time require.

39 (6) To apply for any Social Security benefits, [*or*] public assistance **or medical assistance, as**
 40 **defined in ORS 414.025**, to which the youth or youth offender is otherwise entitled and to use the
 41 benefits or assistance to [*pay*] **provide** for the care of the youth or youth offender.

42 **SECTION 90.** ORS 426.300 is amended to read:

43 426.300. (1) The Oregon Health Authority shall, by filing a written certificate with the last
 44 committing court and the court of residence, discharge any patient from court commitment, except
 45 one held upon an order of a court or judge having criminal jurisdiction in an action or proceeding

1 arising out of criminal offense when in its opinion the individual is no longer a mentally ill person
 2 or when in its opinion the transfer of the individual to a voluntary status is in the best interest of
 3 the treatment of the patient.

4 (2) The authority may sign applications for public assistance **or medical assistance, as defined**
 5 **in ORS 414.025**, on behalf of those patients who may be eligible for public assistance **or medical**
 6 **assistance**.

7 **SECTION 91.** ORS 435.215 is amended to read:

8 435.215. The refusal of any person to accept family planning and birth control services shall in
 9 no way affect the right of such person to receive public assistance, **medical assistance, as defined**
 10 **in ORS 414.025**, or any other public benefit and every person to whom such services are offered
 11 shall be so advised initially both orally and in writing. Employees engaged in the administration of
 12 ORS 435.205 to 435.235 shall recognize that the right to make decisions concerning family planning
 13 and birth control is a fundamental personal right of the individual and nothing in ORS 435.205 to
 14 435.235 shall in any way abridge such individual right, nor shall any individual be required to state
 15 the reason for refusing the offer of family planning and birth control services.

16 **SECTION 92.** ORS 689.778 is amended to read:

17 689.778. An individual is eligible to obtain donated prescription drugs through the Charitable
 18 Prescription Drug Program created in ORS 689.772 if the individual:

19 (1) Is a resident of this state; and

20 (2)(a) Does not have health insurance coverage for the prescription drug requested;

21 (b) Is enrolled in a program of public assistance, as defined in ORS 411.010, **or medical as-**
 22 **sistance, as defined in ORS 414.025**; or

23 (c) Meets other requirements adopted by rule by the State Board of Pharmacy that identify
 24 needy individuals with barriers to accessing prescription drugs.

25 **SECTION 93.** ORS 735.625 is amended to read:

26 735.625. (1) Except as provided in subsection (3)(c) of this section, the Oregon Medical Insurance
 27 Pool Board shall offer major medical expense coverage to every eligible person.

28 (2) The coverage to be issued by the board, its schedule of benefits, exclusions and other limi-
 29 tations, shall be established through rules adopted by the board, taking into consideration the advice
 30 and recommendations of the pool members. In the absence of such rules, the pool shall adopt by rule
 31 the minimum benefits prescribed by section 6 (Alternative 1) of the Model Health Insurance Pooling
 32 Mechanism Act of the National Association of Insurance Commissioners (1984).

33 (3)(a) In establishing portability coverage under the pool, the board shall consider the levels of
 34 medical insurance provided in this state and medical economic factors identified by the board. The
 35 board may adopt rules to establish benefit levels, deductibles, coinsurance factors, exclusions and
 36 limitations that the board determines are equivalent to the portability health benefit plans estab-
 37 lished under ORS 743.760.

38 (b) In establishing medical insurance coverage under the pool, the board shall consider the lev-
 39 els of medical insurance provided in this state and medical economic factors identified by the board.
 40 The board may adopt rules to establish benefit levels, deductibles, coinsurance factors, exclusions
 41 and limitations that the board determines are equivalent to those found in the commercial group or
 42 employer-based medical insurance market.

43 (c) The board may provide a separate Medicare supplement policy for individuals under the age
 44 of 65 who are receiving Medicare disability benefits. The board shall adopt rules to establish bene-
 45 fits, deductibles, coinsurance, exclusions and limitations, premiums and eligibility requirements for

1 the Medicare supplement policy.

2 (d) In establishing medical insurance coverage for persons eligible for coverage under ORS
3 735.615 (1)(d), the board shall consider the levels of medical insurance provided in this state and
4 medical economic factors identified by the board. The board may adopt rules to establish benefit
5 levels, deductibles, coinsurance factors, exclusions and limitations to create benefit plans that
6 qualify the person for the credit for health insurance costs under section 35 of the federal Internal
7 Revenue Code, as amended and in effect on December 31, 2004.

8 (4)(a) Premiums charged for coverages issued by the board may not be unreasonable in relation
9 to the benefits provided, the risk experience and the reasonable expenses of providing the coverage.

10 (b) Separate schedules of premium rates based on age and geographical location may apply for
11 individual risks.

12 (c) The board shall determine the applicable medical and portability risk rates either by calcu-
13 lating the average rate charged by insurers offering coverages in the state comparable to the pool
14 coverage or by using reasonable actuarial techniques. The risk rates shall reflect anticipated expe-
15 rience and expenses for such coverage. Rates for pool coverage may not be more than 125 percent
16 of rates established as applicable for medically eligible individuals or for persons eligible for pool
17 coverage under ORS 735.615 (1)(d), or 100 percent of rates established as applicable for portability
18 eligible individuals.

19 (d) The board shall annually determine adjusted benefits and premiums. The adjustments shall
20 be in keeping with the purposes of ORS 735.600 to 735.650, subject to a limitation of keeping pool
21 losses under one percent of the total of all medical insurance premiums, subscriber contract charges
22 and 110 percent of all benefits paid by member self-insurance arrangements. The board may deter-
23 mine the total number of persons that may be enrolled for coverage at any time and may permit and
24 prohibit enrollment in order to maintain the number authorized. Nothing in this paragraph author-
25 izes the board to prohibit enrollment for any reason other than to control the number of persons in
26 the pool.

27 (5)(a) The board may apply:

28 (A) A waiting period of not more than 90 days during which the person has no available cov-
29 erage; or

30 (B) Except as provided in paragraph (c) of this subsection, a preexisting conditions provision of
31 not more than six months from the effective date of coverage under the pool.

32 (b) In determining whether a preexisting conditions provision applies to an eligible enrollee,
33 except as provided in this subsection, the board shall credit the time the eligible enrollee was cov-
34 ered under a previous health benefit plan if the previous health benefit plan was continuous to a
35 date not more than 63 days prior to the effective date of the new coverage under the Oregon Med-
36 ical Insurance Pool, exclusive of any applicable waiting period. The Oregon Medical Insurance Pool
37 Board need not credit the time for previous coverage to which the insured or dependent is otherwise
38 entitled under this subsection with respect to benefits and services covered in the pool coverage
39 that were not covered in the previous coverage.

40 (c) The board may adopt rules applying a preexisting conditions provision to a person who is
41 eligible for coverage under ORS 735.615 (1)(d).

42 (d) For purposes of this subsection, a "preexisting conditions provision" means a provision that
43 excludes coverage for services, charges or expenses incurred during a specified period not to exceed
44 six months following the insured's effective date of coverage, for a condition for which medical ad-
45 vice, diagnosis, care or treatment was recommended or received during the six-month period imme-

1 diately preceding the insured's effective date of coverage.

2 (6)(a) Benefits otherwise payable under pool coverage shall be reduced by all amounts paid or
 3 payable through any other health insurance, or self-insurance arrangement, and by all hospital and
 4 medical expense benefits paid or payable under any workers' compensation coverage, automobile
 5 medical payment or liability insurance whether provided on the basis of fault or nonfault, and by
 6 any hospital or medical benefits paid or payable under or provided pursuant to any state or federal
 7 law or program except the Medicaid portion of the medical assistance program [*offering a level of*
 8 *health services described in ORS 414.707*].

9 (b) The board shall have a cause of action against an eligible person for the recovery of the
 10 amount of benefits paid which are not for covered expenses. Benefits due from the pool may be re-
 11 duced or refused as a setoff against any amount recoverable under this paragraph.

12 (7) Except as provided in ORS 735.616, no mandated benefit statutes apply to pool coverage
 13 under ORS 735.600 to 735.650.

14 (8) Pool coverage may be furnished through a health care service contractor or such alternative
 15 delivery system as will contain costs while maintaining quality of care.

16 **SECTION 94.** Section 6, chapter 290, Oregon Laws 1987, as amended by section 1, chapter 622,
 17 Oregon Laws 1991, section 1, chapter 29, Oregon Laws 2007, section 25, chapter 599, Oregon Laws
 18 2009, and section 1, chapter 77, Oregon Laws 2011, is amended to read:

19 **Sec. 6.** (1) In carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, the Public
 20 Utility Commission shall establish a plan to provide assistance to low income customers through
 21 differential rates or otherwise. The plan of assistance shall be designed to use, to the maximum ex-
 22 tent possible, the available funding offered by the Federal Communications Commission, and may
 23 provide different levels of assistance to low income customers based upon differences in local ex-
 24 change rates. The plan established by the commission shall prescribe the amount of assistance to
 25 be provided and the time and manner of payment.

26 (2) For the purpose of establishing a plan to provide assistance to low income customers under
 27 this section, the commission shall require all public utilities, cooperative corporations and
 28 unincorporated associations providing local exchange telecommunication service to participate in
 29 the plan, except as provided in subsection (3) of this section.

30 (3) In lieu of participation in the commission's plan to assist low income customers, a public
 31 utility, cooperative corporation or unincorporated association providing local exchange telecommu-
 32 nication service may apply to the commission to establish an alternative plan for the purpose of
 33 carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, for its own customers. The
 34 commission shall adopt standards for determining the adequacy of alternative plans.

35 (4) The commission may contract with any governmental agency to assist the commission in the
 36 administration of any assistance plan adopted pursuant to this section.

37 (5)(a) As used in sections 2 to 6, chapter 290, Oregon Laws 1987, "low income customer" means
 38 an individual determined by the commission:

39 (A) To be receiving benefits from the Supplemental Nutrition Assistance Program or from an-
 40 other low income public assistance **or medical assistance** program for which eligibility require-
 41 ments limit participation to individuals with income that does not exceed 135 percent of federal
 42 poverty guidelines; or

43 (B) To be a resident of a long term care facility, as defined in ORS 442.015, or a residential care
 44 facility, as defined in ORS 443.400, who receives medical assistance under ORS chapter 414.

45 (b) The commission must be able to verify the continuing participation of a low income customer

1 in a program described in paragraph (a) of this subsection.

2 **SECTION 95.** Section 9, chapter 736, Oregon Laws 2003, as amended by section 2, chapter 757,
3 Oregon Laws 2005, section 2, chapter 780, Oregon Laws 2007, section 53, chapter 828, Oregon Laws
4 2009, section 19, chapter 867, Oregon Laws 2009, and section 59, chapter 602, Oregon Laws 2011, is
5 amended to read:

6 **Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the State Treasury, separate
7 and distinct from the General Fund. Interest earned by the Hospital Quality Assurance Fund shall
8 be credited to the Hospital Quality Assurance Fund.

9 (2) Amounts in the Hospital Quality Assurance Fund are continuously appropriated to the
10 Oregon Health Authority for the purpose of paying refunds due under section 6, chapter 736, Oregon
11 Laws 2003, and funding services under ORS [414.705 to 414.750] **414.631, 414.651 and 414.688 to**
12 **414.750**, including but not limited to:

13 (a) Increasing reimbursement rates for inpatient and outpatient hospital services under ORS
14 [414.705 to 414.750] **414.631, 414.651 and 414.688 to 414.750**;

15 (b) Maintaining, expanding or modifying services for persons described in ORS [414.025 (3)(s)]
16 **414.706**;

17 (c) Maintaining or increasing the number of persons described in ORS [414.025 (3)(s)] **414.706**
18 who are enrolled in the medical assistance program; and

19 (d) Paying administrative costs incurred by the authority to administer the assessments imposed
20 under section 2, chapter 736, Oregon Laws 2003.

21 (3) Except for assessments imposed pursuant to section 2 (3)(b), chapter 736, Oregon Laws 2003,
22 the authority may not use moneys from the Hospital Quality Assurance Fund to supplant, directly
23 or indirectly, other moneys made available to fund services described in subsection (2) of this sec-
24 tion.

25 **SECTION 96.** Section 20, chapter 595, Oregon Laws 2009, as amended by section 224, chapter
26 720, Oregon Laws 2011, is amended to read:

27 **Sec. 20.** [On or before January 2, 2014, the Department] **The Director** of Human Services and
28 the **Director of the Oregon Health Authority** may delegate to each other **by interagency agree-**
29 **ment** any duties, functions or powers [transferred by section 19, chapter 595, Oregon Laws 2009, that
30 the department or the authority deems] **granted to the Department of Human Services or the**
31 **Oregon Health Authority by law, as the directors deem** necessary for the efficient and effective
32 operation of their **agencies'** respective functions.

33 **SECTION 97.** Section 1, chapter 867, Oregon Laws 2009, as amended by section 46, chapter 828,
34 Oregon Laws 2009, section 2, chapter 73, Oregon Laws 2010, and section 31, chapter 602, Oregon
35 Laws 2011, is amended to read:

36 **Sec. 1.** (1) The Health System Fund is established in the State Treasury, separate and distinct
37 from the General Fund. Interest earned by the Health System Fund shall be credited to the fund.

38 (2) Amounts in the Health System Fund are continuously appropriated to the Oregon Health
39 Authority for the purpose of funding the Health Care for All Oregon Children program established
40 in ORS 414.231, health services described in ORS 414.025 [(8)(a)] **(7)(a)** to (j) and other health ser-
41 vices. Moneys in the fund may also be used by the authority to:

42 (a) Provide grants to community health centers and safety net clinics under ORS 413.225.

43 (b) Pay refunds due under section 41, chapter 736, Oregon Laws 2003, and under section 11,
44 chapter 867, Oregon Laws 2009.

45 (c) Pay administrative costs incurred by the authority to administer the assessment in section

1 9, chapter 867, Oregon Laws 2009.

2 (d) Provide health services described in ORS 414.025 [(8)] (7) to individuals: [*described in ORS*
3 *414.025 (3)(f)(B)*]

4 (A) Who are 18 years of age or older and for whom federal financial participation is
5 available under Title XIX or XXI of the Social Security Act;

6 (B) Who, immediately prior to their 18th birthday, were in foster family homes or li-
7 censed child-caring agencies or institutions; and

8 (C) For whom a public agency of this state was assuming financial responsibility, in whole
9 or in part.

10 (3) The authority shall develop a system for reimbursement by the authority to the Office of
11 Private Health Partnerships out of the Health System Fund for costs associated with administering
12 the private health option pursuant to ORS 414.826.

13 **SECTION 98. ORS 411.431, 411.432, 414.707, 414.708, 414.750, 414.866, 414.868, 414.870 and**
14 **414.872 are repealed.**

15 **SECTION 99. ORS 411.159 is added to and made a part of ORS 410.595 to 410.625.**

16 **SECTION 100. The Oregon Health Authority, the Department of Human Services and the**
17 **Oregon Health Insurance Exchange Corporation may take any action prior to January 1,**
18 **2014, necessary to carry out sections 1, 2 and 99 of this 2013 Act, the amendments to ORS**
19 **1.198, 18.784, 18.838, 18.847, 25.381, 30.800, 93.967, 93.969, 97.939, 108.725, 109.811, 113.085, 113.086,**
20 **114.305, 114.515, 114.517, 115.125, 115.195, 125.170, 130.425, 166.715, 179.505, 183.458, 192.588,**
21 **293.231, 314.860, 409.010, 410.150, 410.490, 411.010, 411.060, 411.070, 411.081, 411.083, 411.087,**
22 **411.119, 411.141, 411.159, 411.400, 411.402, 411.404, 411.406, 411.408, 411.435, 411.439, 411.443,**
23 **411.610, 411.620, 411.630, 411.632, 411.640, 411.660, 411.670, 411.675, 411.690, 411.694, 411.703,**
24 **411.795, 411.802, 411.965, 411.967, 411.969, 411.970, 413.109, 413.175, 414.025, 414.041, 414.065,**
25 **414.095, 414.115, 414.231, 414.428, 414.534, 414.536, 414.706, 414.709, 414.727, 414.736, 414.740,**
26 **414.841, 414.842, 414.848, 414.862, 416.340, 416.350, 419B.373, 419C.550, 426.300, 435.215, 689.778**
27 **and 735.625 and section 6, chapter 290, Oregon Laws 1987, section 9, chapter 736, Oregon Laws**
28 **2003, section 20, chapter 595, Oregon Laws 2009, and section 1, chapter 867, Oregon Laws**
29 **2009, by sections 3 to 97 of this 2013 Act and the repeal of ORS 411.431, 411.432, 414.707,**
30 **414.708, 414.750, 414.866, 414.868, 414.870 and 414.872 by section 98 of this 2013 Act on and after**
31 **January 1, 2014.**

32 **SECTION 101. Sections 1, 2 and 99 of this 2013 Act, the amendments to ORS 1.198, 18.784,**
33 **18.838, 18.847, 25.381, 30.800, 93.967, 93.969, 97.939, 108.725, 109.811, 113.085, 113.086, 114.305,**
34 **114.515, 114.517, 115.125, 115.195, 125.170, 130.425, 166.715, 179.505, 183.458, 192.588, 293.231,**
35 **314.860, 409.010, 410.150, 410.490, 411.010, 411.060, 411.070, 411.081, 411.083, 411.087, 411.119,**
36 **411.141, 411.159, 411.400, 411.402, 411.404, 411.406, 411.408, 411.435, 411.439, 411.443, 411.610,**
37 **411.620, 411.630, 411.632, 411.640, 411.660, 411.670, 411.675, 411.690, 411.694, 411.703, 411.795,**
38 **411.802, 411.965, 411.967, 411.969, 411.970, 413.109, 413.175, 414.025, 414.041, 414.065, 414.095,**
39 **414.115, 414.231, 414.428, 414.534, 414.536, 414.706, 414.709, 414.727, 414.736, 414.740, 414.841,**
40 **414.842, 414.848, 414.862, 416.340, 416.350, 419B.373, 419C.550, 426.300, 435.215, 689.778 and 735.625**
41 **and section 6, chapter 290, Oregon Laws 1987, section 9, chapter 736, Oregon Laws 2003,**
42 **section 20, chapter 595, Oregon Laws 2009, and section 1, chapter 867, Oregon Laws 2009, by**
43 **sections 3 to 97 of this 2013 Act and the repeal of ORS 411.431, 411.432, 414.707, 414.708,**
44 **414.750, 414.866, 414.868, 414.870 and 414.872 by section 98 of this 2013 Act become operative**
45 **January 1, 2014.**

1 **SECTION 102.** This 2013 Act being necessary for the immediate preservation of the public
2 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
3 on its passage.

4
