

# House Bill 3349

Sponsored by Representative HOYLE

## 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**.

Modifies definition of "estate" for purposes of estate recovery of medical assistance paid. Limits estate recovery to assets subject to probate administration unless assets were transferred or made subject to right of survivorship during period in which resources are considered for purposes of eligibility for medical assistance.

## A BILL FOR AN ACT

1  
2 Relating to estate recovery of medical assistance; creating new provisions; and amending ORS  
3 416.350.

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

5 **SECTION 1.** ORS 416.350 is amended to read:

6 416.350. (1) The Department of Human Services or the Oregon Health Authority may recover  
7 from any person the amounts of medical assistance the department or the authority incorrectly paid  
8 to or on behalf of the person.

9 (2) Medical assistance pursuant to ORS chapter 414 paid to or on behalf of an individual who  
10 was 55 years of age or older when the individual received the assistance, or paid to or on behalf  
11 of a person of any age who was a permanently institutionalized inpatient in a nursing facility,  
12 intermediate care facility for persons with mental retardation or other medical institution, may be  
13 recovered from the estate of the individual or from any recipient of property or other assets held  
14 by the individual at the time of death including the estate of the surviving spouse. Claim for such  
15 medical assistance correctly paid to or on behalf of the individual may be established against the  
16 estate, but the claim may not be adjusted or recovered until after the death of the surviving spouse,  
17 if any, and only at a time when the individual has no surviving child who is under 21 years of age  
18 or who is blind or permanently and totally disabled. Transfers of real or personal property by re-  
19 cipients of such aid without adequate consideration are voidable and may be set aside under ORS  
20 411.620 (2).

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

24 (4) In any action or proceeding under this section to recover medical assistance paid, it is the  
25 legal burden of the person who receives the property or other assets from a medical assistance re-  
26 cipient to establish the extent and value of the recipient's legal title or interest in the property or  
27 assets in accordance with rules established by the authority.

28 (5) Amounts recovered under this section do not include the value of benefits paid to or on be-  
29 half of a beneficiary under a qualified long term care insurance policy or certificate, described in  
30 ORS 414.025 (3)(t), that were disregarded in determining eligibility for or the amount of medical as-

**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 sistance provided to the beneficiary.

2 (6) As used in this section: [*“estate” includes all real and personal property and other assets in*  
3 *which the deceased individual had any legal title or interest at the time of death including assets con-*  
4 *veyed to a survivor, heir or assign of the deceased individual through joint tenancy, tenancy in com-*  
5 *mon, survivorship, life estate, living trust or other similar arrangement.*]

6 (a) **“Estate” refers to the real and personal property of a decedent that is subject to**  
7 **probate administration and has the meaning given that term in ORS 111.005.**

8 (b) **“Estate” includes real or personal property that is transferred for less than fair**  
9 **market value or that passes by right of survivorship if the property was transferred or made**  
10 **subject to the right to survivorship during a period in which resources are considered for**  
11 **purposes of eligibility for medical assistance.**

12 **SECTION 2. The amendments to ORS 416.350 by section 1 of this 2013 Act apply to per-**  
13 **sons that receive medical assistance based on an application submitted on or after the ef-**  
14 **fective date of this 2013 Act.**