

A-Engrossed
Senate Bill 1029

Ordered by the Senate April 15
Including Senate Amendments dated April 15

Sponsored by COMMITTEE ON HUMAN SERVICES

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act creates a new exception to laws that allow the state to take back medical assistance paid to a person from the person's estate. (Flesch Readability Score: 63.0).

Prohibits the recovery of medical assistance from an individual's estate under circumstances in which a child had been living in the individual's home and providing care to the individual. **Directs the Oregon Health Authority and the Department of Human Services to seek any necessary federal approval.**

[Removes the prohibition against the transfer of real or personal property without adequate consideration by recipients of medical assistance or recipients of assistance under the Oregon Supplemental Income Program.]

Becomes operative on the date that notice of federal approval is received.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to the recovery of public assistance; creating new provisions; amending ORS 416.350; and
3 prescribing an effective date.

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) Except as prohibited by ORS 178.380, medical assistance pursuant to ORS chapter 414 paid
10 to or on behalf of an individual who was 55 years of age or older when the individual received the
11 assistance, or paid to or on behalf of a person of any age who was a permanently institutionalized
12 inpatient in a nursing facility, intermediate care facility for persons with intellectual disabilities or
13 other medical institution, may be recovered from the estate of the individual or from any recipient
14 of property or other assets held by the individual at the time of death including the estate of the
15 surviving spouse. Claim for such medical assistance correctly paid to or on behalf of the individual
16 may be established against the estate, but the claim may not be adjusted or recovered until after
17 the death of the surviving spouse, if any, and only at a time when the individual has no surviving
18 child who is under 21 years of age or who is blind or permanently and totally disabled. **Except as**
19 **provided in subsection (4) of this section,** transfers of real or personal property by recipients of
20 such aid without adequate consideration are voidable and may be set aside under ORS 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.

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)(a) Nothing in this section authorizes the recovery of the amount of any aid from the
2 estate or surviving spouse of a recipient if a surviving child of the recipient:

3 (A) Lived in the recipient's home for at least two consecutive years before:

4 (i) The recipient was determined eligible for medical assistance; or

5 (ii) The recipient's death;

6 (B) Provided to the recipient a level of care that permitted the recipient to reside at
7 home rather than in an institution for at least two years; and

8 (C) Received either:

9 (i) A legal interest in the recipient's home during the recipient's life; or

10 (ii) Upon the recipient's death, any legal title or interest in the recipient's home pursuant
11 to ORS 114.215 or by operation of law through joint tenancy, tenancy in common,
12 survivorship, transfer on death, life estate, living trust or other similar arrangement.

13 (b) A transfer by a recipient of the recipient's home to a child who meets the require-
14 ments of paragraph (a) of this subsection is not voidable and may not be set aside under ORS
15 411.620 (2).

16 (c) The department and the authority may adopt rules as necessary to implement this
17 subsection.

18 [(4)] (5) In any action or proceeding under this section to recover medical assistance paid, it is
19 the legal burden of the person who receives the property or other assets from a medical assistance
20 recipient to establish the extent and value of the recipient's legal title or interest in the property
21 or assets in accordance with rules established by the authority.

22 [(5)] (6) Amounts recovered under this section do not include the value of benefits paid to or
23 on behalf of a beneficiary under a policy or certificate of qualified long term care insurance as de-
24 fined in ORS 743.652, that were disregarded in determining eligibility for or the amount of medical
25 assistance provided to the beneficiary.

26 [(6)] (7) As used in this section:

27 (a) "Estate" includes all real and personal property and other assets in which the deceased in-
28 dividual had any legal title or interest at the time of death including assets conveyed to a survivor,
29 heir or assign of the deceased individual through joint tenancy, tenancy in common, survivorship,
30 life estate, living trust or other similar arrangement.

31 (b) "Medical assistance" includes the state's monthly contribution to the federal government to
32 defray the costs of outpatient prescription drug coverage provided to a person who is eligible for
33 Medicare Part D prescription drug coverage and who receives medical assistance.

34 **SECTION 2.** (1) No later than six months after the effective date of this 2025 Act, the
35 Oregon Health Authority and the Department of Human Services shall seek any waiver or
36 other necessary approval from the Centers for Medicare and Medicaid Services to carry out
37 the amendments to ORS 416.350 by section 1 of this 2025 Act.

38 (2) The authority and the department shall notify the Legislative Counsel immediately
39 upon receipt of the approval or denial of the request under subsection (1) of this section.

40 **SECTION 3.** (1) The amendments to ORS 416.350 by section 1 of this 2025 Act become
41 operative on the date on which the Legislative Counsel receives notice of the federal approval
42 as provided under section 2 of this 2025 Act.

43 (2) The Oregon Health Authority and the Department of Human Services may take any
44 action before the operative date specified in subsection (1) of this section that is necessary
45 for the authority and the department to exercise, on and after the operative date specified

1 in subsection (1) of this section, all of the powers, duties and functions conferred on the
2 authority and the department by the amendments to ORS 416.350 by section 1 of this 2025
3 Act.

4 SECTION 4. This 2025 Act takes effect on the 91st day after the date on which the 2025
5 regular session of the Eighty-third Legislative Assembly adjourns sine die.

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