

# Elder Law in Oregon

Financial Assistance  
Medical Benefits  
Managing Financial Choices  
Managing Health Care Choices  
Long Term Care  
Property Ownership and Rental  
Protection of Legal Rights  
Visitation and Custody Rights for  
Grandparents  
Elder Abuse, Sexual Assault, and Domestic  
Violence  
Age Discrimination and Disability  
Discrimination  
Consumer Protection Laws

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Legal Aid Services of Oregon  
Lane County Legal Aid & Advocacy Center

**IMPORTANT!** This booklet is for general educational use only. It is not a substitute for the advice of an attorney. If you have a specific legal question, you should contact an attorney.

The information in this booklet is accurate as of June 2014. Please remember that the law is always changing through the actions of the courts, the legislature and agencies.

**For any updates to this publication please visit our web site at [www.oregonlawhelp.org](http://www.oregonlawhelp.org).**

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# CONTENTS

<b>FINANCIAL ASSISTANCE.....</b>	<b>1</b>	Property Tax Deferral Programs for Disabled and Senior Citizens... 38	
Social Security.....	1	Foreclosure..... 39	
Supplemental Security Income (SSI).....	3	Low Income Rental Assistance. .... 40	
Veteran’s Benefits. ....	3	State Rental Assistance Program. .... 43	
Supplemental Nutritional Assistance Program (SNAP)(food stamps). . .	4		
<b>MEDICAL BENEFITS.....</b>	<b>5</b>	<b>PROTECTION OF LEGAL RIGHTS.....</b>	<b>43</b>
Medicare. ....	5	Visitation And Custody Rights For Grandparents. ....	43
Assistance for Low-Income Medicare... 8		Elder Abuse, Sexual Assault, and Domestic Violence.....	48
Medicare Appeals. ....	10	Age Discrimination and Disability Discrimination. ....	52
Medicare Prescription Drug Coverage	2	Laws to Protect Consumers.....	53
Medicaid. ....	17	1. Bankruptcy. ....	53
Oregon Health Plan. ....	17	2. Predatory Lending.....	57
Long Term Care Services.....	18	3. Debt Collection and Social Security.....	59
Other Prescription Drug Programs.....	20	4. Utility Bill Rights. ....	60
Oregon Prescription Drug Program	20	5. Telemarketing Calls. ....	63
Drug Discount Cards. ....	21	6. Identity Theft.....	65
Patient Assistance Programs. . . .	21	7. Reverse Mortgages. ....	66
Oregon Project Independence (OPI). . . .	21		
<b>MANAGING FINANCIAL CHOICES.....</b>	<b>22</b>	<b>RESOURCE SECTION. ....</b>	<b>68</b>
Direct Deposit. ....	22		
Joint Accounts. ....	22		
Pension and Retirement Plans. ....	22		
Power of Attorney. ....	23		
Guardianship. ....	24		
Conservatorship.....	26		
Representative Payee.....	27		
Wills and Trusts.....	28		
<b>MANAGING HEALTH CARE CHOICES... 29</b>			
Advance Directive for Health Care. ....	29		
Physician Orders for Life Sustaining Treatment (POLST) Form. ....	30		
The Oregon Death with Dignity Act. . . .	31		
<b>LONG TERM CARE. ....</b>	<b>31</b>		
Overview of Long Term Care Issues... 31			
Program For All-inclusive Care For The Elderly (PACE). ....	35		
Long-Term Care Insurance. ....	35		
<b>PROPERTY OWNERSHIP AND RENTAL. 37</b>			
Ownership and Transfer of Property. . . .	37		

# FINANCIAL ASSISTANCE

## SOCIAL SECURITY

### What is Social Security?

Social Security is a federal insurance program that provides monthly cash benefits through either the retirement insurance benefit (RIB) or disability insurance benefit (DIB) programs. Benefits for surviving children and spouses are paid through the RIB program. These programs are run by the Social Security Administration (SSA) which has offices in most larger cities or counties.

### Who can receive Social Security benefits?

Individuals (also known as workers) who have paid into Social Security and have enough work credits may be eligible if they meet the age requirements for RIB or are disabled. Certain spouses, children, divorced spouses and parents of the worker may also be able to receive benefits.

### What are work credits?

Work credits are credits given to you based on your earnings. Before 1978 the SSA based how many credits you earned by looking at your income for a three month period called a "calendar quarter." For example, if you earned \$50 in wages during a calendar quarter, you got one work credit. Beginning in 1978 the SSA looks at whether you earned a specified amount of money during a calendar year. If you did, then you get a quarter of coverage. If you earned more than the specified amount you get more quarters of coverage. A maximum of four quarters can be earned each year. The amount of money a worker must earn is determined by a complicated formula and changes each year.

### How do I know if I have enough work credits?

You can receive a statement from SSA by calling, writing or submitting a request over the internet. As a cost saving measure, SSA no longer sends annual statements to workers. Individual work histories can be accessed and reviewed at the SSA website. The statement lists your yearly earnings since you first began to work. The statement also gives an estimate of how much you and your eligible family members will receive in retirement, disability or survivor benefits. If any of the earnings information is incorrect, you or one of your family members should contact SSA to correct the mistake.

### Who is eligible for disability benefits?

You are eligible for disability benefits if you meet Social Security's strict definition of disability and have earned 20 credits of work in the last ten years before becoming disabled. Benefits may also be paid to your spouse, dependent children under age 19 (if in elementary or secondary school), eligible disabled adult children, parents, and certain divorced spouses. For more information on disability benefits, please read our booklet on Social Security disability and SSI.

### Who is eligible for retirement benefits (RIB)?

You are eligible for retirement benefits (RIB) if you have 40 or more work credits. If you were born before 1929 you need fewer work credits to qualify for RIB and you should contact SSA for more information. The earliest you can be paid RIB is at age 62, but this is considered to be early retirement and your monthly benefits will be permanently reduced. Full benefits are not paid until you reach your normal retirement age. If you were born in 1937 or earlier, the normal retirement age is 65. The normal retirement age is increasing gradually and, eventually, for anyone born after 1960, it will be 67.

### **How much will I receive in retirement benefits?**

The amount of benefits you will be paid each month depends upon your average yearly earnings. The amount of any reduction for early retirement depends on how many months before the normal retirement age you begin receiving benefits. You are eligible for a higher monthly benefit if you do not begin receiving RIB until after age 70. You can obtain an estimate of your retirement benefit at the Social Security website:

<http://www.socialsecurity.gov/estimator/>.

### **Can my spouse or children receive benefits while I am living?**

Sometimes. Benefits may be paid to some of your family members. This includes any unmarried children under age 19 if in elementary or secondary school or adult children who became disabled before age 22. Your nonworking spouse is eligible for benefits at age 62 or at any age if caring for a child less than 16 years old or disabled. Your working spouse may be eligible for benefits at age 65. Divorced spouses are treated the same way as a current spouse if the marriage lasted for 10 or more years. The benefits paid to your family members will also be reduced if you retire early.

### **Can my spouse receive benefits when I die?**

Sometimes. Your surviving spouse or ex-spouse can begin receiving widow or widower benefits at age 60. Widows and widowers (including ex-spouses) can also receive benefits at age 50 if they meet Social Security's disability definition within 7 years of your death or within 7 years after they began receiving benefits because of your work. An ex-spouse can only receive benefits based on your work history if you were married for 10 or more years.

### **Can my children receive benefits when I die?**

Sometimes. Your children may be able to receive benefits based on your work credits if they are not married and are either less than 19 years old (and in elementary or secondary school) or became disabled prior to age 22.

### **Can I work and still receive retirement benefits from Social Security?**

Yes. Prior to 1999, a person's retirement benefits were reduced by any money they received from work, until age 70. Under the current law, anyone at the full retirement age or older can work and continue to receive all of their benefits. The retirement benefits paid to anyone who is between the ages of 62 and the full retirement age for the whole year will be reduced by \$1 for every \$2 in earnings over \$15,480 a year (\$1,290/month) for earnings in 2014.

If you reach full retirement age mid-way through a year, your retirement benefits for that year will be reduced by \$1 for every \$3 you earn before the month you reach your full retirement age. The 2014 limit on earnings for the months before full retirement is \$41,400.

### **Should I apply for disability benefits or retirement benefits at age 62?**

This is a difficult question and depends on why you stopped working. If you believe that you cannot work because of a severe health problem (either physical or mental), you may be better off applying for disability benefits. The reason for this is because of the reduction in benefits if you retire early. In most cases, you can apply for disability benefits and then if you are denied, you can appeal that decision and at the same time apply for early retirement benefits. You should contact an attorney or a legal aid office to discuss the pros and cons of applying for disability benefits in addition to early retirement.

## **If SSA denies my application for benefits, what can I do?**

You can appeal any denial of Social Security benefits by SSA if you believe the decision was wrong. The appeal process is explained in more detail in our Social Security Disability and SSI handbook. You may also want to contact an attorney who specializes in Social Security benefits or a legal aid office for assistance with your appeal.

## **SUPPLEMENTAL SECURITY INCOME (SSI)**

### **What is SSI?**

SSI is a federal income maintenance program for any U.S. citizen who is blind, disabled, or at their normal retirement age and who has income and resources below certain limits. Some immigrants may also be eligible to receive SSI depending on their date of entry into the U.S. and their immigration status. (For more information either contact the Social Security Administration or request the brochure on Social Security Disability and SSI from your local Legal Aid Office.) The definition for disability and blindness for SSI is the same as that for Social Security Disability Insurance.

### **How much money will I receive from SSI each month?**

Each year around the end of October, SSA fixes the monthly benefit amount for SSI to start in January. This is known as the federal benefit rate and it is the maximum amount of money the federal government will pay someone each month. Some states add additional money to the federal benefit rate each month. Oregon no longer pays each person receiving SSI a supplement. Instead it has a number of special needs programs that can help an SSI recipient with costs for transportation, housing, and other incidentals. Any income that a person receives (such as Social Security benefits,

VA benefits, or earnings) will reduce the amount of SSI someone is eligible to receive.

### **How much income can I get each month and still receive SSI?**

The amount of money you can receive each month and still receive SSI depends on whether or not it is earned or unearned income. In general, your monthly SSI check will be reduced \$1 for each \$1 in unearned income you receive, after the first \$20. If you have earned income, your monthly SSI check will be reduced \$1 for each \$2 in earnings you receive after the first \$85.

### **How many resources or assets can I keep and still receive SSI?**

Some of your resources are not counted by SSA. These include your home, one car, most of your personal belongings, a separate burial fund valued up to \$1,500 each for you and your spouse, life insurance policies with a face value of no more than \$1,500, or an irrevocable trust of a reasonable value. You are only allowed to have \$2,000 in countable resources if you are single or \$3,000 for a couple. Countable resources include any cash, bank accounts, stocks, bonds, real estate and extra automobiles that you may have.

### **Should I apply for SSI if I am only eligible for a small amount of money each month?**

Yes. Many people apply for SSI even if it only pays them a small monthly benefit because it makes them eligible for Medicaid. Medicaid is a public health program offering valuable medical care coverage, including prescription drugs. For more information on Medicaid, please see the section on Medicaid in this handbook. In Oregon, an application for SSI is NOT an application for Medicaid. You MUST file separate applications.

For more information on the SSI program please request the handbook entitled "Social Security Disability and SSI" from your local Legal Aid Office.

## **VETERAN'S BENEFITS**

### **What types of benefits are available from the Department of Veterans Affairs (VA)?**

The VA provides a wide range of benefits to veterans. They include the following:

- Disability compensation benefits;
- Disability pension benefits;
- Medical care;
- Death benefits for survivors of a disabled veteran;
- Reimbursement for burial expenses, burial flags, burial in national cemeteries, headstones or grave markers;
- Loans and guarantees for purchase of a home;
- Education and training support; and
- Insurance.

Some VA benefits are limited and priority lists exist. In addition, some benefits may only be available to veterans who have served during a period of war.

### **What are VA disability compensation benefits?**

Veterans whose ability to work has been decreased because of an injury or disease that began or worsened during military service may be eligible for cash assistance from the VA. The VA considers this to be a disability and rates each disability according to severity: the greater the disability, the greater the benefits. While there is no time limit for applying for disability compensation benefits, it may be more difficult to prove that your disability began or worsened during military service the longer you wait to apply.

### **What are VA disability pension benefits?**

Disability pension benefits are only available to veterans or their survivors who have limited income and resources. In addition, the veteran must have served for 90 days or more with at least

one day being during a period of war and must be permanently disabled. The disability, however, need not be due to military service. Benefits are higher than SSI benefits and increase for eligible veterans or their survivors who are homebound or in need of nursing home care. The homebound veteran or their survivor may be eligible for more money if a family member is needed to provide care at home.

### **Can my family receive any VA benefits?**

Sometimes. Your spouse and dependent children may be eligible to receive cash benefits if you are receiving benefits because of disability. Surviving spouses and dependent children may also be eligible for benefits.

Educational assistance is available to the children of certain veterans.

### **Will the VA help me if I need to live in a nursing home or other care facility?**

The Oregon Veterans' Home, located in The Dalles, provides nursing home assistance for eligible veterans. To be eligible you need to have served in the military in either wartime or peacetime, were discharged under honorable conditions, be able to pay expenses not covered by the VA, and not require medical care that the home is not equipped to handle. Spouses and surviving spouses as defined by the USDVA are also eligible to reside at the Oregon Veterans' Home.

The amount paid by the veteran may come from military or civilian retirement, VA compensation or VA non-service connected pension, Social Security, or personal funds. For veterans who need financial assistance, the home is Medicaid certified.

For additional questions, call the Oregon Veterans' Home at 1-800-846-8460 or see their web site at <http://www.oregon.gov/ODVA/VETSHOME/>.

The VA will pay for skilled nursing care in private facilities for veterans who meet a very narrow set of criteria (e.g. former prisoners of war). You need to contact the VA to find out if you qualify.

## **SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP BENEFITS) (Oregon Trail Card)**

### **What is SNAP?**

SNAP is the federal food assistance program that was known as food stamps. It was enacted by Congress to help low-income households maintain proper nutrition by giving them a means to purchase food. Most SNAP households now receive Electronic Benefits Transfer (EBT) cards. These cards are also known as Oregon Trail cards and work like ATM or bank cards. You will be given a PIN (Personal Identification number) to access the funds in your SNAP account.

Some SNAP households are eligible to receive SNAP benefits by direct deposit into a bank account as an alternative to receiving SNAP by EBT. This is available for individuals who are 65 or older or who receive SSI.

### **Am I eligible for SNAP benefits?**

You are eligible for SNAP benefits if you are a U.S. citizen, or qualified non-citizen, and you meet income and resource tests. There are other eligibility rules that may apply to your situation.

### **How do EBT (Oregon Trail) Cards Work?**

You will receive an Oregon Trail Card when you are found eligible for SNAP benefits. When you buy groceries at major supermarket outlets (Safeway, Fred Meyer, etc), the check stand computer will automatically separate your food items from your non-food items. You will then slide your EBT/Oregon Trail card through the machine and enter your PIN. The machine will subtract the total amount for the food items

purchased from your SNAP account. You will need to keep track of how much you have left in your account.

Some smaller markets may still have to separate your food items from non-food items by hand, but they will still accept your EBT/Oregon Trail card.

### **How much will I get in SNAP?**

Your SNAP benefits will be based on your household or family size and income. There are also deductions that you can get. The deductions will reduce the income that will be counted for SNAP (and increase your SNAP benefits).

### **How do I apply?**

If there are no minor children in the household, and you are elderly or disabled, contact the Aging and Disability Services Office in your county. A list of phone numbers can be found in the resource section of this handbook on page 700. More information on SNAP benefits is available on the internet see [www.oregonlawhelp.org](http://www.oregonlawhelp.org).

## **MEDICAL BENEFITS**

### **MEDICARE**

#### **What is Medicare?**

Medicare is a federal health insurance program. It helps pay hospital and medical costs for people who are 65 or older and for some disabled people under 65. Medicare offers you different ways to get your Medicare benefits. These different options are called Medicare health plans. These plans include:

- **The original Medicare plan** that is available nationwide. The original Medicare plan covers hospital, skilled nursing facility, and some home health care services under **Part A**, and physician, hospital

outpatient care, and medical equipment, under optional **Part B.**

- **Medicare Part C managed care plans.** (Now known as Medicare Advantage.)
- **Medicare Part D** covers some prescription drug costs.

Depending on where you live, you may have a choice between the original Medicare plan and a Medicare Advantage care plan. It is important for you to understand that Medicare does not cover everything, and it does not pay the total cost for most services or supplies that are covered.

### **Who is eligible for Medicare?**

You are eligible for Part A Medicare hospital benefits without having to pay premiums if you are 65 years or older and you or your spouse worked for at least 10 years (and have 40 quarters of coverage) in Medicare-covered employment. You might also qualify for Medicare if you are younger than 65 and you have received Social Security or Railroad Retirement Board disability benefits for 24 months. You are eligible for optional Part B medical services benefits if you meet the requirements for Part A and pay a monthly premium which usually increases annually. Low-income Medicare beneficiaries may be eligible for assistance in paying the premiums and in some cases, the assistance may provide help with paying for your deductible and copays.

You may also be eligible for Medicare if you are a kidney dialysis or kidney transplant patient or have ALS (Lou Gehrig's Disease) even if you are not receiving cash benefits from SSA. For further information about other groups who are eligible for Medicare benefits contact Medicare at 1-800-633-4227 or visit the Medicare web site at <http://www.medicare.gov>.

### **How much do premiums for Part A and Part B Medicare cost?**

Under the original Medicare plan you do not pay premiums for Part A if you are 65 years or older and you or your spouse worked for at least 10 years (or 40 quarters) in Medicare-covered employment. Premiums for optional part B are set once a year depending on health care costs. Medicare Part B premiums beginning January 1, 2014 are \$104.90 per month. People with higher incomes (more than \$85,000/year for a single person or \$170,000 for a couple in 2014) will pay a higher premium. The premium is determined by how much income they have. Call or visit your local Social Security office to get current premium rates or consult the Medicare web site at <http://www.medicare.gov>.

### **Can I get Medicare Part A benefits if I have not paid enough Medicare taxes while I worked?**

Sometimes. If you or your spouse are 65 or older and do not qualify for Medicare, you may still be able to buy Part A. Call or visit your local Social Security office for more information about buying Part A hospital benefits.

### **When should I enroll in Medicare?**

You should enroll for Medicare benefits three months before your 65<sup>th</sup> birthday even if you are not planning to retire at 65. You can enroll at your local Social Security Office or by mail. If you wait to sign up until after age 65 or fail to enroll timely if you are receiving disability insurance benefits, the insurance may cost more. The cost of Part B may go up 10% for each 12-month period that you could have had Part B but did not sign up for it, except in special cases.

### **When should I enroll for Part B if I did not sign up when I was first eligible?**

If you did not enroll for Part B when you were first eligible for Medicare, you may sign up during the general enrollment period. The general enrollment

period runs from January 1 through March 31 of each year. There are some exceptions to this rule if you were covered by an employer-based health insurance plan as an employee or the spouse of an employee.

### **Will I get Medicare at age 65 if I have not reached the Social Security retirement age?**

For now, even though the retirement age for Social Security is increasing until it reaches age 67 for some people, you will still get Medicare at age 65. The enrollment age for Medicare has not changed.

### **What services are covered under the Original Medicare Plan?**

Medicare Part A: Helps cover inpatient care in hospitals and skilled nursing facilities. It also covers hospice care and some home health care.

Medicare Part B: Helps cover your doctors' services, outpatient hospital care, and some other medical services that Part A does not cover, such as some of the services of physical and occupational therapists, durable medical equipment such as oxygen equipment, wheelchairs, breast prostheses following a mastectomy, equipment that your doctor prescribes to use in your home, and some home health care. Part B helps pay for these covered services and supplies when they are "medically necessary."

### **What costs are not covered by Medicare Part A and Part B under the original plan?**

Health care costs not covered by the Original Medicare Plan include, but are not limited to: Deductibles, premiums, coinsurance,\* or co-payments when you get health care services; outpatient prescription drugs in most cases; dental care and dentures in most cases; hearing aids and hearing exams; acupuncture; cosmetic surgery; help with bathing, dressing, using the bathroom, and eating at home or in a nursing home; health care you get while traveling outside of the United States in

most cases; orthopedic shoes and routine foot care; routine eye care and most eyeglasses; routine or yearly physical exams; most screening tests; and most vaccinations.

\* For information about assistance with these costs, see the next section on "Assistance for Low-Income Medicare Beneficiaries."

### **What is Medicare Part C?**

Medicare Part C is now known as Medicare Advantage. These plans are another way to get your Medicare benefits in some areas. There are generally three types of Medicare Advantage plans: Local and regional Preferred Provider Organizations (PPO's), Private Fee-for-Service (PFFS) plans, and Health Maintenance Organizations (HMO's). HMO's may also offer a "Special Needs Plan" (SNP's) for participants who are eligible for Medicaid and Medicare, receive long-term care services, or have certain severe and disabling conditions. If you belong to a Medicare Advantage plan, it must cover at least the same benefits covered under Medicare Part A and Part B. However, your costs may be different, and you may have extra benefits, like more comprehensive coverage for prescription drugs or extra days in the hospital.

### **What is Medicare Part D prescription drug coverage?**

Medicare Part D is the Medicare Prescription Drug Program that went into effect on January 1, 2006. It offers Medicare consumers prescription drug insurance through private insurance companies whose programs have been approved by the federal government. You can choose Part D coverage through a stand-alone prescription drug plan (PDP) or a Medicare Advantage Plan with Prescription Drug Coverage (MA-PD). (Note: Not all MA plans cover prescription drugs.) The plans have differences including out of pocket costs and formularies that may not cover the prescription drugs that you need. In 2014, there are 26 different PDP's and MA-PD plans and you will need to decide which plan will best suit your needs. Any

Medicare consumer can join a Part D plan including those who elect not to enroll in Part B.

### **How do I choose between Medicare plans?**

You should evaluate the following factors when you compare health plans: Cost, extra benefits, doctor choice, convenience and quality. You need to look at what plans are available in your area, what each plan offers, and make the best choice for you.

In Oregon you can contact the Senior Health Insurance Benefits Assistance program (SHIBA). SHIBA provides useful information and counseling to help you make the best possible decision about your insurance coverage. You can contact SHIBA at 1-800-722-4134. You can also consult the Medicare “personal plan finder tool” that will provide you with a list of Medicare health plan choices at <http://www.medicare.gov>.

### **What are the payment policies for Medicare?**

The original Medicare Part A plan has deductibles and co-payments you must pay before Medicare pays anything. Some people without enough covered employment may also pay premiums for Part A coverage. Optional Part B has premiums, as well as deductibles, and co-payments. You must make these payments unless these costs are otherwise covered by another insurance policy, a Health Maintenance Organization, Medicaid, or other programs for low-income individuals.

Under the original Medicare Part A Plan your hospital stay coverage will be limited to 90 days with some exceptions. You will pay a deductible and co-pays during portions of this period. The original Medicare Part B plan pays 80 percent of the *approved charges* for medical services which may be less than the amount your doctor bills. If your doctor accepts *assignment*, he or she has agreed to accept the amount of the Medicare approved charge as full payment whether or not it is the amount billed.

Medicare contractors process claims for Part A and

Part B. For help with your Medicare payment or coverage questions call Medicare at 1-800-633-3227 or SHIBA at 1-800-722-4134.

### **Can I refuse Part B (medical insurance) coverage?**

Yes. When you enroll in Medicare, you can refuse Part B medical benefits by returning the proper form that comes with your original Medicare Card. However, if you decide later that you need Part B, you will have to pay a higher monthly premium (what is known as a surcharge or premium) to obtain Part B coverage. The longer you wait to enroll, the higher your premium will be. If you already have health insurance through an employer-sponsored plan, it is very important that you confirm with that plan that you do not need to enroll in Part B. Some individuals can get help paying for their Part B premiums if their income is low enough (see Assistance for Low-Income Medicare Beneficiaries). It is important to remember that services received in a hospital Emergency Department or from a physician while you are in the hospital are paid through Medicare Part B.

### **Are non-citizens eligible for Medicare?**

A non-citizen who is lawfully present in the United States may be eligible for Medicare coverage if he/she meets all of the other rules for eligibility. Please seek the advice of an attorney to determine if your immigration status allows coverage.

### **Is hospice care a covered Medicare benefit?**

Hospice is supportive care provided for terminally ill patients and their families at home or in a facility. To get Medicare coverage for hospice services, you must sign a request choosing hospice instead of other Medicare covered services. Consult your doctor about hospice services.

## **ASSISTANCE FOR LOW-INCOME MEDICARE BENEFICIARIES**

There are four programs designed to help low-

income Medicare beneficiaries with payment of their Medicare premiums and, in some cases, Medicare deductible and coinsurance amounts. Effective January 1, 2010, these programs are no longer subject to estate recovery by the state. The programs in Oregon are called:

- Qualified Medicare Beneficiary-Basic (QMB-BAS);
- Qualified Medicare Beneficiary-Disabled Worker (QMB-DW);
- Qualified Medicare Beneficiary-Special Medicare Beneficiary (QMB-SMB); and
- Qualified Medicare Beneficiary-Supplemental Medicare Full (QMB-SMF).

### **1) QUALIFIED MEDICARE BENEFICIARY-BASIC (QMB-BAS).**

#### **Who is Eligible?**

To qualify as a QMB-Basic, an individual must:

- Be eligible for Medicare Hospital Insurance (Part A); and
- Not have resources in excess of \$7,160 for an individual or \$10,750 for a couple; and
- Have an annual income which does *not* exceed the Federal Poverty Level (FPL) (in 2014, \$972.50 per month for an individual and \$1311 per month for a couple).\*

\*The federal poverty limit is adjusted yearly based on a complicated formula that is different than the one used to determine COLA increases and Medicare premiums.

#### **What are the Benefits?**

For individuals who qualify as QMB-Basic, the state will pay:

- The Part B monthly premium

(\$104.90 per month beginning January 1, 2014); and

- The Part A monthly premium for those individuals who do not qualify for free Part A; and
- All Medicare deductibles and coinsurance amounts.

### **2) QUALIFIED MEDICARE BENEFICIARY-DISABLED WORKER PROGRAM (QMB-DW)**

#### **Who is Eligible?**

To qualify as a QMB-DW. An individual must:

- Be eligible for Medicare Hospital Insurance (Part A) as a qualified disabled worker. This category includes persons under age 65 who have become ineligible for Social Security disability benefits because they are currently substantially gainfully employed, but can continue to receive Part A of Medicare by paying a premium;
- Not have resources in excess of \$7,160 for an individual or \$10,750 for a couple; and
- Have an annual income which does not exceed 200 percent of the Federal Poverty Level (FPL) (in 2014, \$1,945 per month for an individual and \$2621.67 per month for a couple). OAR 461-155-0291.

#### **What is the Benefit?**

Payment of Medicare Part A premiums.

### **3) QUALIFIED MEDICARE BENEFICIARY-SPECIAL MEDICARE BENEFICIARY PROGRAM (QMB-SMB)**

#### **Who is Eligible?**

To qualify as a QMB-SMB, an individual must:

- Be receiving Medicare Hospital Insurance (Part A); and
- Not have resources in excess of \$7,160 for an individual or \$10,750 for a couple; and
- Have an annual income which exceeds 100 percent of the FPL but does *not* exceed 120 percent of the FPL (in 2014, \$1,167 per month for an individual and \$1,573 per month for a couple); OAR 461-155-0295; and
- Not otherwise be eligible for Medicaid.

#### **What is the Benefit?**

For individuals who qualify as QMB-SMB, the state pays only the Part B monthly premium (\$104.90 per month in 2014).

### **4) QUALIFIED MEDICARE BENEFICIARY-SUPPLEMENTAL MEDICARE FULL (QMB-SMF)**

#### **Who is Eligible?**

To qualify as a (QMB-SMF), an individual must:

- Be entitled to Medicare Hospital Insurance (Part A); and
- Not have resources in excess of \$7,160 for an individual or \$10,750 for a couple; and
- Have an annual income which exceeds 120 percent of the FPL but does *not* exceed 135 percent of the FPL (in 2014, \$1,313 per month for an individual and \$1,770 per month

for a couple).

Individuals who reside in a nursing facility, an intermediate care facility for the mentally retarded (ICF/MR), or a hospital, are not eligible for QMB-SMF if they have income equal to or greater than 120% of the Federal Poverty Level.

#### **What is the Benefit?**

For individuals who qualify as a QMB-SMF, the state pays the Part B monthly premium only (\$104.90 per month beginning January 1, 2014) . The QMB-SMB program is subject to an enrollment cap based on the State of Oregon's federal dollar allocation.

#### **Where can I find out more information about these programs?**

For more information on these program contact your local Department of Human Resources office.

#### **How can I cover costs that are not covered by the Original Medicare Plan?**

Some people in the Original Medicare Plan have a Medigap policy that they purchase or supplemental coverage provided by their former employer to help pay health care costs that the original Medicare plan does not cover. Depending on your income, resources, and health care needs, you may also be eligible for State Medicaid coverage. See the Medicaid section of this handbook for further information about Medicaid and other programs that cover health care costs for low income individuals.

## **MEDICARE APPEALS**

#### **Can I appeal a denial of coverage by Medicare or by Medicare managed care plans?**

Yes. You have the right to appeal any decision denying payment for an item or service you have been given, or if you are not given an item or service you think you should get. You can appeal whether you are in the Original Medicare Plan or Medicare Advantage, a managed care plan. In most cases

there will be a standard procedure for appealing Medicare decisions and a faster procedure when your life, health, or ability to regain maximum function is at stake.

Note: The Medicare appeal rules have been changing for the last several years. We have tried to provide you with the most up-to-date information, but you are advised to contact a legal aid office or elder law attorney to help with your specific needs.

### 1. Appeals of Medicare Fee-for-Service Part A and B Claims.

- Summary of Part A and B Appeals**
- 1) **Initial Determination (120 days to appeal)**
  - 2) **Redetermination (180 days to appeal)**
  - 3) **Reconsideration (60 days to appeal)**
  - 4) **Administrative Law Judge Hearing (60 days to appeal)**
  - 5) **Department Appeals Board (60 days to appeal)**
  - 6) **Federal District Court**

STEP 1: INITIAL DETERMINATION: If you are enrolled in Medicare your appeal rights are on the back of the Explanation of Medicare Benefits or Medicare Summary Notice that is mailed to you when a service or equipment is approved or denied.

STEP 2: REDETERMINATION: If you want redetermination, file a Request for a Review of the claim within 120 days of the notice. Obtain the form from the Medicare web site at <http://www.medicare.gov>. The form must be filed with the Medicare contractor identified in your denial notice. In some cases you may be able to request a review by telephone.

STEP 3: RECONSIDERATION: If you requested services or payment and Medicare decided to deny all or part of what you requested, you can ask for a reconsideration of the decision. You must request a Reconsideration of the claim within 180 days of receiving the Medicare denial notice. You can

obtain a reconsideration form from the Medicare web site listed in step 2. The form must be filed with the company or provider (known as a Qualified Independent Contractor) that is designated on the denial notice. A decision must be issued within 60 days or you can ask for your case to be sent to an Administrative Law Judge. There is no minimum claim amount for filing redetermination or reconsideration.

STEP 4: ADMINISTRATIVE LAW JUDGE HEARING: If you disagree with the reconsideration decision you have 60 days to ask for a hearing in front of an Administrative Law Judge (ALJ). You can obtain a hearing request form from the Medicare web site listed in step 2. The form must be submitted to the Office of Medicare Hearings and Appeals (OMHA). There is also a minimum dollar amount that you must be claiming. That amount is \$140 for 2014, but changes due to inflation. Your hearing will be by telephone or video. An in-person hearing can be requested and held at the discretion of the ALJ.

STEP 5: DEPARTMENTAL APPEALS BOARD: If you disagree with the decision of the ALJ you may appeal to the Medicare Appeals Council within 60 days of the hearing decision on Department Appeals Board (DAB) form 101 which may be found at <http://www.hhs.gov/dab/DAB101.pdf>. The appeal must be submitted to:

Department of Health and Human Services  
Departmental Appeals Board, MS 6127  
Medicare Appeals Council  
330 Independence Avenue, S.W., Room G-644  
Washington, D.C. 20201

STEP 6: FEDERAL DISTRICT COURT: The Appeals Council decision may be appealed to U.S. District Court within 60 days of the Appeals Council decision if the amount of your claim is more than the required minimum. That amount is \$1,430 for 2014, but changes due to inflation. Further federal court review may also be available.

## **2. Appeals of Medicare Part A Claims Related to Hospital Stays.**

If the hospital or your managed care plan wants you to leave the hospital before you feel ready ask the hospital for a written notice of discharge. As soon as you have your written notice of discharge, or no later than noon of the first working day after you get the written notice, call Acentra Health to ask for an immediate review at 1-800-344-4354. Acentra Health is a nonprofit organization that contracts with the federal government to conduct these reviews and to advise you about your rights under Medicare.

Acentra Health will let you know by phone and in writing what the reviewing doctor decides. You don't have to pay for your hospital care while your case is being reviewed. If the reviewing doctor decides that you need to stay in the hospital, Medicare will continue to pay for your hospital care. If the reviewing doctor decides that you can leave, but you choose to stay, you will have to pay for your hospital care from that day on. You can request further review of a hospital stay decision as outlined in steps 3 through 6 above, however, you will be liable for payment if the decision is not reversed.

## **3. Medicare Managed Care Plan Appeal Rights:**

If you belong to a Medicare Advantage Plan you also have the right to appeal denials of coverage or services: The managed care plan must tell you how to appeal in writing.

**STEP 1: ORGANIZATION DETERMINATION:** Your health plan must have a standard procedure for making written determinations to deny or grant all or part of your request for coverage. In some cases you may be entitled to a coverage determination in 72 hours if your life or health are at stake.

**STEP 2: RECONSIDERATION** by your health plan: If you requested services or payment from the plan and the plan decided to deny all or part of your request, you or your representative can ask the plan to reconsider their decision within 60 days from the

date of the organization determination. The request must be filed with your health plan. If you have a good reason for filing the request later, your Health Plan may extend the time for filing the request for review. You should expect a response to your request within 30 days for a standard service request, 60 days for a payment request or 72 hours for an expedited request.

**STEP 3: INDEPENDENT REVIEW ENTITY:** If your health plan does not change its decision after your request for reconsideration, the plan must send your file to an outside company for an independent review. You have the right to submit additional evidence but you must do that within 10 days of receiving the IRE letter.

**STEP 4: ADMINISTRATIVE LAW JUDGE HEARING:** If the independent review company agrees with your health plan, you can ask for a hearing before the U.S. Department of Health and Human Services if your claim is worth more than roughly \$140 in 2014. You must request an administrative hearing within 60 calendar days of the date of the decision using a form you can obtain from the Medicare web site at <http://www.medicare.gov>. You have the right to be represented at the hearing. The ALJ must approve any fee that the representative charges you.

**STEP 5: DEPARTMENTAL APPEALS BOARD:** If you disagree with the decision of the Administrative Law Judge you may appeal to the Medicare Appeals Council within 60 days of the hearing decision on Department Appeals Board (DAB) form 101 which is found at: <http://www.hhs.gov/dab/divisions/dab101.pdf>. Send your review request to.

Department of Health and Human Services  
Departmental Appeals Board, MS 6127  
Medicare Appeals Council  
330 Independence Avenue, S.W., Room G-644  
Washington, D.C. 20201

You can also fax the request to: 202-565-0227.

STEP 6: FEDERAL DISTRICT COURT: The Appeals Council decision may be appealed to U.S. District Court within 60 days of the Appeals Council decision if the amount of your claim is more than the required minimum. That amount is \$1,430 for 2014, but changes due to inflation. Further federal court review may also be available. Generally you must have the assistance of an attorney to appeal your case to Federal Court.

### **Who can appeal Medicare decisions?**

You, as a Medicare enrollee, or your authorized representative, can appeal a denial of Medicare coverage of a service or equipment.

## **MEDICARE PRESCRIPTION DRUG COVERAGE**

### **What is Medicare Part D prescription drug coverage?**

Medicare Part D is the Medicare Prescription Drug Program that went into effect on January 1, 2006. It offers Medicare consumers prescription drug insurance through private insurance companies whose programs have been approved by the federal government. You can choose Part D coverage through a stand-alone prescription drug plan (PDP) or a Medicare Advantage Plan with Prescription Drug Coverage (MA-PD). (Note: Not all MA plans cover prescription drugs.) The plans have differences including out of pocket costs and formularies that may not cover the prescription drugs that you need. In 2014, there are 26 different PDP's and MA-PD plans and you will need to decide which plan will best suit your needs. Any Medicare consumer can join a Part D plan including those who elect not to enroll in Part B. How much does it cost to enroll in Part D?

The amount you pay for Medicare prescription drug benefits will depend on your income, assets and whether you are also eligible for Medicaid benefits. You must select and enroll in one of the private plans offered in Oregon. There are monthly premiums, copays and deductibles, depending on

which plan you choose. If your income is low enough, you may receive financial help to pay for premiums, copays and deductibles. Individuals who are receiving long-term care services (nursing home, institution, or home and community based care) have no out-of-pocket expenses. Everyone else will have some out-of-pocket expenses.

### **Must I enroll in one of the new plans if I already receive prescription drug coverage?**

If you receive prescription drug coverage through a former or current employer, Tri-Care, the VA or a Medicare Advantage program, you do not have to enroll in Part D as long as the coverage you are receiving is considered creditable coverage. Your employer or insurer should give you a letter telling you whether or not you have creditable coverage. It is important to know if you have creditable coverage before you decide whether or not to enroll in a Medicare Part D plan. "Creditable coverage" is other prescription drug coverage that is as good as, or better than, Part D coverage. You need to check each year whether your other coverage is still considered to be creditable coverage. While you should receive a letter each year, you may not and it is important to check with your insurance program. Prescription drug coverage through the VA or Tri-Care is always considered to be creditable coverage.

### **How much will the premium, deductibles and co-pays cost?**

The Part D plans can have significant out-of-pocket costs for some individuals. These costs include premiums as well as co-pays and deductibles depending on the plan you choose. Medicare beneficiaries whose income and assets meet certain criteria may be eligible for financial help with these costs. This extra help is known as the low-income subsidy (LIS) and may be either a **full subsidy** or a **partial subsidy** of the premium. In 2014, individuals with income less than 150% of the federal poverty limit or with countable assets less than \$13,440 for an individual or \$26,860 for a couple, may be eligible for a subsidy. In 2014, individuals with a yearly income greater than

\$85,000 for a single person or \$170,000 for a couple will have to pay a “surcharge” in addition to the monthly part D premium already being paid to the plan. This surcharge is based on a sliding scale that is capped at \$69.30 in 2014 for individuals whose yearly income is more than \$214,000 for a single person or \$428,000 for a couple.

Individuals who are eligible for a full subsidy of their premium and who enroll in a benchmark plan will have no monthly premium, no annual deductible, no coverage gap, small co-pays for their medications, and no copays for catastrophic coverage. Individuals who are eligible for a partial subsidy will have help paying their premium (based on a sliding scale), have their annual deductible reduced to \$63 in 2014, have no coverage gap, and have a 15% copay for their medications until they reach the catastrophic cap when their copays will be capped at \$2.55 for generics and \$6.35 for name brand drugs.

#### **Who is eligible for a full subsidy?**

Low-income individuals eligible for Medicare and full Medicaid benefits or who have incomes below **100%** of the federal poverty line should not have to pay a premium as long as the plan they choose does not cost more than the benchmark plan for basic coverage in their region. Benchmark plans and premiums change each year and differ depending on the region where you live. In 2014, the benchmark premium is \$34.82 in Oregon. You can choose to enroll in a higher cost plan but you have to pay the difference between the benchmark premium and the premium of the higher cost plan. There may also be additional costs for copays and premiums. If you choose a plan that qualifies for a full LIS, you will have no monthly premium, no annual deductible, and no coverage gap. Your co-pays will be capped at \$1.20 for generic drugs and \$3.60 for name brand drugs. You will not have any gap in coverage or other out-of-pocket expenses. Individuals who fall into this group do not have to file an application with SSA to get the subsidy.

Individuals with income between 100% and 135%

of the federal poverty limit and whose countable assets in 2014 are less than \$8,580 for a single person or \$13,620 for a couple qualify for a full subsidy to cover their Part D premium, but they have higher copays for their medications. In 2014, individuals in this group have a copay of \$2.55 for generic drugs and \$6.35 for name brand drugs. In addition, there is no annual deductible and no gap in coverage. Individuals in this group must file an application with SSA in order to get the subsidy and extra help with their copays.

#### **Who is eligible for a partial subsidy?**

Individuals whose income is between 135% and 150% of the federal poverty limit and whose assets in 2014 are less than \$13,300 for a single person and \$26,580 for a couple qualify for a partial subsidy of their Part D premium. The amount of their subsidy is based on a sliding scale between 25 - 100% up to the benchmark premium. These individuals will also have their annual deductible capped at \$63 in 2014 and they will have no gap in coverage. However, they will have a 15% copay on all medications until their true out-of-pocket (TrOOP) expenses have reached \$4,550 in 2014. After that, their medication copays in 2014 are capped at \$2.55 for generics and \$6.35 for name brand drugs. Individuals in this group must file an application with SSA in order to get extra help with their premium and copays.

#### **Do I have to apply for a Low-Income Subsidy (LIS) each year?**

SSA redetermines eligibility for LIS each year but only for a portion of those individuals who had to file an application. A portion of the individuals who filed an application is randomly selected for redetermination each August. If you receive a request for financial information from SSA, you need to pay attention to it, complete it, and return it to SSA before the deadline on the notice. Notices of eligibility (if the subsidy is reduced or terminated) are mailed in the fall. No notice is sent to beneficiaries who remain eligible for the same subsidy level for the following year.

### **What if my income is more than 150% of the FPL or I have too many assets?**

Individuals whose income is more than 150% of the FPL but less than \$85,000/year for a single person or \$170,000/year for a couple will have to pay the full premium, copays and deductible of any plan they choose. Depending on the plan, you may have to pay the maximum deductible allowed in 2014 of \$310 before the plan starts to cover your medications. You will then have a 15% copay for each medication. After your yearly medication costs reach \$2,850 in 2014, you reach a coverage gap (known as the donut hole), where you will have to pay a higher proportion of the medication costs (subject to a brand discount of 52.5% or a generic discount of 28%) until you have spent a total of \$4,550 in “true out-of-pocket costs” (TrOOP) for formulary drugs. After you reach that amount, you are covered under the catastrophic coverage period and pay 5% of the cost for formulary drugs, or \$2.55 for generics and \$6.35 for brand name drugs. You will continue to pay that amount until the end of the calendar year. It is important to remember that different plans have different deductibles and copays but the plans cannot exceed the maximum deductibles and copays set by law each year.

### **How do I apply for a Low-Income Subsidy and what can I do if I am denied?**

Medicare beneficiaries who receive full Medicaid benefits or help with their Part B premiums through Medicaid do not have to file an application in order to receive the low-income subsidy. Anyone else who thinks she might be eligible for extra help must complete and submit an application at the Social Security Administration. This can be done at any time throughout the year by applying on-line at [www.ssa.gov/prescriptionhelp](http://www.ssa.gov/prescriptionhelp), by submitting a paper application, or by calling Oregon’s SHIBA program at 800-722-4134. SHIBA volunteers can also help you find a Part D plan that works for you and provide assistance with other Medicare questions you have. If you apply and are approved between January 1 and June 30, you are eligible for the subsidy until the end of the calendar year. If you

apply and are approved between July 1 and December 31, you are eligible for the rest and of the current calendar year and all of the next calendar year.

If you are denied a low-income subsidy, you can file an appeal with SSA. You have 60 days from the date you receive the decision to request an appeal. You can get the appeal form directly from SSA by calling 800-772-1213 or 800-325-0778 (TTY). You can also find the form online at SSA’s website at [www.socialsecurity.gov](http://www.socialsecurity.gov) by clicking on the forms link.

### **If I live in an institution or receive services in my home do I have to pay for my medications?**

No. Individuals who are eligible for Medicaid long term care support and services, whether it is in their own home, an assisted living facility/adult foster care home, ICF-MR facility, a mental health institution or a nursing home, do not have any cost sharing for their medications.

### **How do I enroll in the Medicare Part D prescription drug plan?**

You must choose and enroll in a private plan to obtain prescription drug coverage. There are a number of plans (the number of approved plans changes each year) in Oregon, each with different costs and benefits. There are many different Medicare Advantage Plans (MAP), which vary from county to county. You have to be careful when enrolling in a MAP to make sure that it has a prescription drug component or you will have to enroll in a separated Part D plan. A volunteer at SHIBA (800-722-4134) can help you with deciding what plan best suits your needs.

### **How long do I have to enroll?**

In general, Part D’s enrollment rules are similar to those of Part B. While enrollment is voluntary, the failure to enroll in a timely manner may result in the imposition of a penalty. Unless you are one of the individuals who are deemed eligible for Part D (e.g.

receiving Medicaid or help with your Part B premium), you must enroll during your Initial Enrollment Period (IEP), which is the 7-month period surrounding your 65<sup>th</sup> birthday. (Ex: 3 months before, the month of, and three months post birthday.) For individuals who receive Medicare because they have received SSDI for two years, your IEP is the month you are notified that you are eligible for Medicare and for three months after notification. There are other IEP's and you can ask a SHIBA volunteer if you qualify for one.

### **What happens if I don't enroll during my IEP?**

A late penalty will be imposed on people who don't enroll in a drug plan when they are first eligible, unless they have coverage comparable to the Medicare Part D prescription drug benefit. Coverage obtained under a Medigap policy is not considered comparable coverage. In addition to employers who provide comparable coverage, VA and TriCare benefits are considered to be comparable coverage that allows a person to delay enrollment in Part D without a penalty. Medicare recipients who don't enroll during the IEP, will be subject to a late enrollment penalty of 1% of the national base monthly premium (\$32.42 in 2014) for every full month the individual could have been but was not enrolled. This is a lifetime penalty with a few exceptions. Individuals with disability who became eligible for Medicare prior to age 65 have a new IEP when they reach 65 so any late penalty they incurred is "wiped away" and they have a new IEP. Also, individuals who are eligible for the LIS are not subjected to a late penalty.

### **Can I switch plans if I don't like the plan in which I enrolled?**

Most people who are enrolled in a Part D plan will only be able to change plans once a year during the annual election period (AEP) which is also known as the Annual Coordinated Election Period. The AEP runs from October 15 to December 7 of every year for coverage beginning the following January 1. This is also the time period for enrolling into or changing a Medicare Advantage plan. You will be

locked into your chosen plan for the rest of the calendar year and cannot make any changes unless you qualify for a "special enrollment period." Individuals who receive full Medicaid benefits are allowed to change plans once every 30 days.

From January 1 to February 14, if you are in a Medicare Advantage Program (either a MA-only or MA-PD) and do want to switch to original Medicare, you can **disenroll** from Medicare Advantage and re-enroll in original Medicare and enroll in a PDP for drug coverage. (This is a change from 2011.) You cannot change your PDP or MA plan during this period.

There are a number of exceptions to switching Part D plans. A number of groups qualify for a special enrollment period (SEP). There are about 25 different SEP's including: (1) Anyone receiving a LIS may change plans once a month; (2) Lost Medicaid eligibility (two months after month of notification); (3) Loss of LIS eligibility (January through March); (4) Discharge from an institution or loss of home and community based care; (5) Change of residence; (6) Eligible for Retroactive Medicaid; and (6) Involuntary loss of creditable coverage. These are just a few of the SEP's.

### **Will all my drugs be covered?**

Not all drugs are covered under Part D. A drug must be approved by the FDA for sale in the US, must be available only by prescription, and must be medically necessary and for a "medically accepted indication." Off label drugs may be covered only when support is found in one of the three lists named in the law or, in the case of anti-cancer drugs, in peer reviewed journals. Part D does cover biological drugs, insulin and insulin syringes, and smoking cessation drugs.

Part D plans are not required to cover all Part D drugs. Each plan establishes its own formulary, which must include categories and classes of drugs that cover all diseases. Formularies may not discriminate. You are limited to the drugs in your plan's formulary unless you apply for and are

granted an exception. Plans are required to provide at least two drugs in 148 categories, including barbituates and benzodiazepines. (NOTE: In 2014, barbituates are covered for all other medically appropriate diagnoses). Certain drugs are not covered by Part D including over-the-counter drugs, drugs for weight loss or gain, cough and cold preparations when prescribed for symptomatic relief only, fertility drugs, erectile dysfunction drugs, cosmetic and hair growth drugs, drugs purchased in another country, and vitamins and minerals (except niacin products, Vitamin D analogs, prenatal vitamins and fluoride preparations). Some excluded drugs may be offered as a supplemental benefit in enhanced Part D plans. Purchase of these drugs does not count towards your TrOOP during any coverage gap.

### **What can I do if my plan does not cover a drug I need to take?**

If your doctor believes you need to take your current prescription drug and should not switch to a covered prescription drug, you or your doctor can contact your plan and ask for an exception. If the plan refuses to give you an exception, you can appeal the decision. There are very strict time limits for the plan to make a decision and for you to file an appeal. It is a complex process and you should contact your local SHIBA or legal aid office for more information. You can only ask for an exception for drugs that are covered by Part D but just aren't contained in your plan's formulary.

### **Can a plan stop covering me?**

Medicare prescription drug plans can stop providing you with coverage (or increase its cost) for any or all of your prescription drugs for no reason if it gives you 60 days notices and gets approval from the federal government. The plan can also terminate your coverage because it has determined that you are uncooperative or hostile to the program. If this happens, you will be eligible for a special enrollment period.

### **What is happening to the coverage gap known as the Donut Hole?**

The Donut Hole is being gradually phased out from 2010 to 2020 in terms of costs to the individual. In 2010, eligible individuals who reached the Donut Hole received a one-time \$250 rebate check. Starting in 2011, gradually increasing discounts are being applied to brand name and generic drugs. By 2020, Part D enrollees will be paying a flat 25% for all drugs. The discounts will be applied at the pharmacy and members will have to pay a small dispensing fee that will not be discounted. The full amount of brand name drugs (not the discounted amount paid by the member), will count towards the member's TrOOP. This means you will not need to spend as much to get out of the Donut Hole. For generic drugs, only the actual amount paid for the drug (93%) will be applied towards your TrOOP.

## **MEDICAID**

### **What do I need to know about Medicaid?**

Medicaid is a joint federal and state health care program for low-income people. The program varies from state to state. Under the Affordable Care Act (ACA), Medicaid benefits were greatly expanded for low-income people in Oregon and other states. These changes to the program are often called "MAGI Medicaid." Under MAGI Medicaid, many adults with income up to 138% FPL (133% FPL plus a standard 5% disregard) qualify (the income level for children is higher.) Before the MAGI, it was very difficult for childless adults without disabilities to qualify for Medicaid in Oregon.

Oregon will determine financial eligibility for MAGI Medicaid based on modified adjusted gross income (MAGI). The MAGI formula does not count certain income including, for example, Veterans' benefits, child support received, and scholarships, grants, and awards used for education purposes. MAGI Medicaid will also allow other income deductions that are not allowed under traditional Medicaid income calculations, including for example, alimony paid and pre-tax contributions for expenses such as

child care or retirement. Furthermore, MAGI Medicaid will have no asset or resource test - a significant change from traditional Medicaid eligibility requirement.

In addition to the new MAGI Medicaid, Oregon's traditional Medicaid program, often called the Oregon Supplemental Income Program (OSIP) is still in effect. Unlike the MAGI program, the traditional program generally has stricter income guidelines (generally \$721 per month for a single person in 2014) and a limit on the amount of an applicant's resources (\$2000 for a single person). These income guidelines do vary.

**Are people aged 65 or older eligible for Medicaid? What about adults who receive Medicare?**

Yes, potentially. Neither people over 65 years of age nor Medicare recipients are eligible for the new MAGI Medicaid. However, these populations are eligible for traditional Medicaid, if they meet all program requirements.

**What does Medicaid cover? Are their differences in the coverage between traditional and MAGI Medicaid?**

Medicaid pays for a wide variety of health care services. Oregon calls its benefits packages Oregon Health Plan Plus, and it covers most medically necessary health care services for any health condition that is covered. Oregon has permission to limit coverage to certain health conditions based on a prioritized list. The list ranks health services from the most important (head injuries or pregnancy) to the least important (minor hernias or fatty lumps under your skin). Your doctor has a list of the health services currently covered on the prioritized list. Sometimes a non-covered health service will be covered if the non-covered service adversely affects a health condition with a covered service. You should contact a lawyer or your legal aid office if you believe that you are wrongfully denied coverage of a health condition. If you are in a Medicaid managed care you have the option of appealing by

filing a grievance with the managed care company or by filing a request for a hearing.

In other states, coverage may include health care services for conditions that are not covered in Oregon. This is sometimes confusing for people who have been living in another state and then move to Oregon. The health care services provided under Oregon Health Plan Plus include inpatient and outpatient medical services, prescription drugs, medical transportation, vision (limited coverage), dental (limited coverage), mental health and chemical dependency services, laboratory and x-ray services, durable medical equipment (wheelchairs, hearing aids, etc) home health care, and nursing home care for individuals who meet the medical rules. There are only very small differences in the types of services covered between MAGI and traditional Medicaid.

**What are the costs associated with Medicaid?**

There are no monthly premiums associated with Medicaid, which is a change for many people. Some services will require a small copay, generally between \$1 to \$3.

**I am not on Medicare yet, and I do not qualify for Medicaid. How can I get medical insurance?**

Under the Affordable Care Act, you may be required to secure adequate health insurance, or face a tax penalty (there are some exceptions to the penalty). If you don't have health coverage already, you can purchase coverage through Cover Oregon, the state's Marketplace for health insurance. Cover Oregon is run by the state. For more information, you can contact Cover Oregon at 1(855) 268-3767.

**I am on Medicare. Do I need to use one of the new health insurance exchanges?**

No. The health insurance exchange (called Cover Oregon in Oregon) is a marketplace for uninsured people. If you receive Medicare, you are not considered uninsured.

## **Do I have to be a U.S. Citizen to receive Medicaid?**

No. Many non-citizens are eligible for medical benefits but there are restrictions. Applicants are required to provide proof of their immigration status.

## **Must I prove that I am a U.S. Citizen?**

Anyone who claims to be a U.S. citizen on their application must provide proof of citizenship and identity to receive Medicaid. The rule does not apply to individuals who are receiving SSDI, SSI or Medicare. DHS has a list of documents you can use to satisfy this requirement and a case worker can help you obtain the proof that you need.

## **Can Medicaid help me with Long Term Care?**

Sometimes. Long term care includes medical and personal services for people who have a chronic illness or disability. Long term care services can be provided to people in their homes, in community care facilities, or nursing homes. It is expensive and many people cannot afford to pay for it and depend on Medicaid for help. Not all facilities accept Medicaid payments and you will need to ask whether the facility accepts Medicaid before you move into it. Once you begin receiving Medicaid long term care services, you become fully eligible for Medicaid services.

## **Who qualifies for Medicaid Long Term Care Services?**

You have to meet the medical and financial rules to be eligible for Medicaid long term care services. The financial rules are discussed below. Oregon uses a system of *service priority levels* that looks at your activities of daily living (for example: bathing, walking, thinking) and how much help you need with them to determine whether or not you are eligible for services. Your care needs must be fairly severe for you to meet the program requirements. The medical eligibility rules differ from state to state and you may qualify in another state even if you do not meet the rules here in Oregon.

## **How much income can I have and still qualify for help with my long term care expenses?**

You can have up to 300% of the SSI federal benefit rate. The SSI benefit rate in 2014 is \$721 per month. This means that you can receive \$2,163 a month and be eligible for Medicaid long term care. If your income is more than \$2,163 a month, you will need to have an *income cap trust*. Sometimes your legal aid office can help you or refer you to an attorney who will not charge you or will charge a reduced fee. You should contact an attorney before you spend all your savings on long term care for advice on estate planning.

## **How much of my income can I keep and how much do I have to spend towards my care?**

The amount of income you can keep depends on where you live and whether or not you have any dependents. Individuals who live in a nursing home are only allowed to keep \$30 a month for their personal needs. Individuals who receive Veterans Administration benefits can keep \$90 a month. This amount is fixed by federal law and has not changed in more than 30 years. Most individuals living in community based care facilities (like an assisted living facility) are allowed to keep \$160 a month, in 2014. Individuals who receive SSI only are allowed to keep \$160. This allowance is set by state law and changes every year if there are COLA increases to SSI and Social Security benefits. If you have a spouse or other dependents, some of your income can be transferred to support them. You are also given deductions for out of pocket medical expenses including health insurance premiums (including a Medicare supplemental policy), out of pocket medical expenses and some home maintenance expenses. Your remaining income must go to pay for your care.

## **How much property can I have and still qualify?**

As discussed in the Medicaid section above, you can only have \$2,000 in countable resources. Some property is excluded. Your home is generally excluded while you are living there so long as the equity in your home is \$500,000 or less, but it is not

excluded if you are living somewhere else, unless a qualified spouse or certain other family members are living there. You may also be able to keep your home if you have a subjective intent to return to it. You will have to spend down all countable resources to the \$2,000 limit. You can generally spend down the money on anything you want, as long as you do not give it away for free.

### **If I have more property than Medicaid allows, can I give my property away?**

In general, you cannot give your property away within the five years before applying for Medicaid. If you transfer property the “look back” period is five years. You also cannot transfer property for the purpose of establishing eligibility for Medicaid. Any transfer of assets for less than fair market value, other than the exceptions described below, will result in a period of ineligibility (the penalty period).

### **Are there any exceptions to the transfer rules?**

There are exceptions if you transfer assets to (or for the sole benefit) your spouse or a blind or disabled child (either a minor or an adult). You can also transfer your home to a child under 21 years of age or to a sibling who has an equity interest in the home and has lived there for a least a year before you filed your application. Under limited circumstances, your home can be transferred to a son or daughter who has lived with you and provided “free” care for you for at least two years.

### **How long will the penalty period last?**

The length of the penalty period is determined by dividing the fair market value of the property (at the time of transfer) by the average private pay rate for nursing home care. This amount is set by law and as of October 1, 2010 is \$7,663 if the initial month is on or after October 1, 2010 and is \$6,494 per month for the period October 1, 2008 through September 30, 2010. The resulting time period calculated, for example, 10 months and 10 days, is the length of time you will be ineligible for Medicaid. Starting July 1, 2006 the penalty period begins the day you would otherwise be eligible for Medicaid. Since the

penalty period does not start to run until you are otherwise eligible for Medicaid, this means the penalty starts when you need long term care and can’t afford to pay for it. You should consult an attorney to advise you before making transfers, since the penalty is now very harsh.

### **What if I am married? Can I give my spouse some of my income for his or her living expenses?**

The Medicaid program has special rules that allow a spouse who receives Medicaid long term care services (called the institutionalized spouse) to pay an allowance to their spouse (the community spouse). These are called the spousal impoverishment protections. There are two different rules: one deals with income and the other with resources.

### **How much money can I give my spouse each month?**

The amount of monthly income that you can transfer to your community spouse depends on your spouse’s income and shelter costs. Your spouse can have at least \$1,939 a month (2014) of his/her own income plus income from you to make up the difference. If your spouse has high shelter costs (rent or mortgage, property taxes, insurance, certain maintenance charges plus the food stamp utility allowance), he or she can keep a maximum of \$2,931 a month (2014). These amounts change yearly. Sometimes a higher amount is approved in extraordinary circumstances.

### **How much of our non-exempt resources can my spouse keep?**

The amount of resources that Medicaid allows your spouse to keep is known as the community spouse resource allowance (CSRA) and it changes every year. All of your countable resources are “valued” on the date that you began receiving care. Medicaid allows your spouse to keep one-half of your combined countable resources up to a maximum of \$117,240 or at least \$23,448 (2014 figures) whichever is greater. The CSRA can be increased by a court or the state if it will generate income that allows your spouse to have enough income to equal

the allowed monthly spousal impoverishment income allowance.

**Where can I get help in transferring resources to my spouse?**

You should contact an attorney to advise and help you on transferring your resources. Transfers must be made within 90 days after you become eligible for Medicaid long term care services. Some of your exempt resources may also need to be transferred. There are a number of issues that must be considered in transferring resources including tax liability and expenses to maintain the resource.

**OTHER PRESCRIPTION DRUG PROGRAMS**

**Where can I get help paying for prescription drugs if I am not eligible for medication through Medicaid, or the Oregon Health Plan?**

You may be eligible for the Medicare Part D prescription drug benefit. *See* Medicare Prescription Drug Coverage for further information.

**What is the Oregon Prescription Drug Assistance Program?**

This program allows members to purchase prescription drugs from participating pharmacies at discounted rates. It covers all Oregon residents, regardless of income, who do not have prescription drug coverage (other than Medicare Part D - see below). An application must be filed and can be obtained over the phone (800-913-4146) or internet ([www.opdp.org](http://www.opdp.org)).

**If I am enrolled in Medicare Part D drug coverage, may I continue to use my OPDP discount card?**

Yes, the OPDP discount card may give you a better discount than your Plan gives you when you are paying 100% of the drug cost when you are meeting a plan deductible, or during the Part D gap in coverage. This gap happens when individual's

prescription annual drug expenses are between \$2,850 to \$4,550. If you are receiving low-income assistance with your Medicare Part D coverage you may not have such a coverage gap or deductible costs.

**Do any pharmaceutical companies offer discounts to seniors?**

Yes. A number of pharmaceutical companies operate discount card programs for seniors or the disabled can contact the below program about their eligibility requirements and coverage.

Pfizer (“Share Card”): 1-800-717-6005  
Lilly (“Lilly Answers Card”):  
1-877-795-4559

**What are Patient Assistance Programs?**

Many drug companies have patient assistance programs through which persons with limited income can get the prescription drugs manufactured by the company at a low cost or for free. These programs are usually available to persons of all ages who do not have private or public insurance coverage. An internet web site listing these programs can be found at <http://www.needymeds.com>. Generally, in order to apply for and qualify for these programs, you will need help from your doctor’s office. In some of these programs, the drugs are sent to your doctor’s office. Application forms and further information can be found on the needymeds web site or at the Partnership for Prescription Assistance web site at <http://www.pparxor.org>.

**OREGON PROJECT INDEPENDENCE (OPI)**

**What is Oregon Project Independence?**

Oregon Project Independence (OPI) is a program that provides help to people 60 and older in their homes when they can no longer take care of their daily needs without assistance. Home care, personal care, household chores, assisted transportation, respite for caregivers, case management, home

delivered meals, and other services are available for eligible seniors.

### **Who qualifies for this program?**

OPI presently serves low-income Oregonians aged 60 or older (or individuals of any age suffering from Alzheimers or other dementia) who do not receive Medicaid services. OPI services are authorized by case managers after a CAPS assessment. Service Levels 1-18 are served by OPI. Individuals receiving OPI must live in a private residence.

### **How much do OPI services cost?**

Your costs for OPI services are based on the amount of your household income after deductions for medical expenses. Clients pay monthly co-pay for in-home services based on income OR a \$25 one-time fee only (2014).

### **How do I apply for Oregon Project Independence?**

Contact your local Department of Human Services Office or Area Agency on Aging office, or see the OPI web site at

<http://www.oregon.gov/dhs/spwpd/pages/ltc/inhome.aspx#opi>

## **MANAGING FINANCIAL CHOICES**

### **DIRECT DEPOSIT**

#### **What is direct deposit?**

Direct deposit is a way to have your checks sent directly into your account at your bank or credit union. You can have your Social Security, Supplemental Security Income (SSI), Railroad Retirement, Veterans Administration, PERS, and most other pension and employment checks sent to your account at no extra charge to you. Federal law requires, with some exceptions, that federal payments be made through direct deposit or on a special electronic benefit card issued by the Social

Security Administration. Having your check direct deposited to your account can be more convenient for you than having to go to the bank to make the deposit yourself. Plus, you don't have to worry about your check being lost or stolen. Your monthly statement will show the amount of the direct deposit. You can change your direct deposit to a new or different account if you need to.

Having your benefits directly deposited also provides you with additional protections under Oregon Law in the event a creditor attempts to garnish any exempt benefits.

#### **How can I get my check deposited directly to my account?**

To get your checks sent directly to your account, you will need to contact the source of the check. For example, contact the Social Security Administration or PERS or the company where you work (or worked) and ask that your check be direct deposited to your account. You will need to give the agency or your employer your account number and your bank or credit union's "routing number." To be sure you have the correct routing number, ask your bank or credit union what it is. Some government agencies, such as Social Security, can get the information they need from you over the phone. Other agencies, such as PERS, require you to fill out a form. You will need to find out from the government agency or your employer what is needed to set up direct deposit. Many banks and credit unions will help you with this.

### **JOINT ACCOUNTS**

#### **What is a joint account with a right of survivorship?**

A joint account with a right of survivorship is a bank or credit union account where two or more people are named on the account and each person named can use the account. Anyone named on the account can make deposits and withdrawals without the permission of anyone else named on the account. If someone named on the account dies, the money in

the account will go to the surviving people on the account, unless it can be shown the person who died made the deposits and did not intend for the survivor(s) to get the money at death.

### **Is a joint account a good idea?**

Sometimes. The main advantage of adding someone else to an account is convenience. Often, seniors or persons with disabilities add someone to their account so the other person can handle the bank account and make deposits and withdrawals for them. For example, a senior could name her son on her account, and her son could then make deposits for her and write checks on the account to pay her bills. Another advantage is the survivor gets the money in the account automatically when the other person on the account dies, if this is what was intended.

The main disadvantage to adding someone else to your bank account is that the other person has just as much ability to get the money in the account as you do. So, your money is at risk in two ways. First, if the person you add to your account is dishonest, he can take some or all of the money out of the account, without your knowledge or permission. Second, if the person added to your account has debts he owes, his creditors may be able to garnish, or collect against, the account.

## **PENSION AND RETIREMENT PLANS**

### **What are pension and retirement plans?**

Retirement funds are annuities or work-related plans for providing income when employment ends. For example, there are pension, disability and retirement plans administered by an employer or union. There are also funds held in an individual retirement account (IRA) and plans for self-employed people sometimes called Keogh plans.

### **When can I start taking money out of my retirement plans?**

The rules related to retirement or pension account withdrawals are very complex. The rules for individually owned Retirement Accounts (IRAs) are different from retirement plans your employer sponsored such as a PERS, 401(K)s, some profit sharing plans, or plans for self-employed people such as a Keogh. With a “traditional” IRA, for example, you can be assessed with tax penalties if you begin taking distributions earlier than age 59½, or if you don’t begin taking required distributions by the time you turn 70½. The so-called “Roth” IRA has different distribution rules. Currently there isn’t a Minimum Distribution Requirement from a Roth IRA at age 70½. It is important to get reliable and current financial and tax advice about each of your retirement accounts or plans. The law governing retirement plans is complex and can change from year to year. Informed planning can reduce your tax bill and can help you avoid penalties.

### **Can IRAs or other retirement plans affect my eligibility for public benefits?**

Yes. Retirement funds can affect eligibility for public assistance programs. If you have a retirement fund and anticipate applying for a public benefit program like SSI, Food Stamps, or Medicaid, consult with an attorney before making decisions about withdrawing benefits in a lump sum or opting for periodic (such as monthly) payments. In some instances a lump sum withdrawal of retirement plan benefits within five years of applying for benefit programs can result in a period of ineligibility for benefits. In addition, some programs count retirement plans as unearned income while other programs count them as a resource.

## **POWER OF ATTORNEY**

### **What is a power of attorney?**

A power of attorney gives another person the legal authority to take care of some or all of your financial matters. A power of attorney must be in writing and

must be signed. It need not be witnessed, but is usually notarized and must be notarized if you want to use it for real estate matters. You can name a friend, family member, or financial advisor to act for you. You should be sure to name someone you trust.

### **When does my power of attorney start and how long does it last?**

Your power of attorney can take effect when you sign it, or at some time in the future. For example, if you want to use the power of attorney only after you become seriously ill, you can have it take effect only after your doctor states you are no longer able to manage your own affairs. If you sign a power of attorney now, while you are able to manage your own affairs, the authority you give continues in effect even after you become unable to manage your affairs. Your power of attorney ends at death, so you cannot use it as a substitute for a will. It ends earlier if you cancel it.

### **What authority can I give in a power of attorney?**

You can give a broad range of authority to the person you name to act for you, or, you can give only specific, limited authority. For example, if you want your spouse to be able to handle all of your financial matters if you become ill, you can give your spouse general authority to handle all types of financial matters, such as banking, investments, real estate, contracts, hiring people to care for you, etc. Or, if you just want a friend to pay your bills and handle your bank account, you can give your friend only this limited authority.

### **If I sign a power of attorney do I lose my right to manage my financial matters?**

No. You do not give up your right to manage your own finances by signing a power of attorney. But, you do name someone else who also has authority to act for you.

### **How can I cancel a power of attorney?**

You can end the authority you have given under a power of attorney at any time. To cancel your power of attorney, you should send a written notice to the person you named to act for you, and you should send copies of this notice to others who have the power of attorney, such as your bank, so they will know you have canceled it.

### **Are there power of attorney forms I can use?**

There are pre-printed power of attorney forms at office supply stores. These forms may or may not be what you want or what you need. It is a good idea to get advice from an attorney before you sign a power of attorney.

## **GUARDIANSHIP**

### **What is a Guardianship?**

A Guardianship is a court proceeding in which the court is asked to appoint someone called a guardian to make important decisions for a person called the protected person. If the court decides that the protected person is unable to make safe decisions so that basic needs for food, shelter, and health care are not met, and is likely to be seriously harmed unless a guardian is appointed to make some of those decisions, the court will appoint a guardian. For example, an adult child can ask the court to be appointed guardian of a parent if the child believes the parent is unable to make important decisions about health and safety and is likely to become seriously injured or ill. A court will not appoint a guardian just because the proposed guardian disagrees with decisions made by the person to be protected, such as how to spend her money or where to live.

### **What is a temporary guardianship?**

A temporary guardian has all the powers and responsibilities of a permanent guardian, but for a limited period of time. A court may allow a temporary guardianship if there is strong evidence of

an immediate and serious danger to the life or health of the protected person that requires immediate action. The temporary guardianship may not last longer than 30 days, but may be extended one time for an additional 30 days.

### **What authority does a guardian have?**

A guardian has the authority to make certain decisions for a protected person, as set forth in a court order. A guardianship order must be designed to let the protected person have as much independence as possible considering the protected person's actual limitations. A guardian may be given authority from the court to make decisions about:

- Medical and health care, including decisions about which doctors a protected person will see and what medications and treatments and medications the protected person will receive;
- Where the protected person will live, including decisions about whether the protected person will stay where he is currently living or will be moved to another place, such as a nursing home; or
- Finances, including decisions about paying the protected persons' bills and deciding how the protected person's money is spent, unless a conservator is also appointed.

### **What responsibilities does a guardian have?**

A guardian must provide for the care, comfort, and maintenance of the protected person. If it is appropriate, the guardian must also arrange for training and education of the protected person. The guardian must take reasonable care of the protected person's clothes, furniture, and other belongings, unless a conservator has been appointed for the protected person. In addition, a guardian must file a report with the court each year the guardianship is in effect giving information about the protected person and the guardian.

### **What rights does a protected person have after a guardian has been appointed?**

A protected person has all legal and civil rights provided by law except the rights expressly limited by a court order or specifically granted to the guardian by the judge. A protected person always has the right to contact and hire an attorney, and to have access to personal records. However, a protected person may not be able to contract for the payment of attorney fees without court approval.

A protected person's home may not be sold nor can the protected person be put in a nursing home, mental health facility, or other residential facility until the guardian obtains permission from the court. The protected person, the protected person's attorney, certain family members, and other interested parties must be given notice of the intended placement. Any of them may object and have a hearing in court.

If the protected person lives in a nursing home or residential facility, or if the guardian wants to place the protected person in one, the protected person can contact the office of the Long Term Care Ombudsman. The Ombudsman will talk to the protected person and act as an advocate for the protected person. The Ombudsman office can be reached at 1-800-522-2602. The protected person can also call the Disability Rights Oregon at 1-800-452-1694 for legal advice and possibly for representation.

### **What is a Court Visitor?**

A court visitor is a person trained to evaluate the needs of the protected person (also called a respondent), in a guardianship case and to make a recommendation to the court. The court visitor must not have a personal interest in the case being evaluated. The visitor meets in person with the respondent, the petitioner, and the proposed guardian, reviews the court file, and talks to other people who have information about the needs of the respondent. The visitor investigates whether the respondent is able to provide for basic needs, can continue to live in the current home, if there are

alternatives to a guardianship, what health and social services the respondent has used during the past year, and other issues involved in the case.

### **Can someone object to a guardianship?**

The person to be protected (called the respondent), respondent's family members, or any other interested person that the court allows may object to a guardianship. An objection may be in writing or it may be made orally at a place chosen by the court. A person may object to any guardian being appointed at all, to the specific guardian proposed in the petition, or to the authority the guardian is requesting. If someone makes an objection, the court will have a hearing about whether or not the respondent needs a guardian, and will make a decision.

Soon after a guardianship petition is filed, a court visitor will visit the respondent and can help the respondent file an objection. The respondent will be given a blue objection form when he gets notice of the guardianship case. The objection form can be given to the court visitor, mailed to the court, or given to the respondent's attorney to file with the court.

### **What rights does a respondent have during a contested guardianship proceeding?**

The person to be protected, called the respondent, has the right to meet with the court visitor and to object to a guardian being appointed. If the respondent objects, the court will have a hearing. The respondent has a right to hire an attorney, or the judge may appoint a lawyer to represent the respondent. The judge may also appoint investigators, visitors and experts to help the judge make a fair decision in the case. The respondent may be required to pay the costs for the lawyer and others appointed. It is also possible that the petitioner will have to pay these costs.

The respondent, the respondent's attorney, certain family members and other interested people must be given notice of the guardianship case. The notice must include a copy of the petition, instructions for

objecting to the guardianship, and other information about the guardianship case.

### **Is a person with a guardian considered incompetent?**

No. An adult protected person with a guardian is considered to be incapacitated, but is not automatically considered to be incompetent. Incapacitated means that the person is unable to make safe decisions, is unable to meet basic needs for food, shelter, and health care, and is likely to be seriously harmed unless a guardian is appointed to make some of these important decisions. A person may be incapacitated in one area, and capable in another.

### **How long does a guardianship last?**

A guardianship may last for a specific period of time, or it may last as long as the protected person lives or as long as it is needed. The protected person may ask the court to end the guardianship. If there is still a need for the guardianship, but the guardian is not carrying out her duties properly, the protected person or other interested person can ask the court to replace the guardian.

### **How does a guardianship affect a person's Advance Directive and Health Care Power of Attorney?**

A guardianship will not affect a valid power of attorney for health care created before the guardianship, unless the power of attorney provides otherwise. A valid Advance Directive, created before the guardianship, remains valid and does not expire unless it includes an expiration date. It can be revoked, and it can be replaced by a later Advance Directive. An Advance Directive made after the guardianship is created is not valid if executed by the protected person. The guardian, however, can execute a new Advance Directive on behalf of the protected person.

## **What are the practical limitations of a guardianship?**

A guardianship gives the guardian legal authority to make certain decisions for the protected person, but this does not mean that the protected person will agree with or cooperate with the decisions made. It is important to remember that an adult protected person who is subject to a guardianship has lost significant civil rights, and may have strong objections. In addition, guardianship of an aging parent can strain family relationships between children and parents and among siblings, especially when the people involved do not agree with each other.

There are less restrictive alternatives to guardianship, such as powers of attorney, appointment of health care representatives, and advance directives. A guardianship should only be considered if these other options will not adequately meet the needs of the person to be protected.

## **CONSERVATORSHIP**

### **What is a Conservatorship?**

A Conservatorship is like a guardianship, but is limited to financial and property matters. A conservatorship is a court proceeding in which the court is asked to appoint someone called a conservator to manage financial and property matters for a person called the protected person. If the court decides that the protected person is not capable of handling her own finances and property matters, the court will appoint a conservator. For example, an adult son can ask the court to appoint him as conservator for his mother if the son believes his mother is not capable of managing her money and property effectively because of a physical or mental illness. A conservatorship may be the only way for the son to get legal authority to help his mother with her finances, if his mother does not have a power of attorney or trust giving him or someone else this legal authority.

## **Can someone object to a conservator being appointed?**

The protected person, for whom the court is being asked to appoint a conservator, as well as others, such as the protected person's spouse or adult children, can object to the appointment of a conservator. If there is an objection, the court will hold a hearing on the objection. At the hearing, the court will get information about whether or not the protected person needs a conservator, and will then make a decision.

### **What authority does a conservator have?**

If a court is convinced that a conservator is needed, the court will appoint a conservator and will specify what authority the conservator has. A conservator's authority relates to financial matters, such as managing property and assets, receiving income, and paying expenses. A conservator can be given broad authority by the court to handle all types of financial matters, or the conservator's authority can be limited, for example, to selling the protected person's home or setting up a trust for the benefit of the protected person. A conservator does not have authority to make personal decisions, such as decisions about health care. A conservator is bound to act in the best interests of the protected person, and the conservator must file an annual report with the court to show the court how the conservator has been carrying out her authority.

### **How long does a conservatorship last?**

The conservatorship continues until the protected person dies, or until the court decides the conservatorship is no longer needed. The protected person can ask the court to end the conservatorship. If there is still a need for a conservatorship, but the conservator is not carrying out her duties properly, the protected person, or others such as family members, can ask the court to replace the conservator.

## **REPRESENTATIVE PAYEE**

### **What is a representative payee?**

A representative payee is a person appointed by a government agency to receive benefit checks on behalf of someone else and to act for the other person in dealing with the agency. The Social Security, Railroad Retirement, and Veterans programs all use representative payees.

For example, Social Security could appoint an older person's daughter to act as his representative payee. The father's Social Security checks would be made out payable to his daughter. His daughter would be legally required to use the checks for her father's benefit, not for her own benefit. The daughter would be required to account for the money she receives in her father's behalf. As representative payee, the daughter would also receive notices from Social Security about any changes in her father's benefits, and would be responsible to notify Social Security about any changes in her father's situation which could affect his checks.

### **When and how can a representative payee be appointed?**

If you are unable to manage your own benefits, you can ask the agency to appoint someone you trust as your representative payee. Or, a family member or friend could ask to be appointed as your representative payee if they thought you were not able to handle your own checks. Each government agency which uses representative payees has its own rules and procedures. You, or your family member or friend, must apply to the agency. For more information about how to have a representative payee appointed, contact the agency paying the benefits. For example, you should contact the Social Security office about appointing a representative payee for Social Security checks.

### **What if I don't want a representative payee or what if my payee is not using my money for my benefit?**

If you don't want a representative payee or don't think you need one, and someone applies to be payee for you, you have the right to object. You also have the right to appeal if a representative payee is appointed for you over your objection. You will be notified by the agency about your right to object or appeal.

If someone has been appointed as your representative payee and is using your benefits for any purpose other than meeting your needs, you should report this to the government agency right away. The agency can investigate, remove the payee who is using the funds improperly, and appoint someone else to act as payee who will make sure your needs are met.

## **WILLS and TRUSTS**

### **What is a will?**

A will is a formal document, signed by you and witnessed by two other people, that sets forth what you want done with your property upon your death. Your will can specify who is to get your real estate, your car, personal belongings, and money from accounts. Your will can also name a guardian for your children if you have any who are not yet adults.

### **Do I need a will?**

Not everyone needs to have a will. If you do not have a will, then your property will be handled through a process called "intestate succession." This means that your property will automatically be distributed in the following way:

- If you are married, then your spouse will receive all of your property.
- If you are married and have children who are not your spouse's, then half of your property will go to your spouse and the other half will be divided equally among your children.
- If you are not married, then your children will receive all of your property in equal shares.
- If you have no spouse or children,

then your parents receive your property. If they have died, your brothers and sisters receive your property.

- If you have no family and you do not have a will or trust, then the State of Oregon will get your property.

If this kind of automatic distribution of your property is satisfactory to you, then you may not need to have a will.

Also, if all of your property is owned jointly with someone else, or you create a “survivorship interest” in your property, then a will may be unnecessary. See the sections on property ownership and survivorship interest in this handbook for more information.

Wills can be expensive if done through an attorney and if they handle complex issues. Even a simple will done by yourself or using a form should be reviewed by an attorney to make sure it does not create more problems than it solves.

### **What is probate?**

Probate is a process for distributing your property, paying bills, and settling claims that takes place after your death. If you have a will, then your property is distributed as set forth in the will. If you do not have a will, then your property is distributed through intestate succession, as described above.

### **What is Small Estate Probate?**

If you have a small estate (meaning you do not have much property), then your property may be distributed through Small Estate Probate, also known as Small Estate Affidavit Procedure. Small Estate Probate takes less time (4 to 6 months) than regular probate (9+ months), and it is usually less expensive and requires less paperwork.

To qualify for Small Estate Probate, your real property (land or house) must be worth less than \$150,000 and your personal property (car, furniture, clothes, etc.) must be worth less than \$50,000. If

either your real property or your personal property is worth more than this, then you do not qualify for Small Estate Probate and your property will be distributed through regular probate. ORS 114.505

### **What is a Survivorship Interest?**

Another method for distributing your property, without using a will, is to create a survivorship interest in the property. For example, most husbands and wives own their homes with a survivorship interest (also known as a “right of survivorship”). What this means is each spouse owns the home, but if one of them dies, his or her interest will automatically transfer to the surviving spouse. You can create a survivorship interest in your home, your personal property, or your bank accounts.

There are risks involved in creating a survivorship interest. For example, giving a child a survivorship interest in your bank account gives that child access to the funds in your account even before your death. You should consult with an attorney to get more information about how to create survivorship interests and the benefits and risks of doing so.

### **What is a Payment on Death Account?**

A Payment on Death (POD) Account is like a normal bank account, except that you designate someone to get the money in your account upon your death. Until your death, that designated person has no access to your account. Contact your bank or financial institution if you are interested in a POD account.

### **What is a Trust?**

A trust is a legal document which allows property to be held by one person for the benefit of another. Generally, the trustor is the person who sets aside property in the trust, the trustee manages the trust (invests the money and makes appropriate payments), and the beneficiary is the person who benefits from the trust, usually in the form of payments.

There are basically two types of trusts. A testamentary trust is a trust that is set up in your will. It takes effect only after your death. For example, you may want to give some money to a grandchild upon your death. You can set up a trust for that grandchild providing that no money will be distributed to your grandchild (the beneficiary) until after he or she graduates from college.

The other kind of trust is a living trust. You can avoid probate if all of your property is put into a living trust. Your property will be distributed according to the trust. There can be certain tax benefits to doing this, but these generally only apply to large estates. Living trusts can be complex and expensive to set up, and you are advised to seek the assistance of an estate planning attorney if interested in one.

### **How can I find out more about wills?**

You can go to the Oregon State Bar's web site at: [www.osbar.org/public/legalinfo/](http://www.osbar.org/public/legalinfo/)

## **MANAGING HEALTH CARE DECISIONS**

### **ADVANCE DIRECTIVE FOR HEALTH CARE**

#### **What is an Advance Directive for Health Care?**

An Advance Directive for Health Care is a legal form that allows you to name another person, called your Health Care Representative, to make decisions for you when you are no longer able to make or communicate your own decisions. The Health Care Representative, usually a family member or friend, should be someone you trust who knows your wishes about health care and who is willing to take on the responsibility of carrying out your wishes. Also, in the Advance Directive you can make your wishes known about what health care you want and don't want, depending on your medical situation. For example, you can state whether you want tube feeding or other life support measures to be used if you are close to death, or unconscious and not likely to regain consciousness.

#### **Who fills out the Advance Directive?**

You, not your doctor (although it is a good idea to talk with your doctor about it), are the one to fill out and sign the Advance Directive. If you name a Health Care Representative, that person must also sign the form. The form needs to be witnessed. When the form is completed, signed and witnessed, you should give copies to your doctor(s), Health Care Representative(s), and family, so that they will all know who your representative is, and your wishes in the event a health decision needs to be made and you are not able to make it.

#### **Who should have an Advance Directive?**

Every adult, regardless of age or medical condition, can benefit from having an Advance Directive. By having one, you do two important things - you name a health care representative to act for you when you can't act for yourself, and you give directions on the decisions to be made. The form is not hard to fill out, and you don't lose your right to make your own decisions while you are able. Advance Directive forms are available from health care facilities, from doctors and lawyers, and at office supply stores.

#### **If I signed a living will do I need an Advance Directive?**

Yes. The Advance Directive was established by Oregon law in 1993, and replaced the earlier forms approved in Oregon – the Directive to Physicians, commonly called the Living Will, and the Power of Attorney for Health Care. If you have completed one of these earlier forms, you should replace it with an Advance Directive. The Advance Directive applies to all types of medical decisions, not just life support decisions for those with a terminal illness like the Directive to Physicians, or living will.

#### **When does the Advance Directive take effect and what effect does it have?**

The Advance Directive takes effect only when you are not able to make your own decisions. As long as you are able to make and communicate your own decisions, your Advance Directive is not needed and does not take effect. If you do become unable to

make your own decisions, then the Advance Directive continues in effect for as long as you are unable to make your own decisions. When it does take effect, your doctors and health care providers are legally required to follow it, which means they must act on the decisions made by your representative and must follow your stated wishes. If they are not willing to do so, they must transfer your care to another doctor or health facility.

## **PHYSICIAN ORDERS FOR LIFE SUSTAINING TREATMENT (POLST) FORM**

### **What is the POLST form?**

The POLST form is a document which your doctor fills out and signs after learning your wishes about what end-of-life health care you want and don't want. It goes a step beyond the Advance Directive by turning your wishes concerning life-sustaining treatment into specific, written medical orders which can be understood and which will be followed by other doctors, nurses, emergency personnel ("EMTs"), and health facilities.

The physician orders in the POLST form cover resuscitation, use of antibiotics, getting fluids through an IV, or getting food through a feeding tube. For example, your POLST form could order that you not be resuscitated if your heart were to stop beating – a do-not-resuscitate or "DNR" order. No matter what your POLST form says about your wishes concerning life-sustaining treatment, you will always be given treatment to make you as comfortable as possible. The form can be reviewed and changed over time as your medical condition or your wishes change.

### **Where should I keep my POLST form?**

The POLST form is a one page, two sided, bright pink form which is meant to be easy to recognize. If you live at home, you should keep it somewhere it can be found in an emergency, such as on your refrigerator with a magnet. If you live in a long term care facility, your POLST form will be kept in your medical chart.

### **Who should have a POLST form?**

If you have a serious, perhaps life-threatening illness, and are faced with end-of-life decisions, you should ask your doctor about completing a POLST form. The POLST is often used for residents of long term care facilities and hospice facilities. If you are named in an Advance Directive as the health care representative for someone who is now unable to communicate her wishes to her doctor, the person's doctor can complete a POLST form by having you make the necessary end-of-life decisions.

### **If I have an Advance Directive do I need a POLST too?**

The POLST is not meant to replace an Advance Directive, but to complement one. An Advance Directive applies to end-of-life-decisions like the POLST form does, and to other health care questions too, but it is not a doctor's order like the POLST form is. If you have an Advance Directive and have a serious illness, you should talk with your doctor about completing a POLST form to go along with your Advance Directive.

### **Where can I get a POLST form?**

Your doctor can get the POLST form for you from the Center for Ethics in Health Care of the Oregon Health Sciences University. Ask your doctor to get the form by contacting the Center at 503-494-3965, or [www.ohsu.edu/ethics](http://www.ohsu.edu/ethics).

## **THE OREGON DEATH WITH DIGNITY ACT**

### **What is the Oregon Death with Dignity Act?**

The Oregon Death with Dignity Act allows a "qualified patient" suffering from a terminal disease to voluntarily request from his or her physician a prescription for medication to end his or her life.

### **Who is a Qualified Patient?**

The law requires that the patient 1) be an adult, 2) be an Oregon resident, 3) have a terminal illness with less than six months to live, and 4) be capable of making a voluntary request. To be capable of

making a request a patient must have the ability to make and communicate health care decisions to health care providers.

### **Are there Safeguards in the Act?**

The law requires that a patient give a fully informed, voluntary decision. The physician must recommend that the patient discuss his/her intentions with close relatives. A patient must make two oral requests and the law requires a 15 day waiting period occur after the first oral request. The law allows cancellation of the request at any time. It makes it mandatory that 2 days go by after a patient makes a written request to receive the medication. The law requires a second opinion by a qualified physician stating that the patient has less than six months to live. The law provides for psychological counseling if either of the patient's doctors thinks the patient needs counseling. The law prohibits "mercy killing."

### **Where can I get more information about the Death with Dignity Act?**

You can get more information about the Death with Dignity Act by consulting the Oregon Department of Human Services web site at: <http://oregon.gov/DHS/ph/pas/index.shtml>. The web site contains a link to a Guide to End-of-Life care services and resources organized by county.

### **Did the U.S. Supreme Court review the legality of the Death with Dignity Act?**

Yes. The U.S. Supreme Court decided in January, 2006, that Oregon's Death with Dignity Act was a valid exercise of the state's authority to regulate medical practices. The Supreme Court upheld the law.

## **LONG TERM CARE**

### **OVERVIEW OF LONG TERM CARE ISSUES**

#### **What is Long Term Care?**

If you are elderly or disabled and can not live on your own without assistance, you may need Long Term Care. Long Term Care is care designed to help you with a range of things - from assistance

with activities of daily living (such as eating, bathing, walking/moving, going to the bathroom, etc) to much more complicated medical care and treatment. Long Term Care is provided in a variety of settings - it can be provided inside your own home, in your private apartment inside a facility, in a group home, or inside a nursing home. A different level of care is provided in each type of Long Term Care facility or program.

If you have sufficient funds, you may need to pay for Long Term Care on your own. However, if you need Long Term Care but you don't have enough money to pay for it, the State of Oregon and Medicaid may pay for your Long Term Care if they determine that you require a certain level of assistance, called a "Service Priority Level." The Department of Aging and People with Disabilities, will make the determination whether you qualify for Long Term Care paid for by the state.

Below are descriptions of the various settings where Long Term Care is provided, and a brief description of your rights to continue receiving Long Term Care at the facility of your choice.

#### **Where can I go for help with Long Term Care Issues?**

If you are interested in Long Term Care services, you should contact your local office of Aging and People with Disabilities. If you are receiving Long Term Care in your own home or at a facility, the Office of the Long-Term Care Ombudsman exists to help you answer questions or voice concerns about the care you are receiving. Contact them at 1-800-522-2602. If your Long Term Care services are being terminated by the state, if your rights are being violated, or if you are being asked to move out of your Long Term Care facility against your wishes, we recommend that you contact your local Legal Aid office, the Ombudsman, or a private attorney for assistance. If you experience elder abuse, you should call the Elder Abuse Prevention line at 1-855-503-7233.

## **What is the Long Term Care Residents Bill of Rights?**

In all the different type of facilities where Long Term Care is provided, every resident is guaranteed certain rights. The rights vary slightly depending on what type of facility you live in, but the basic rights include:

- To be treated with dignity and respect;
- To be given informed choice and opportunity to select or refuse service and to accept responsibility for the consequences;
- To be free from neglect, financial exploitation, verbal, mental, physical or sexual abuse;
- To receive services in a manner that protects privacy and dignity;
- To have access to and participate in social activities;
- To voice grievances, be informed of grievance procedures, and suggest changes in policies and services to either staff or outside representatives without fear of retaliation;
- To be free of discrimination in regard to race, color, national origin, gender, sexual orientation or religion; and
- To have proper notification if you are requested to move out of a facility, to be asked to move out only for specific reasons, and to have the right to a hearing before you are required to move out.

## **What are some different types of Long Term Care?**

### *1. In Home Care.*

In Home Care is intended for seniors and people with disabilities who wish to remain living in their own home, but need some assistance in order to continue doing so. In Home Care provides essential supportive services that range from assistance with general household tasks to assistance with activities of daily living. The services may be provided from

a few hours per week, to full time, depending on the state's assessment of the needs of the individual.

You may qualify for In Home Care if you need assistance and you live in your own home, a rented apartment, or with relatives. Home Care workers may be professionals licensed by the state, or in some limited circumstances may be spouses, friends, relatives, or neighbors who meet the state's qualification criteria.

### *2. Adult Foster Homes.*

Adult Foster Homes (AFHs) are private homes where 5 or fewer elderly or disabled adults live and receive care in a "family-style" setting. The care provided in AFHs varies depending on the needs of the residents and the skills, abilities, and training of the care providers. The purpose of an AFH is to provide necessary care while emphasizing a resident's independence. A care provider must be present and available at all times when residents are in the home, and residents must have at least 6 hours per week of activities (other than television and movies) available to them in the AFH. The level of care that can be provided inside an AFH depends on the license classification of the particular Home. Make sure that the AFH you chose to live in can provide the level of care you need.

### *Involuntary Move Out/Transfer:*

Once you are admitted as a resident in an AFH, you can not be asked to leave against your will, or be asked to move to another room within the adult foster home, or be transferred to another adult foster home for a temporary stay except for very specific reasons, including but not limited to:

- Medical reasons;
- Behavior which poses a threat to self or others;
- Failure to pay for care; and
- The resident's needs exceed the ability or classification of the AFH provider.

Under most circumstances, even if a resident is asked to move involuntarily, the resident must be given 30 days' notice before they are asked to move out. If you are asked to leave the AFH against your

will, you are entitled to an informal conference with the state, and a formal administrative hearing where you can explain to a judge why you should not be forced to leave your home within the AFH.

### 3. *Residential Care Facilities.*

Residential Care Facilities are homes where six or more seniors and people with disabilities live and receive care. All Residential Care Facilities must provide a range of supportive services on a 24 hour basis to meet residents' basic needs for assistance with activities of daily living, health and social needs of residents. Only limited medical or health care services may be provided. A Residential Care Facility is designed to provide care inside home-like surroundings that promotes resident participation, choice, dignity, privacy and independence.

#### *Involuntary Move Out/Transfer:*

Once you are admitted as a resident in a Residential Care Facility, you can not be asked to move without notice, and you can only be asked to move for certain reasons, including, but not limited to:

- Medical reasons;
- Dangerous behavior;
- Failure to pay for care; and
- The resident's needs exceed the ability or the classification of the facility.

If you live in a Residential Care Facility and you are asked to move out of the facility, you usually must get 30 days' written notice before you are supposed to move out. If you receive such a notice, you should ask for an informal hearing (a meeting between you, your advocate, the facility staff, and a representative from the state), where you will try to work out any issues between yourself and the facility so that you can stay in your home. If you are unable to come to a satisfactory solution at the end of your informal hearing, you should ask for a hearing right away so that an impartial judge can decide if the facility really has a good reason to ask you to leave. It is a good idea to have a lawyer or other advocate with you for your formal hearing.

### 4. *Assisted Living Facilities.*

An Assisted Living Facility (or ALF) is a building where seniors and/or persons with disabilities live in 6 or more private apartments. Each private apartment has its own bathroom and kitchen or kitchenette. The building as a whole must include common areas, such as social activity rooms, and a common dining room where at least three meals a day can be provided. The ALF must also provide social and recreational activities for residents. ALFs are designed to provide private, home-like environments that can support residents who need help with both activities of daily living (like eating, bathing, cooking) and with certain medical conditions as well.

ALFs must offer a range of supportive services that are available on a 24 hour basis to meet the needs of residents. ALFs have the capacity to handle residents with varying levels of medical conditions. An ALF must provide or coordinate the required health services for all residents whose health status is stable and predictable. An ALF may have a nurse on staff, but they are only required to have a nurse on contract to support resident medical needs. Carefully check with any ALF to make sure that they have the staff and training needed to handle your medical needs before you agree to move in. If you live in an ALF, but you develop a medical condition that requires more services than the facility can provide, they should help you coordinate the care you need in your own apartment, but you may have to pay for it.

#### *Involuntary Move-Out/Transfer:*

An ALF may ask that you move out of the facility. However, they can only ask you to leave under certain circumstances, including but not limited to:

- Development of a medical condition that the facility can not safely care for;
- Failure to pay for your rent or care at the facility;
- Behavior dangerous to yourself or to others;
- Severe cognitive decline can sometimes be a reason why the

facility may ask a resident to leave; and

- Resident's need for 24 hour, seven day a week nursing supervision.

Before you are asked to move out, you must be given adequate written notice - usually 30 days. If you receive such a notice, you should ask for an informal hearing (a meeting between you, your advocate, the facility staff, and a representative from the state), where you will try to work out any issues between yourself and the facility so that you can stay in your home. If you are unable to come to a satisfactory solution at the end of your informal hearing, you should ask for a hearing right away so that an impartial judge can decide if the facility really has a good reason to ask you to leave. It is a good idea to have a lawyer or other advocate with you for your formal hearing.

#### 5. *Nursing Facilities.*

Nursing facility care is 24 hour skilled nursing care provided in a hospital-like setting. There may be some private rooms available in nursing facilities, but many nursing facility rooms are shared rooms. There is less emphasis on independent living and social/recreational activities in nursing facilities than in other forms of Long Term Care facilities.

As a resident of a nursing facility, you still have personal rights, such as the right to be informed of the rules and guidelines of your facility, be informed of your own health status, refuse medication or treatment, be free from verbal, sexual, mental, and physical abuse, be treated with respect and dignity, and be free from retaliation for exercising any of your rights.

#### *Involuntary Move Out/Transfer:*

A Nursing Home can only ask you to move out of the Nursing Home under certain circumstances, and even then, the facility must comply with strict rules of transfer. If your condition improves to the point where you don't need Nursing Facility care any longer, you may be asked to leave. You can also be asked for reasons such as non payment for services, medical reasons, or behavior reasons.

Before requiring that you transfer out of a Nursing

Facility, the facility must consider how the transfer will impact you, and what arrangements can be made for you to live safely outside of the facility.

If you are asked to transfer out of your Nursing Facility but you don't want to leave, you have the right to an informal conference and a formal hearing. Contact the State Ombudsman program at 1-800-522-2602 or your local legal aid office for help or advice regarding a conference or hearing.

## **PROGRAM FOR ALL INCLUSIVE CARE FOR THE ELDERLY (PACE)**

### **What is the Program for All-Inclusive Care for the Elderly (PACE)?**

PACE is a government authorized program that provides comprehensive health and social services for seniors. PACE providers are either not-for-profit private companies or public organizations. For most participants, the program allows them and encourages them to continue living at home while providing a wide range of services. Participants will be picked up at their homes and transported to the care facility for regular services. Some PACE participants live in long-term care facilities owned or operated by the PACE program. Participants in PACE retain the freedom to choose where they live.

### **How much does PACE cost?**

For participants who are eligible for Medicaid, the cost is based on an individual's monthly income, and the provider receives the participant's Medicaid payment directly. PACE participants living in a long-term care facility will, at a minimum, have a room and board payment and a monthly personal needs allowance, both of which are set by the state. For participants who are not eligible for Medicaid, the premium cost, not including room and board, is currently \$4,210 per month in 2014.

### **Who is eligible for PACE?**

To be eligible to participate in PACE you must:

- Be age 55 or older;
- Live in Oregon and be willing to

relocate to Multnomah County;

- Be eligible for Medicaid or willing to pay a premium equal to the state's cost to cover someone on Medicaid;
- Be eligible for service as determined by Multnomah County Aging and Disability Services; and
- Not be in immediate need of nursing facility placement.

### **Is there a PACE provider near me?**

Providence Health Services runs a PACE program called Providence ElderPlace, which provides health and social services at several locations in the Portland area. The next closest PACE program is in Seattle.

### **How can I find out more information about PACE?**

To find out more information you can contact the following:

Providence Elder Place  
4531 SE Belmont, Suite 100  
Portland, Oregon 97215  
(503) 215-6556  
[www.providence.org/ElderPlace](http://www.providence.org/ElderPlace)

The government web site for PACE is [www.cms.hhs.gov/pace](http://www.cms.hhs.gov/pace).

## **LONG-TERM CARE INSURANCE**

### **What is Long-Term Care Insurance?**

Long-Term Care is assistance for people who have a long-term or chronic illness or disability, usually at the later stages of life. The level of care can range from light therapy in the person's home to full time nursing care in a residential center. While family members have historically provided long-term care for their elderly family members, there are now options available to obtain care from other providers.

### **Won't Medicare cover my need for long-term care?**

No. Medicare does not cover most long-term care expenses. Services that are covered by Medicare generally include hospital care, skilled nursing home services, some limited home health care services, and hospice services. Medicare does *not* cover care in a nursing facility (unless it follows a hospital stay of at least 3 days), care in an adult foster home, residential care facility or assisted living facility, or most in-home services.

### **How do I know if Long-term Care Insurance is right for me?**

Most medical insurance plans do not cover long-term care. Medicaid covers long-term care for people qualified for Medicaid benefits. If, however, you do not qualify for Medicaid, and you are concerned about the high cost of future long-term care, then purchasing long-term care insurance may be a good option for you. Here are some things to keep in mind:

- Can you afford the monthly insurance premiums? Will you be able to afford them in the future? Your monthly premiums will vary depending on the kind of insurance policy you purchase. The average monthly premium is about \$140.00, and the premiums are generally less for younger people (in their 40s and 50s) than for people who are older;
- Do you anticipate that you will need extensive long-term care? A family history of debilitating illness, such as Alzheimer's, may make insurance a good option;
- Do you want to be independent of family members with regard to your money, assets and health care? If so, you may wish to insure your future health care.

Long-term Care Insurance is generally not right for people who cannot afford the premiums, have few assets, or whose only income is Social Security or SSI.

### **Can my children purchase a long-term care policy for me?**

Children who want to ensure that their parent is cared for can purchase long-term care insurance for their parent, thereby avoiding some of the cost, time and emotional demands of being a caregiver themselves.

### **What kind of care is available through long-term care insurance?**

Long-term care insurance policies cover a range of care options, including care within the patient's private home, assisted living, adult foster care, and all levels of nursing care. Policies are not allowed to limit coverage to nursing care only, but instead must provide in-home care and other intermediate levels of care as well.

### **Are the premiums for long-term care insurance tax deductible?**

The premiums for some policies are tax deductible as medical expenses on your state and federal income tax returns. However, the qualifications for buying these policies may be more restrictive. Under Oregon law, you may also be eligible for a tax credit of \$500 or 15% of the premiums paid, whichever is less.

### **What questions should I ask the insurance provider when considering whether to purchase a policy?**

- Does the policy limit who I can choose as a caregiver?
- Has the company ever increased premiums for existing policyholders? How much?
- Are premiums waived once I qualify for benefits?
- Do benefit payments increase with inflation?
- What percentage of claims are paid?
- What is the waiting period before benefits will start?
- How are the benefits triggered? Are they triggered by a doctor, or by the insurance company? How much assistance with daily living do I need before benefits will be paid?

### **Where can I find help deciding whether long-term care insurance is right for me?**

- Senior Health Insurance Benefits Assistance (SHIBA) at 1-800-722-4134, or visit their web site at [www.oregonshiba.org](http://www.oregonshiba.org).
- "A Shopper's Guide to Long-term Care Insurance": insurance agents must provide free copies, or you can request one at: [www.oregoninsurance.or/docs/pubs.htm#consumer](http://www.oregoninsurance.or/docs/pubs.htm#consumer), or by calling 1-800-722-4134.
- The Oregon Insurance Division web site at [www.cbs.state.or.us/ins\\_](http://www.cbs.state.or.us/ins_)

## **PROPERTY OWNERSHIP AND RENTALS**

### **OWNERSHIP AND TRANSFER OF REAL PROPERTY**

#### **What is "real" property?**

There is a difference between "real" property and "personal" property. Real property means land or the house or building that is on the land. Personal property is one's possessions, including cars, clothes, furniture, household items, etc. This section applies only to the ownership and transfer of real property.

#### **What types of property ownership are there?**

There are several ways that one can own real property.

- First, there is "Sole Ownership." Sole ownership means that you own the property solely in your name and you own all the rights to that property.
- Second, there is "Tenancy in Common," which means you own property along with another person or persons. If you own a half interest in the property, then you can sell

your half interest to someone else if you want to. Or you may name someone in your will to inherit your interest upon your death.

- Third, there is a “Survivorship Estate.” Two or more persons may hold property together with a survivorship interest. A survivorship estate means that when one owner dies the surviving owner(s) automatically receives the deceased owner’s share of the property. This transfer happens even if the deceased person’s will transfers the property to someone else. A husband and wife usually hold property together with this right of survivorship. If you are married and own property together with your spouse in a survivorship estate, and you want someone other than your surviving spouse to receive your interest upon your death, then you should talk to a lawyer about converting your ownership to a “tenancy in common” or other type of ownership.
- Finally, there is a “Life Estate.” With a life estate you give your property to another person but you keep the right to live on the property until your death. You can also create a life estate in your will. For example, you can create a life estate in which you give the property to a friend, but when your friend dies your property will go to someone else that you want to have it.

### **How can I transfer my ownership of property to someone else?**

If not done correctly, transferring ownership of property can lead to the unexpected loss of that property, loss of eligibility for Medicaid or other government benefits, or unintended tax consequences. You are strongly advised to consult an attorney to assist in the transfer of property ownership.

There are several ways to transfer your ownership of property. First, you can sell it. Generally, property will be sold for cash or for installment payments made by the buyer. These payments may be arranged through a mortgage, trust deed, or land sale contract. Second, you may give the property to someone during your lifetime, such as to a family member, friend, or charitable organization. Third, you may give the property away upon your death, through a will, a trust agreement, or through a survivorship interest. Property that is sold or given away will require the proper completion of a deed.

### **What is a Deed?**

If you want to sell your real property or give it away during your lifetime, you must do so in writing. This document is called a deed. It needs to be signed correctly, usually in front of a notary public, and given to the new owner to make the transfer complete. The deed also needs to legally describe the property, it must state what was given or paid for the property, and it must be recorded with the county clerk where the property is located.

If you want to give your property away upon your death, then you can create a survivorship interest in a deed. You should know, however, that doing this may have created a gift, giving rise to gift taxes. In addition, once the deed is signed, you cannot take the property back unless the other person agrees in writing to give it back. Finally, even if you name someone else in your will to receive the property, the deed will override the will and the person with the survivorship interest will get the property.

Again, it is strongly advised that you consult with an attorney before transferring ownership of real property.

### **Where can I find out more information about property ownership and transfer?**

The Oregon State Bar  
[osbar.org/public/legalinfo/](http://osbar.org/public/legalinfo/)

## **PROPERTY TAX DEFERRAL PROGRAMS FOR DISABLED AND SENIOR CITIZENS**

You may be eligible to delay payment of your property tax on your home, manufactured home, houseboat, or condominium. If you qualify for the State of Oregon Property Tax Deferral Program, the state will pay your property taxes to the county in which you live. You will be charged six percent interest per year on the unpaid taxes; however, payment of the interest will also be postponed. A lien will be placed on your property until the taxes, interest, and recording fees are paid or the property is sold.

### **Am I eligible for property tax deferral?**

*Senior Citizen Program:* Anyone who is sixty-two years or older on or before April 15<sup>th</sup> of the year in which the claim is filed may qualify.

*Disabled Citizen Program:* Anyone who is under age 62 and receiving or eligible to receive federal Social Security benefits due to disability or blindness on or before April 15<sup>th</sup> of the year in which the claim is filed may qualify.

Either husband or wife may apply, or both may apply jointly. Applicants need not be married to apply as joint owners. You are not eligible if you have only a life estate interest in the property.

You are not eligible if your net worth exceeds \$500,000.

### **Is my property eligible for tax deferral?**

In 2011 changes were made to the tax deferral program, significantly limiting what property is eligible. Under the new requirements, the property must be the residence of the applicant for five years. Additionally, any home subject to a reverse mortgage is no longer eligible.

In 2012 and 2013 additional changes were made to reduce the impact of these changes for prior participants of the program. For those who were participating in the property tax deferral program prior to July 1, 2011 they may be eligible to

“reactivate” their deferral even if they have not resided in the home for five years or notwithstanding a reverse mortgage on the home. However, the number of individuals allowed reactivation each year is capped regardless of eligibility based on a first come, first served basis.

The new changes also capped the Real Market Value (RMV) of homes eligible for the program based on a percentage of the county median Real Market Value in a formula indexed to the number of years in the home.

### **Is there an income test to qualify?**

To qualify for the Property Tax Deferral Program, you must meet an annual income test that changes from year to year. To qualify, your total household income must be less than the income limit set by the state for the preceding year. In 2014 that amount is \$42,000. Household income includes both taxable income and nontaxable income, including social security and pensions.

### **How do I apply?**

You may obtain an application for property tax deferral from your county assessor’s office. Submit the application to your county assessor’s office between January 1 and April 15. The Department of Revenue will review your application and notify you in writing when it is approved or denied.

To Complete the application you will need to attach the following documents:

- A copy of the property deed;
- A copy of the property tax statement or printout from the previous year;
- Income worksheet;
- A copy of a doctor’s statement if you do not live in your home due to medical reasons;
- A copy of your federal Social Security award letter if you are applying for the Disabled citizens’ property tax deferral.

### **Can I get a deferral if I owe back taxes?**

Yes, but you need to contact your county assessor to file a Delay of Foreclosure application.

## **When will the deferral end?**

The deferral will end and you, or your estate, will be responsible for payment of taxes if any of the following happens:

- You, or the taxpayer holding the deferral dies;
- You sell the property or in some other way change ownership;
- You cease to live permanently on the property;
- You no longer meet the annual income test;
- You move the mobile home or houseboat out of state;
- You are no longer a person with a disability.

## **Do I need to recertify for the program?**

Yes. The Department of Revenue is required to recertify participants not less than once every three years. Participants must return the recertification form within 65 days or risk losing their deferral for that year. However, if an individual is disqualified for failing to recertify, they may still reapply the following year.

## **Will I continue to receive the deferral if my spouse dies?**

For the Disabled citizens program, if the taxpayer holding the disabled deferral dies, and the surviving spouse is also disabled and receiving federal Social Security benefits, the deferral will continue.

For the Senior Citizen program, if the taxpayer holding the senior deferral dies and the surviving spouse 1) signed the original application and 2) is 59 ½ or older at the time of the taxpayers death, the deferral will continue.

If you are younger than 59-1/2 and a surviving spouse of a deceased taxpayer receiving the deferral, you may file a surviving spouse application. The past-deferred taxes and interest will remain deferred; however, you must pay the property taxes to the county until you turn 62. At that time, you will need to file another application for the senior deferral. Upon approval, the State will resume paying the property taxes.

## **How can I find out more information?**

Call the Oregon Department of Revenue, at 503-378-4988, or toll free within Oregon at 1-800-356-4222 or visit its website at

<http://www.oregon.gov/DOR/scd/pages/index.aspx>

## **FORECLOSURE**

### **What is a foreclosure?**

If you have borrowed money from a bank or mortgage company to purchase or refinance a home, you made an agreement that if you could not pay them back the bank or mortgage company could auction the house in a foreclosure sale. With some exceptions, your bank or mortgage company may begin a foreclosure proceeding that ends in such a sale if you are more than 120 days delinquent on your loan.

### **Does the bank or mortgage company have to go to court to foreclose?**

Not necessarily. In Oregon, the bank or mortgage company may use the judicial or non-judicial foreclosure process to get the right to sell your home in a foreclosure sale. In the judicial foreclosure process, the bank or mortgage company must go to court to get a judgment before it can schedule a foreclosure sale. In the non-judicial foreclosure process, the bank or mortgage company doesn't have to go to court. It can use a person or company known as a trustee to administer the process, which also ends in a foreclosure sale.

### **How long does the foreclosure process usually take?**

The foreclosure process often takes about six months. In some cases it could take longer and in other cases it could take less time. It will also depend a great deal on your bank or mortgage company and how aggressively it pursues foreclosure.

### **Will I have to move out of my house during the foreclosure process?**

No. The foreclosure process (even when followed through to completion) only transfers ownership of

the house from you to the high bidder at a foreclosure auction. Depending on the type of foreclosure used, you may become a tenant in the house you formerly owned. For more information about the eviction process see the publication in this series entitled *Landlord Tenant Law* or call a legal services organization in your area.

### **Why am I receiving a lot of mail from people who claim they can help me?**

If a bank or mortgage company uses the judicial foreclosure process to try to auction your home, it must file a lawsuit. If the bank or mortgage company uses the non-judicial foreclosure process, it must file, in the local county recording office, a notice of default and election to sell your property. These documents are public, and anyone may look them up. Some may be able to help you and some may be trying to take advantage of you. Treat all direct solicitations with caution and seek legal advice before signing anything.

### **After a foreclosure sale, can the purchaser just come and kick me out of my house?**

No. Only a court order can force you to leave your home. There are procedures within the court system that the purchaser must follow before you can be forced to leave your home.

### **What can I do if the bank is foreclosing on my home?**

- Contact a legal aid office in your area for assistance.
- Call the Department of Housing and Urban Development (HUD) and speak with a HUD approved housing counselor to explore your options at 1-800-569-4287 or TDD 1-800-877-8339.
- Consider filing for bankruptcy or selling your home as a way to avoid foreclosure. You should get the advice of an attorney before pursuing these options.
- Do not wait to act. Doing nothing may result in losing your house and your good credit.

## **LOW INCOME RENTAL ASSISTANCE**

### **What housing assistance is available to low income Seniors?**

Senior citizens may be eligible for many types of subsidized housing. There is *Low Rent Housing* (LRH) with the Public Housing Authority (PHA) as your landlord. There is also the *Section 8-Voucher* program, where a tenant rents from a private landlord and the PHA helps pay the rent. There is also *Section 8-Project Based Moderate Rehabilitation* and *Project Based Multifamily housing*. Some of this housing is designated “elderly and disabled” housing only. There is also *Low Income Tax Credit* housing and *Affordable Housing*.

### **What are the differences among the various subsidized housing opportunities?**

*Low Rent Housing (LRH):* Housing that you rent from your local Public Housing Authority (PHA) is called *Low Rent Housing*. The PHA is your landlord, you pay 30% of your adjusted gross income in rent, and the PHA must have good cause to evict you.

*Housing Choice Voucher (also known as Section 8-Voucher program):* In this program you have to find housing on your own from a private landlord or non-profit. You pay about 30% of your adjusted gross income in rent and have good cause protection but only during the initial term of the rental agreement. After the initial term of the rental agreement, the landlord no longer needs a good cause to evict you.

*Project Based Section 8:* With either Moderate Rehabilitation or Multifamily Housing, you pay only 30% of your adjusted gross income in rent, and a good reason is needed to evict you. This is generally the same in housing that is designated “seniors only” or “elderly and disabled only.”

*Affordable Housing and Low Income Tax Credit housing:* With these programs, rents are below fair market rent, but they are not based on income. In most of this type of housing a good reason is required to evict you.

### **What are the eligibility requirements?**

There is an *income limit* for each program. The housing provider must look at the total income for the entire household. There are some adjustments, depending on the program, for medical expenses for seniors and the disabled. You must be a citizen or a non-citizen with eligibility status. There are no limits on assets, but any income on those assets will be counted. If it is “senior only” housing, one of the persons (head of the household, spouse, or sole member) living in the household must be 62 years or older for all HUD subsidized housing.

### **What if I think I am eligible, but I am turned down for housing?**

In almost all kinds of subsidized housing, if you are turned down you have the right to some kind of review. If the Public Housing Authority turns you down, you have the right to an informal review of the decision. In other types of housing you are generally entitled to some kind of review by someone other than the person who made the initial decision. If a private landlord turns you down when you have a Section 8 Voucher, there is no right to any kind of hearing. However, if you suspect discrimination due to age, race, creed, familial status, source of income, religion, national origin, gender, gender identity, sexual orientation, or physical or mental disability, you should contact a lawyer or the Fair Housing Council at 1-800-424-3247 immediately.

### **What if my income is from a trust?**

Generally if the assets of the trust are in an *irrevocable trust* (permanent trust) then the only income counted for purposes of figuring rent is the income from the trust and there is no countable asset. *Revocable trusts* are a source of income and an asset. Remember that the income from the trust is counted when figuring your adjusted gross income for rent purposes, but the value of the trust itself is not. This is true whether or not you are the grantor (the person who set the trust up), or the beneficiary (the one receiving only the benefit of this money) of the trust.

### **If I am a senior, but I also have a disability, can I have someone live with me to help me out?**

If you are a person with a disability as defined under the fair housing laws, and need someone to live with you to assist you because of your disability, the housing provider must allow you to have a live-in aide. You should make the request for reasonable accommodation in writing and provide a letter from your health care provider to verify that you need a live-in companion. Keep a copy of the letter for your records. Generally that person cannot have other full-time employment and must be required for 24-hour care. Live-in aides are subject to a criminal check and general background check. But they are not considered “household members” for purposes of determining rent, and therefore their income is not counted toward the rent.

### **How do I apply for these types of subsidized housing?**

For Low Rent Housing and Section 8 Vouchers you must contact your local Public Housing Authority to find out how to apply. You can be on both waiting lists at the same time. Some PHAs only open up their waiting lists occasionally, so you need to find out what each program requires. For all the other types of housing, you need to contact each building and apply separately for the housing. The local housing office or the local Aging and Disabled Services Office has a list of most of those kinds of housing in each county.

### **Can I be evicted from these types of subsidized housing?**

In all but Section 8 voucher housing after the initial term of the lease, the law requires that the landlord have good cause (“serious or repeated violations of the lease”) to evict you. That means he must have a reason and state that reason in a written notice. Unless it is for a very serious and potentially dangerous reason, the landlord must give you a 30-day notice with a 14-day opportunity to fix the problem. If you fix the problem within those 14-days, then the landlord cannot evict you. However, if you do substantially the same thing in the next six

months, the landlord can give you a 10-day notice for cause with no opportunity to cure. If you do not pay your rent, the landlord can give you a 72-hour notice after the rent is seven days past due. If you pay your rent within the 72-hours, the landlord cannot evict you. There are other types of notices. If you receive a notice of eviction you should consult an attorney about your rights. The landlord must serve you a written notice in writing before he can evict you. After the time on the notice is up, the landlord must go to court and file an eviction case. You must go to court to defend your tenancy and you have the right to a trial before the landlord can evict out.

If you are a person with a disability and you believe that the reason for the eviction has something to do with your disability, you have the right to ask for a *reasonable accommodation* which may entitle you to avoid eviction. You should always consult an attorney if you receive an eviction notice from your landlord.

**Can I have a pet in subsidized housing?**

Congress has guaranteed residents of rental housing for the elderly or disabled a right to have common, household pets. Therefore, the landlord in a federally subsidized rental housing for the elderly or disabled cannot have a “no pets” policy. In *Low Rent Housing* anyone can have a household pet, as per the rules of the complex.

Also, in any type of housing, whether designated for the elderly or disabled, if the tenant has a disability and the tenant needs a companion animal to promote their health and/or safety, the landlord has to grant them the right to have such an animal as a *reasonable accommodation*. This is true even if the building has a “no pets” policy.

**Where can I find additional help?**

- Fair Housing Council of Oregon: 1-800-424-3247 / 503-223-8197
- Bureau of Labor and Industries (BOLI) Civil Rights Office; 971-673-0761, ext. 3; or at [www.oregon.gov/BOLI](http://www.oregon.gov/BOLI)

- HUD – Fair Housing and Equal Opportunity (FHEO): 1-800-877-0246.
- Public Housing Authority: See their web site at: [www.hud.gov/offices/pih/pha/contacts/states/or.cfm](http://www.hud.gov/offices/pih/pha/contacts/states/or.cfm). For the Portland office, call 503-802-8300.
- Community Alliance of Tenants (CAT), Renters’ Rights Hotline: 503-288-0130
- If your HUD-subsidized housing is unsafe, you may contact the Oregon Health Safety Hotline at 1 (800) 453-5511

**STATE RENTAL ASSISTANCE PROGRAM**

**What is the Elderly Rental Assistance Program?**

The Elderly Rental Assistance Program (ERA) is a rent rebate program for low-income renters who are age 58 or older and meet other requirements.

**Who is eligible for the program?**

You qualify for ERA if all the following are true:

- You or your spouse were age 58 or older by December 31 of the year before your application;
- You, or you and your spouse’s, total household income was under \$10,000;
- You, or you and your spouse, paid more than 20 percent of your household income for rent, fuel, and utilities (lights, water, garbage, sewer, heating);
- The value of your household assets is \$25,000 or less (If you or your spouse are age 65 or older, there is no limit on the value of household assets);
- You rented an Oregon residence that was subject to property tax;
- You lived in Oregon on December

31 of the year before your application; AND

- You didn't own your residence on December 31 of the year before your application.

### **Can I file for ERA if I live in a nursing home or low income housing?**

If you live in low-income housing you can file for ERA only on the rent you actually paid. Your landlord must pay property tax or make payments in lieu of property tax for you to be eligible for ERA.

If you live in a nursing home, retirement home, adult foster home, or assisted living facility you may be eligible for ERA if it is subject to property tax. There are special rules for counting income with these types of residences.

### **How do I apply for Elderly Rental Assistance?**

You must complete and sign Form 90R to claim Elderly Rental Assistance. The Form is available from the Oregon Department of Revenue. A claim must be filed before July 1 if you wish to receive your renter refund by November of the same year. If you file Form 90R after July 1, your claim will be processed the following year.

For further information contact the Oregon Department of Revenue, at 503-378-4988, or toll free within Oregon at 1-800-356-4222.

## **PROTECTION OF LEGAL RIGHTS**

### **VISITATION AND CUSTODY RIGHTS FOR GRANDPARENTS AND OTHER NON-PARENTS**

#### ***Part 1. Custody Rights.***

#### **What is legal custody?**

Legal custody means having the legal right and responsibility to care for a child. Generally, a child's legal custodian lives with and supervises the child, consents to medical care for the child, enrolls the child in school, and performs other parental responsibilities. Usually, both parents have legal

custody of their children until a court orders otherwise – for example giving legal custody to one parent in a divorce case or to the state in a juvenile court proceeding. A grandparent cannot have legal custody of a child without a court order of some sort. The court order could be a custody order or a guardianship order. Much of the information below about what is required to establish a custody order also applies to a guardianship proceeding. (*See the section on guardianships in this handbook for more information.*)

#### **Can a parent give me temporary parental authority over a child?**

Yes. A child's parent can give you a *power of attorney* so that you have temporary authority to take care of the child, to consent to medical care for the child, to enroll the child in school, and to perform other parental responsibilities. A power of attorney is not a legal custody order. A power of attorney will not allow you to consent to marriage or adoption of the child.

A child's parent or guardian can sign a power of attorney form, which you can buy from most stationery stores. You also can find a free form and instructions at [www.oregonlawhelp.org](http://www.oregonlawhelp.org) - click on "Family" then "Guardianships for Children." The parent must sign the completed form in front of a notary public. You do not have to go to court. Make sure to keep a copy of the form for your records. In most cases, a power of attorney lasts no longer than six months. However, a parent can sign a new power of attorney every six months. If a parent is in the U.S. Armed Forces Reserves and called to active duty, he or she can give a power of attorney that lasts for the time of active duty plus 30 days.

A power of attorney may be ended at any time if the parent writes, dates, and signs a statement revoking the power of attorney.

#### **Can I ask for legal custody of a child who is not my biological child?**

Yes, but you will need to file a case in court and show: 1) that you have a "child-parent relationship" with the child, 2) that the child's parents are not acting in the child's best interest and 3) that giving

you custody is in the child's best interest. The court will look at many different factors in applying the law and deciding whether or not to give you legal custody. These factors and the law are discussed below.

### **What is a "child-parent relationship" and how do I know if I have one?**

You may have a "child-parent relationship" if you live with a child and supply the child's food, clothing, shelter, and necessities and provide the child with care, education, and discipline. The relationship must take place on a day-to-day basis that meets the child's physical and psychological needs and must have taken place during some part of the six months just before the filing of a court case.

If you are a non-related foster parent of a child, you must have this "child-parent relationship" for more than 12 months before you can ask for legal custody of the child.

### **Do parents have greater rights than other people to custody of their child?**

Yes. Even if you can show that you have a "child-parent relationship," the court will not take away parents' rights to custody of their child and give you custody unless you also can prove that the parents are not acting in their child's best interest and that it is in the best interest of the child to be with you. The court must assume that legal parents act in the best interest of their child.

### **How will the court determine whether a parent is acting in the child's best interest?**

The court will consider many things in deciding whether to override the assumption that a parent is acting in the child's best interest. These things include, but are not limited to, the following:

- Whether the parent is unwilling or unable to care adequately for the child;
- Whether you have recently been the child's primary caretaker;
- Whether circumstances harmful to the child will exist if the child is left with the parent;

- Whether the parent has encouraged or agreed to the relationship between you and the child; and
- Whether the parent has unreasonably denied or limited contact between you and the child.

Circumstances harmful to the child are situations that might cause psychological, emotional, or physical harm to the child, or other facts that are hurtful to the child.

The court will also consider other factors in making its determination. If the court finds that a parent does not act in the child's best interest, the court must say specifically why it has made this decision.

### **What if the court decides that the parent is acting in the child's best interest?**

If the court decides that the parent is acting in the child's best interest, then your request for custody will be denied, and you will have no legal right to custody of the child.

### **If the court decides that the parent is not acting in the child's best interest, what is the next step?**

If the court decides that the parent is not acting in the child's best interest, then the court will decide whether it is in the best interest of the child to be in your care and custody.

### **If the court decides that it is in the child's best interest to be with me, what does that mean?**

The judge will give you legal custody, and you will receive a written court order that specifically says that you have legal custody of the child. The court may include an order that sets out a schedule for visitation (often called "parenting time") between the parents and the child.

### **If the court gives me custody, how long does my order last?**

Your custody order will last until the child turns eighteen or is emancipated, unless the court ends or changes the order before that time.

## ***Part 2. Visitation Rights.***

### **What are visitation rights?**

Visitation rights are rights established by court order that allow you to spend time with a child. In Oregon, visitation is often called parenting time.

### **Can I ask for a court order giving me visitation with a child who is not my biological child?**

Yes, but you will need to file a court case and show: 1) that you have a “child-parent relationship” with the child or that you have an “ongoing personal relationship” with the child, 2) that the child’s parents are not acting in the child’s best interest and 3) that giving you visitation rights is in the child’s best interest. The court will look at many different factors in applying the law and deciding whether or not to give you visitation rights. These factors and the law are discussed below.

### **What is a “child-parent relationship”?**

See the previous section on custody rights where this question is discussed.

### **What is an “ongoing personal relationship”?**

An ongoing personal relationship is defined as one that you and the child have had for at least one year. This means that for at least one year you have been regularly and significantly involved with the child because, among other things, you have talked with, visited and supported the child.

### **Don’t parents have the right to decide who gets to spend time with their child?**

Yes. Even if you can show that you have a “child-parent relationship” or “ongoing personal relationship,” the court will not take away parents’ rights to make their own decisions about how their child spends his/her time and give you visitation rights, unless you also can prove that the parents are not acting in their child’s best interest and that it is in the best interest of the child to be with you. The law requires that the court assume that a legal parent acts in the best interest of his or her child.

### **In a visitation case, how will the court decide whether a parent is acting in the child’s best interest?**

The court will consider many factors in deciding whether to overcome the assumption that a parent is acting in the child’s best interest. These factors include, but are not limited to, the following:

- Whether you have recently been the child’s primary caretaker;
- Whether circumstances harmful to the child will exist if visitation is denied;
- Whether the parent has encouraged or consented to the relationship between you and the child;
- Whether the visitation requested would substantially interfere with the custodial relationship; and
- Whether the parent has unreasonably denied or limited contact between you and the child.

Circumstances harmful to the child are situations that might cause psychological, emotional, or physical harm to the child, or other facts that are hurtful to the child.

The court will also consider other factors in making its determination. If the court finds that a parent does not act in the child’s best interest, the court must say specifically why it has made this decision.

### **What if the court decides that the parent is acting in the child’s best interest?**

If the court decides that the parent is acting in the child’s best interest, then your request for visitation rights will be denied. You will be able to have contact with the child only if the parents agree to it.

### **If the court decides that the parent is not acting in the child’s best interest, what is the next step?**

If the court decides that the parent is not acting in the child’s best interest, then the court will decide whether it is in the child’s best interest to have visitation with you.

**If the court decides that it is in the child’s best interest to have visitation with me, what does that mean?**

The judge will give you visitation rights with the child, and you will receive a written court order that specifically sets out the details of the visits that you will be allowed to have with the child.

**If the court gives me visitation rights, how long does my order last?**

Your visitation order will last until the child turns eighteen or is emancipated, unless the court ends or changes the order before that time.

***Part 3. The Process for Requesting Custody or Visitation.***

**How do I ask for custody or visitation of a child who is not my biological child?**

You must prepare and file legal papers in court. If there is a court case involving the child already taking place, you will need to file a motion to intervene asking for custody or visitation in that case. If there is no current case, you will need to file a petition and start a new case in the county where the child lives. Petitions and motions are kinds of legal documents. In most cases, you will need to pay a fee to the court in order to file your legal papers. If you are low income, the court may put off or not require payment of the filing fees.

**Will I need to tell both of the child’s parents about my request for custody or visitation?**

Yes. Unless a court has terminated a parent’s rights, both parents are parties to the case and must be given a copy of any papers requesting custody or visitation.

**Will I need an attorney to request custody or visitation?**

It is not required, but it is a very good idea. The kinds of cases discussed here are complicated, and it may be hard to figure out what papers to file and the court procedures without an attorney. Also, talking to an attorney first may help you better understand the law and help you decide, depending on the facts of your situation, whether filing a case

is the right step for you. See the contact numbers and referral information in the back of this pamphlet.

**What kind of evidence is required?**

You may bring any evidence (facts) to court that you think will be helpful to the judge in deciding whether or not the parent is acting in the child’s best interest and whether it is in the best interest of the child that you have custody or visitation. Most often, the court will want to hear from witnesses such as family, friends, doctors, teachers and counselors who know you, the child, the parents and the child’s situation. If you have an ‘ongoing personal relationship,’ but not a “child-parent relationship,” you will need slightly more evidence to prove your case.

**If the court gives me custody or visitation rights, what happens if I or the child’s parents want to change my custody or visitation order later on?**

You or the parents may request a modification (change) of the court order at any time. Whoever is asking for a different court order probably will have to show that the facts or situation with the child have changed so that a different court order is in the best interest of the child.

***Part 4. Grandparent Visitation Rights in Step-Parent Adoptions.***

**What are my rights when a step-parent wants to adopt my grandchild?**

When a step-parent petitions to adopt your grandchild, you must be given a copy of the legal papers, if the adoption petitioners know or can find your address.

You may ask the court to provide you with regular visitation after the adoption. You must file this request within 30 days of being given notice of the adoption proceeding.

**Will the court grant my request for visitation?**

The court will only grant your request for visitation after the adoption if the court finds by clear and convincing evidence that:

- Visitation would be in the best interest of the child;
- You had a substantial relationship with the child prior to the adoption request; and
- Visitation would not substantially interfere with the relationship between the child and the adoptive family.

The court also may be required to assume that the legal parents are acting in the best interest of the child before making the above decision.

**Do I have any right to request visitation after the adoption is complete?**

No. Once an adoption is complete, you no longer have the right to ask for visitation.

**Part 5. Financial Assistance.**

**Can I get financial help to raise my grandchild?**

Many grandparents struggle with the increased financial burden of caring for their grandchildren. Public Benefits are available for many children not being raised by their biological parents.

If a grandparent legally adopts a grandchild and becomes the grandchild’s “parent,” then the grandparent’s income will be considered when determining eligibility for public benefits. But if the grandparent just has legal custody or a power of attorney for the grandchild, then the grandparent may choose not to have his/her income counted when determining eligibility. So, not being the adoptive parent can sometimes increase the likelihood that your grandchild will receive benefits. Discuss the different possibilities with a caseworker at your local Department of Human Services Office.

Temporary Assistance to Needy Families (TANF): This program provides cash assistance to low-income families with children living in the home. You need not have a Power of Attorney or a guardianship in order to apply for this public benefit. A caretaker relative (not a parent of the dependent child) may apply for TANF for themselves and the child. You will be considered a “caretaker relative” if you have the care, control and

supervision of the child and are related by blood or half-blood. Some families will receive assistance only for the child because the grandparent’s income is too high; other families may receive assistance for themselves *and* the child. Contact your local Oregon Department of Human Services Office to apply.

Oregon Health Plan (OHP): The Oregon Health Plan is a state funded insurance program primarily for those who are financially needy. Anyone eligible for TANF (above) is automatically eligible for OHP. Even if your grandchild is not eligible for TANF, she/he may still be eligible for some form of OHP. Contact the *Division of Medical Assistance Programs* at 1-800-359-9517 (TTY 1-800-621-5260) to apply.

Social Security Dependents Benefits: If you can show that your grandchild is dependent on you, and you are receiving social security benefits, then you may be eligible to receive dependent benefits on your social security account.

Supplemental Security Income (SSI): Some low-income disabled children may be eligible for SSI. Contact your local Social Security Office for further information.

Other Benefits: Other public benefits you may be eligible for include Food Stamps, low-income housing and Child Care Subsidy Programs. Contact your local Oregon Department of Human Services Office to apply.

## **ELDER ABUSE, SEXUAL ASSAULT, and DOMESTIC VIOLENCE**

### **Part 1. Elder Abuse.**

#### **What is Elder Abuse?**

Elder abuse occurs when a care giver, family member, neighbor, friend or other person takes advantage of, or hurts a senior. Elder abuse can include physical abuse, psychological abuse, financial abuse, sexual abuse, stalking, or neglect. The abuser is often someone close to the victim.

When the abuser is a former or current boyfriend, girlfriend, spouse, or ex-spouse, a parent, child, or sibling, abuse of a senior may also be referred to as domestic violence. In many cases, elder abuse is a crime that can be prosecuted. There are also non-criminal legal options for protecting vulnerable seniors that are discussed below.

### **How Can I report Elder Abuse?**

You may report suspected cases of elder abuse to 911 in an emergency, or to the police non-emergency number, or to Adult Protective Services of your local Department of Human Services Office or Area Agency on Aging. See the resources section of this handbook for those phone numbers. You may also report elder abuse to the State Department of Human Services at 1-855-503-7233.

### **What are different types of elder abuse?**

1. *Physical abuse*: Any physical pain or injury inflicted upon an elderly or vulnerable person. This can include: pinching, squeezing, pushing, pulling, shaking, slapping, biting, hitting, kicking, choking, throwing objects, restraining, denying medical treatment, etc.

Indicators of Physical Abuse: Some people who are being physically abused will show no signs of it, while others will have many signs. Some signs of physical abuse include, but are not limited to:

- Cuts, lacerations, wounds, burns, bruises, etc.;
- Any injury that doesn't fit with the explanation of the injury;
- An injury that has not been properly cared for (sometimes injuries are hidden on areas of the body normally covered by clothing);
- Poor hygiene, dehydration, or poor nourishment;
- Soiled clothing or bed linens; or
- Overmedication.

2. *Psychological/Emotional abuse*: Intentionally causing mental suffering, pain, or distress through verbal or non-verbal acts. This can include: hostile jokes, insults, yelling, cursing, and sexually explicit language. The abuser may also use bullying and

threats of violence, may break things, or may keep the victim from contacting anyone else.

Indicators of Psychological Abuse: Some people who are being psychologically abused will show no signs of it, while others will have many signs. Some signs of psychological abuse include, but are not limited to:

- The victim displays signs of helplessness;
- Hesitation to talk openly; or
- The victim is fearful, withdrawn, depressed, or agitated.

3. *Financial abuse*: Stealing or taking a senior's money without permission, or asking a senior for money when the senior is not able to understand.

Indicators of Financial Abuse: Some people who are being financially abused will show no signs of it and may not be aware they are being abused, while others will have many signs. Some signs of financial abuse include, but are not limited to:

- Unusual or inappropriate activity surrounding investment properties or bank accounts;
- Signatures on checks that do not look like the senior's signature, or signatures supposedly by a senior who cannot write;
- Power of attorney given, or changes or creation of a will or trust, when the person is incapable of making such decisions;
- Unpaid bills, overdue rent, utility shut-off notices;
- Excessive spending by a caregiver or family member on himself or herself;
- Suspicious sale of assets and properties, or missing personal belongings of senior;
- Sudden appearance of previously uninvolved relatives claiming their rights to an elder's affairs and possessions; or
- Suspicious transfer of assets to a family member or someone outside the family.

4. *Sexual Abuse/Assault*: Sexual contact of any kind with a senior without the senior's consent.

This includes sexual molestation, unwanted touching, and rape. Sexual assault occurs when one person uses force or threat of force to make another person do sexual acts against their wishes. Sexual violence occurs in both home and long term care facility settings. It can be done by strangers, caregivers, acquaintances, friends, or family members.

Indicators of Sexual Abuse/Assault: Some people who are being sexually abused or assaulted will show no signs of it, while others will have many signs. Some signs of sexual abuse or assault include, but are not limited to:

- Unexplained vaginal or anal bleeding, venereal diseases, or vaginal infections;
- Torn or bloody underwear; or
- Sudden changes in the emotional or psychological state of the elder.

The victim of sexual abuse/assault is likely to be dependent on the perpetrator for services to assist with daily living. Elder sexual abuse victims typically have one or more physical and/or mental disabilities.

5. *Stalking:* Occurs when someone has contacted a senior more than once in a way that made him or her afraid. This contact can be spoken in person or on the phone, in writing, or physical touching. A stalker does not have to be a former or current sexual partner or relative. A stalker can be a complete stranger. A stalker does not have to have ever abused you.

Some Indicators of Stalking include:

- A person sends threatening letters or cards;
- A person follows you, watches or waits for you; or
- A person makes threats by phone or in person or does other things that scare you.

6. *Neglect:* Failing to give a senior the level and type of care that they need.

Indicators of Neglect: Some people who are being neglected will show no signs of it, while others will have many signs. Some signs of neglect include,

but are not limited to:

- Dirt, fecal/urine smell, or other health and safety hazards in the senior's living space;
- Leaving senior in an unsafe place;
- Rashes, sores, malnourishment, dehydration, or sudden weight loss;
- Untreated medical conditions; or
- Lack of spending on the care of the senior, including personal grooming items.

## ***Part 2. Court Intervention: FAPA, EPPDAPA, Stalking Orders, and Claims for Damages.***

### **If I am a victim of elder abuse, what kind of legal options do I have?**

Depending on the facts of your situation, you may qualify for the following types of court action:

- FAPA restraining order: A Family Abuse Prevention Act restraining order.
- EPPDAPA restraining order: An Elderly Persons and Persons with Disabilities Abuse Prevention Act restraining order.
- SPO: A stalking protective order.
- Suing the abuser for money damages and other relief.

If you need it, a court may appoint someone to help you make decisions, like a guardian or a conservator, to help protect you from abuse. Guardianships and conservatorships are discussed elsewhere in this handbook.

### **What are the different types of restraining and stalking orders?**

1. *Family Abuse Prevention Act (FAPA) Restraining Order:* You can get a FAPA restraining order against:

- Your spouse or former spouse;
- An adult related to you by blood, marriage, or adoption;
- A partner, of the same or opposite sex, you are living with, or have lived with;
- A person, of the same or opposite sex, with whom you have been in a

sexually intimate relationship within the past two years; or

- The other parent of your minor children.

You may qualify for a FAPA Restraining Order if within the last six months (180 days\*) your abuser has:

- Physically hurt you or attempted to physically hurt you; or
- Made you afraid that he or she was going to physically hurt you; or
- Made you have sexual relations against your wishes by using force or threats of force, AND
- You are in immediate danger of further abuse.

\*Note: The 180 day period does not include the time that your abuser may have been in jail or lived more than 100 miles away from you.

*2. Elderly Persons and Persons with Disabilities Abuse Prevention Act Restraining Order (EPPDAPA):* You can get an EPPDAPA restraining order against any person who has abused you by doing the things described below. You do not have to be related to the abuser in order to qualify for a protective order.

You may qualify for an EPPDAPA Restraining Order if:

- You are 65 or older and not a resident of a long term care facility or
- you are mentally or physically handicapped or incapable of handling your financial affairs;
- Within the last six months (180 days\*), the abuser:

Caused you physical pain or injury; or  
Neglected you, causing you physical harm;  
or

Abandoned, deserted or neglected you, and is a caregiver or other person owing you care; or

Used derogatory, threatening, intimidating, or harassing language towards you, or made inappropriate sexual comments to you; or

Made sexual contact with you without your consent; or

Wrongfully took your money or property or made a believable threat to do so; or

In certain circumstances, made an offer to you to participate in a sweepstakes, AND

- You are in immediate danger of further abuse.

\*Note: The 180 day period does not include the time that your abuser may have been in jail or lived more than 100 miles away from you.

*3. Stalking Protective Order (SPO):* You may be eligible for a Stalking Protective Order if:

- In the last two years, the person you believe is stalking you has made two or more unwanted contacts that made you afraid;
- The person knows that you want to be left alone;
- The unwanted contacts have made you feel unsafe or made you worry about the safety of a family or household member; AND
- The stalker's behavior is the type that would have frightened someone else in a situation like yours.

### **How can I get a FAPA or EPPDAPA restraining order?**

Free forms and instructions for restraining orders are available at all courthouses. You go to the court, fill out the form, and the clerk will schedule a hearing. At the hearing, the judge will decide whether to issue a temporary restraining order. A sheriff or adult other than yourself will then give a copy of the restraining order to the abuser. This will require the abuser to stay away from you. The abuser then has 30 days to request a hearing. If the abuser requests a hearing, the court will let you know when and where the hearing will take place and you must go to the hearing. If you do not go to the hearing, your

restraining order most likely will be dismissed. At the hearing, the judge will hear your story and the abuser's story, and decide whether to issue a permanent restraining order. There are no filing or service fees for restraining orders.

### **How can I get a Stalking Protective Order?**

There are two ways to get a stalking protective order:

1. *Police or sheriff.* You should be able to go to any police or sheriff's office to get a stalking citation. If they believe you are being stalked, they will give the citation to the stalker. The citation requires the stalker to appear in court. At the court hearing a judge will decide whether to issue a stalking order requiring the stalker to stay away from you. It is important for you to attend this hearing so that the judge gets your side of the story.

2. *Court.* Most local/county courts have stalking complaint forms. You can fill out the form and give it to the court clerk. The clerk will then set up a hearing (possibly the next day) to see a judge. You can then tell the judge about your stalking problem. If the judge agrees that you are being stalked, the judge will issue a Temporary Stalking Protective Order and schedule a second hearing with you and the stalker. A sheriff or adult other than yourself will then give a copy of the Temporary Stalking Protective Order to the stalker. This will require the stalker to stay away from you until the second hearing with the judge. At the second hearing, the judge will hear your story and the stalker's story, and decide whether to issue a permanent Stalking Protective Order. You must attend this hearing.

There are no filing or service fees for stalking protective orders.

### **How can I get help with restraining and stalking orders?**

Domestic violence or sexual assault programs, victims' assistants in your local District Attorney's Office, courthouse facilitators, legal aid offices, and some senior centers also have information on getting restraining and stalking protective orders. Staff

members at these programs may be able to help you fill out the paperwork.

These hearings may be complicated, and it is best to have an attorney help you. To get an attorney, you can contact the Oregon State Bar Lawyer Referral Service or your local legal aid office.

For more complete information about hearings and the restraining or stalking order process, you can go to [www.oregonlawhelp.org](http://www.oregonlawhelp.org) and click on the "Protection From Abuse" link.

### **How long do restraining and stalking orders last?**

FAPA and EPPDAPA orders last for one year and can be renewed, depending on the facts of your situation. Stalking orders are usually permanent. It is important to consult with an attorney regarding renewing your order before your current order expires.

### **What happens if my abuser disobeys the court order?**

If your abuser disobeys the provisions of a restraining or stalking order, you should call the police right away. The police must arrest him or her if they believe there is a valid order and that the violation happened. Local District Attorney's Offices review police reports and, depending on the type of order you have, may be able to charge your abuser with a violation of the restraining order or with the crime of violating a stalking order.

### **Can I sue my abuser?**

A case can be brought by you or by your conservator, guardian, or attorney-in-fact for elder abuse under Oregon Revised Statute 124.100 and under other legal theories. A court may award money damages, your attorney fees, and other types of relief to protect you. Contact a lawyer for further information about this type of lawsuit.

### ***Part 3. Adult Protective Services.***

#### **What is Adult Protective Services?**

Adult Protective Services is a state agency that works to prevent abuse, neglect, and exploitation of elderly and dependent adults. In some counties,

Adult Protective Services also provides support services, such as counseling, money management, conservatorship, and advocacy to eligible adults. Oregon's Adult Protective Services is part of the Oregon Department of Human Services.

### **Who is eligible for Adult Protective Services?**

Adults (individuals 18 years or older) who are unable to protect their own interests and who are in danger of potential abuse, neglect, and exploitation are eligible for Adult Protective Services. Dependent adults and the elderly who live in private homes, hotels, hospitals, adult day care and in care facilities are also eligible.

### **What is considered “abuse” by Adult Protective Services?**

Abuse includes physical abuse, such as hitting, choking, kicking, shoving, or inappropriately using drugs or physical restraints. Abuse can also include emotional abuse, such as intimidation, coercion, ridiculing, harassment, and isolation. Sexual contact that is not consented to or is done by someone who threatens violence is also abuse.

### **What is considered “neglect” by Adult Protective Services?**

Neglect occurs when someone denies a vulnerable adult the care necessary to maintain health. Examples of neglect include dehydration, malnutrition, untreated bed sores, and hazardous or unsafe living conditions. Neglect may also occur when a vulnerable adult does not adequately care for themselves. A severe form of neglect is abandonment, which occurs when a vulnerable adult is left without the ability to obtain food, clothing, shelter, or health care.

### **What is considered “exploitation” by Adult Protective Services?**

Exploitation occurs when a vulnerable adult or their resources are improperly used by another person. Signs of exploitation include a sudden change in someone's bank account, unauthorized withdrawals, disappearance of assets such as cars or jewelry, formerly uninvolved people moving in to the

senior's home, or abrupt changes in a will or other financial documents.

### **What should I do if I believe someone is being abused, neglected, or exploited?**

You should call your county's Adult Protective Services office immediately. Many public and private officials, such as doctors, attorneys, and clergy members are Mandatory Reporters. Being a Mandatory Reporter means that those officials must report suspected abuse to Adult Protective Services.

### **How soon will a complaint to Adult Protective Services be investigated?**

Adult Protective Services is required to respond to a complaint for protective services within 24 hours of receiving a complaint.

**The phone number for APS is 1-855-503-7233.**

## **AGE DISCRIMINATION and DISABILITY DISCRIMINATION**

### **What should I do if I think I've been discriminated against?**

Because of strict deadlines for filing complaints, as well as rules for where you file your complaint, seek assistance soon after you feel you may have been discriminated against. It is highly recommended that you call an attorney who specializes in civil rights law to advise and assist you with your claim. For assistance in finding a civil rights attorney you can call the Oregon State Bar referral assistance line at 1-800-452-7636.

### **What is Age Discrimination?**

Age discrimination occurs when an employer refuses to hire, refuses to promote, or discharges a person because of that person's age. The federal Age Discrimination in Employment Act (ADEA) prohibits discriminating against people age 40 and over. If you believe that you may have been discriminated against by an employer, you may contact the Equal Employment Opportunity Commission (EEOC) to talk to a representative for assistance.

EEOC:  
Phone: 1-800-669-4000 (TTY 800-669-6820)  
Email: [info@ask.eeoc.gov](mailto:info@ask.eeoc.gov)  
Web site: [www.eeoc.gov/](http://www.eeoc.gov/)  
Seattle EEOC office: 206-220-6883

Oregon also has state age discrimination laws that prohibit discrimination against anyone over the age of 18. These state laws prohibit discrimination in employment as well as any place providing “public accommodation” (hotels, restaurants, stores, movie theaters, etc.). If you believe that you may have been discriminated against by an employer or place of public accommodation, you may contact the Oregon Bureau of Labor and Industry (BOLI) to talk to a representative for assistance.

BOLI  
Phone: 971-673-0761  
Email: [BOLI.MAIL@state.or.us](mailto:BOLI.MAIL@state.or.us)  
Web site: [www.boli.state.or.us/](http://www.boli.state.or.us/)

### **What is Disability Discrimination?**

While age alone is not considered a disability, state and federal disability laws may come into play if you have an age-related impairment such as loss of vision or hearing, arthritis, decreased mobility, or decreased ability to work due to age. The federal Americans with Disabilities Act (ADA) prohibits disability discrimination by employers, by agencies and government offices providing public services and programs, and by places of “public accommodation,” such as restaurants, stores, hotels, etc. In addition, Oregon has its own state laws prohibiting disability discrimination.

If you feel you may have been discriminated against, you can seek advice from the EEOC or BOLI or from an attorney with expertise in civil rights law.

## **LAWS TO PROTECT CONSUMERS**

### **1. BANKRUPTCY**

#### **Should I file for bankruptcy?**

The decision to file bankruptcy is a difficult one for most people, and may depend on the type of debt

you have as well as the total amount of your debts. Often, filing a bankruptcy may be the best way for a person or a married couple to avoid losing their property or to escape the harassment of creditors they are unable to pay. For help in deciding if bankruptcy is the right choice for you, refer to the handbook in this series entitled “Unpaid Consumer Bills.”

#### **Should I file now, or wait?**

You should file a bankruptcy when you can benefit most from it. This means that if you have large upcoming debts that you will be unable to pay, you should wait to file. Only debts that you owe before you file your bankruptcy petition will be discharged. The timing of the actual filing of the bankruptcy petition is critical. Your financial situation on the date you file determines what assets and liabilities the bankruptcy trustee will consider to be part of your bankruptcy “estate.” The date of filing also will be used to determine if you have made any payments to creditors or transfers of assets that are considered fraudulent or improper under the bankruptcy law. This could result in the discharge of your debts being denied (that is, your bankruptcy would fail). Generally, the bankruptcy court will look at any transfers of property that you made within the last two years, and any payments to creditors that you made within the last one year. If such payments and transfers were to family members during the year before filing, they will be looked at closely too. If you have concerns about recent financial or property transactions prior to filing, you should consult a bankruptcy attorney before you file. You cannot file a Chapter 7 bankruptcy if you have received a discharge in a previous Chapter 7 case filed within the past 8 years. You can file a Chapter 13 bankruptcy provided that you have not received a discharge in a Chapter 7 bankruptcy filed within the previous 4 years, or have not received a Chapter 13 discharge in a case filed within the last 2 years.

#### **Do I have to do anything before I file bankruptcy?**

Yes. You have to complete a credit-counseling course by an approved credit-counseling agency, and obtain a certificate of completion. This course can

usually be taken over the telephone or the Internet. The typical cost is between \$0 and \$50. Before you obtain your discharge, you must complete a course on personal financial management. Generally, the same rules and costs apply.

### **What is the difference between a Chapter 7 and a Chapter 13 bankruptcy?**

*Chapter 7 Bankruptcy:* A Chapter 7 bankruptcy is the most common type of bankruptcy for individuals. It is sometimes called a “straight bankruptcy.” The intended result of a Chapter 7 is the discharge (elimination) of all or most of your debts, to give you a fresh start. Most debts for services and some credit card debts are “unsecured,” meaning the lender or the seller cannot take your property if you fail to pay your debt. In a Chapter 7 bankruptcy, the bankruptcy trustee takes over your property, and non-exempt property is sold to pay off your creditors. In the majority of Chapter 7 bankruptcies, all property is exempt; this is called a “no-asset” bankruptcy case. If yours is a no-asset bankruptcy, you would be able to keep all your property. See below for a list of exempt property. If you are single with no dependents and your annual income from all sources (except Social Security) is more than \$37,530, you may have to file a Chapter 13 bankruptcy. If there are two people in your family, the Chapter 13 threshold is \$48,676. The threshold continues to increase depending on the number of people in your household.

*Chapter 13 Bankruptcy:* A Chapter 13 bankruptcy is sometimes called a “wage earners bankruptcy.” You can file a Chapter 13 bankruptcy only if you have regular income and owe debts under a certain specified amount. The bankruptcy court appoints a trustee who collects payments from you, usually for a period of 3 years. The trustee uses your payments to pay your creditors according to a written plan that you or your attorney submit to the court at the time the bankruptcy is filed. The court must approve the plan. A Chapter 13 is the best choice if most of your debts are “secured.” “Secured” debts are debts where the lender has a right to take property as payment of the debt. For example, home loans and car loans are “secured” because the lender can take the home or car if the borrower fails to make loan

payments. Other types of bankruptcies are Chapter 11, used mainly by businesses\*, and Chapter 12, for family farmers. These types of bankruptcies are not covered here.

\*If you are or were the sole proprietor/owner of a small business, you may be able to file under Chapter 7.

### **Will I lose my home and car if I file for bankruptcy?**

Probably not. In Oregon, the property that is exempt from creditors under state law is also exempt in a bankruptcy. In general, property that is exempt includes:

- Homestead -- up to \$40,000\* (\$50,000 for married couples filing jointly);
- Mobile home + property -- up to \$23,000\* (\$30,000 for married couples);
- Mobile home only -- up to \$20,000\* (\$27,000 for married couples);
- Household goods -- up to \$3,000;
- Tools of the trade -- up to \$3,000;
- Books, pictures, and musical instruments -- up to \$600;
- Vehicle -- up to \$3,000\* (husband and wife can each claim \$3,000 in separate vehicles);
- Tools or library necessary for work -- up to \$600;
- Clothing, jewelry and personal items -- up to \$1,800;
- Domestic animals and poultry for family use -- up to \$1,000;
- Pistol and one rifle -- up to a total value of \$1,000;
- Pensions, IRAs, Social Security, welfare, unemployment compensation, Veterans’ benefits, and other government benefits;
- Health and life insurance proceeds;
- KEOGH plans as specified, except for support payment obligations;
- Health aids/equipment prescribed by a doctor (including those used by your dependents);
- Spousal and child support;
- Earned Income Credit;
- Crime victim or personal injury awards or payments -- up to \$10,000;
- Payments for loss of future earnings reasonably necessary for support;

- Bank accounts to \$7,500 that are traceable to exempt sources, such as pensions, Social Security, etc.; and
- \$400 value in any personal property (cannot be used to increase the amount of any other exemption). For instance, you could use this provision to exempt cash on hand or the right to receive tax refunds.

*\*Generally, the bankruptcy trustee will consider only your equity up to these amounts*

You must list all of your property and assets in your bankruptcy petition, even if exempt.

NOTE: If all your income and property are exempt, you are probably “judgment-proof” and bankruptcy is not a good option for you. Consult an attorney to help determine if you are judgment proof.

### **What if my home is already in foreclosure, or other property has been repossessed?**

A bankruptcy filing will temporarily stop any foreclosure proceeding, even up to the date of a foreclosure sale. However, if you are behind in your payments and unable to catch up, you will need to reach some sort of payment agreement with the creditor to avoid the eventual loss of your home. A bankruptcy filing may give you the time to accomplish this. If you know you will be unable to catch up your payments, a Chapter 13 bankruptcy may be a better option than a Chapter 7, as the Chapter 13 will allow you more time to bring your payments current, or possibly to renegotiate your mortgage. If a car or other secured property has been repossessed prior to filing, a bankruptcy can’t help you get that property back. However, once a bankruptcy is filed, all collection actions are temporarily stopped, and a creditor cannot repossess property without the permission of the bankruptcy court (see explanation of the “automatic stay” below). If your car or other property is used as collateral on a loan (i.e., it is “secured property”), the creditor will eventually be able to take back the property if you don’t continue making regular payments or work out a repayment agreement with the creditor. If a creditor is

threatening you with repossession, you may want to file a bankruptcy to gain time to work out a payment arrangement that will allow you to keep your property.

### **Can a bankruptcy help me if my wages have been attached?**

Yes. Filing a bankruptcy petition will stop a wage attachment. As soon as a bankruptcy is filed, an “automatic stay” goes into effect immediately against all your creditors. The automatic stay halts all collection actions on the part of creditors, and provides a breathing spell that allows you to sort out your financial situation. Ordinarily, the automatic stay remains in place for the duration of your bankruptcy case (except in limited circumstances when the bankruptcy court may grant a creditor’s request to have the automatic stay lifted as to a particular debt). The automatic stay also halts garnishments, repossessions, utility shut-offs, foreclosures, and many evictions.

### **Do I have to appear in court?**

Yes. About 30-45 days after you file a Chapter 7 bankruptcy petition, you will attend a hearing, called the “first meeting of creditors,” where you will be asked questions, under oath, about your bankruptcy petition by the trustee. These hearings usually last only about 10-15 minutes, and are not in a courtroom. Normally, this is the only hearing you will attend. Approximately 60 days after the meeting with the trustee you will receive written notice from the bankruptcy court of the discharge of your eligible debts, if you filed a Chapter 7 bankruptcy. If you filed a Chapter 13, you will receive your discharge after you have completed your payment plan.

### **Is there anything else I have to do?**

Yes. When you file your bankruptcy petition, you also have to serve the United States Trustee a copy of all of the pay stubs you received from an employer within the 60-day period before you filed your petition. No later than 7 days before the bankruptcy hearing, you have to give the trustee a copy of your most recent federal tax return. You

also have to file a copy of the certification that you completed the credit-counseling course.

### **Who is the bankruptcy trustee?**

The United States Trustee is the overall supervisor of the *trustees*. The *trustee* is the person appointed by the court to represent your estate, which is all of your property on the date you file bankruptcy. One of the duties of the trustee is to determine if you have any property which is not exempt and, if so, to sell that property and distribute the proceeds to your creditors.

### **Will I ever be able to get credit again after filing for bankruptcy?**

It depends. A bankruptcy stays on your credit record for up to 10 years after the date of filing. Whether or not an individual creditor will deny you credit based on a prior bankruptcy is unpredictable. However, if you were unable to pay your debts prior to filing, your credit most likely was already damaged. A bankruptcy that eliminates or reduces your total debts may actually improve your credit standing with some creditors. Maintaining a good payment record after your bankruptcy is over is the best way to reestablish your credit.

### **Can I be fired from my job if I file bankruptcy?**

No. An employer cannot legally fire you because you filed for bankruptcy. The law also protects you from other forms of discrimination after a bankruptcy filing. A government agency, such as a housing authority or student loan office, cannot deny you benefits, and utility companies cannot deny you service, because of a bankruptcy. There are other types of prohibited discrimination. Consult an attorney if you believe you have been illegally discriminated against because of a bankruptcy.

### **Will a bankruptcy get rid of all my debts?**

Some debts cannot be discharged in a bankruptcy. In general, the following types of debts will still be owed after a bankruptcy:

- Taxes. You may be able to discharge personal income taxes if you (1) filed the tax return; (2) at least 3 years have passed since the date the tax return was required to be filed; and (3) at least 2 years have passed since the date the tax return was actually filed. This is a complicated area and you should consult an attorney.
- Child and spousal support;
- Obligations arising from a divorce decree, such as the obligation to your former spouse to pay certain debts.
- Student loans. You may be able to discharge some or all of your student loans if you can show that a denial of discharge would cause you and your dependents an undue hardship. This involves a separate proceeding from the bankruptcy, and can be very complicated.
- Liability for damages for acts of willful or malicious misconduct, including liability for injury or death from driving while intoxicated;
- Criminal fines and restitution; and
- Debts incurred after filing.

There are limited exceptions in many of these categories, so you should consult a bankruptcy attorney if you have any of the above-listed types of debt.

### **What if I want to pay some of my debts, but not others?**

All of your debts must be included in your bankruptcy petition, including those owed to family and friends, those that you want to keep paying, and those that are not dischargeable. However, you can continue paying any of your debts after the bankruptcy petition is filed. If you pay a debt of \$600 or more to anyone else within 90 days of filing bankruptcy, the trustee may be able to recover the money you paid from the recipient and give it to your other creditors. If you own property that is security (collateral) for a debt, you may have to formally reaffirm the debt with the creditor, and continue making payments on that debt to avoid repossession of the property. Homes, cars, and sometimes household furnishings are examples of property that are typically subject to a security

interest\*. The secured creditor will most likely offer you a “reaffirmation agreement” to sign, in which you agree to repay the debt, often according to the original terms of the loan. You will continue to owe the debt as though the bankruptcy had never been filed as to that particular debt. Reaffirmation agreements are strictly voluntary. It is important that you seek the advice of a bankruptcy attorney before signing a reaffirmation agreement. You will also need to continue paying your ongoing living expenses, such as utilities, rent, and non-dischargeable expenses like child support, throughout the bankruptcy. Of course, you are free to pay any debts that you feel a moral obligation to pay and that you are financially able to pay, during and after the bankruptcy.

NOTE: If almost all of your debts are secured debts, you should consider filing a Chapter 13 bankruptcy rather than a Chapter 7.

### **Can I file a bankruptcy myself, without a lawyer?**

It is not required that you have a lawyer to file a bankruptcy, and many people do file without legal representation. However, it is usually not a good idea. A lawyer can help you decide if filing a bankruptcy is really necessary, and if so, when you should file and what type of bankruptcy you should file. In addition, a lawyer can advise you about exemptions, how to protect as much of your property as possible, and how to get the most benefit from the bankruptcy. In some cases, the advice of a lawyer might make the difference between a successful bankruptcy filing and a financial disaster.

### **What is the filing fee?**

The 2014 filing fee is \$310 for a Chapter 13 bankruptcy and \$335 for a Chapter 7 bankruptcy. This fee can be paid in three installments to the court, and you do not need to pay any money to file the petition. If you are very low income, you may be able to have the fee waived by the court.

## **2. PREDATORY LENDING**

### **What is a predatory home loan?**

A predatory home loan is a home equity loan or refinancing agreement that is unjustifiably expensive. These loans are often to consolidate debts or finance home improvements. Predatory lenders target homeowners with low incomes or poor credit histories. They commonly make contact through telephone calls, door-to-door visits, television advertisements, or sending mail solicitations that include bogus checks for thousands of dollars.

Predatory lenders often make promises that seem too good to be true and use high-pressure tactics to convince homeowners to sign up on the spot. These lenders charge more than what is reasonable, but conceal these costs. Often they intentionally lend more money than the homeowners can afford to pay back. They commonly don't fully disclose the loan terms.

Predatory lenders trick homeowners by luring them into loans when it is impossible for them to keep up with the payments. Homeowners often end up paying unnecessary fees and excessive interest charges. If they miss payments, they then risk losing their homes.

Sometimes predatory lenders work with home improvement contractors to take advantage of homeowners who need to make repairs on their homes or to modify their homes to accommodate their disability. The contractor approaches the homeowner and convinces them to take out a loan with the predatory lender to pay for the work.

### **How can I spot a predatory loan?**

Here is a list of some things to watch out for:

- High interest rates; generally more than 14%;
- Monthly payments that are higher than you can afford to pay;
- High points and fees. Avoid paying fees exceeding 3% of the loan. There are all kinds of fees: origination, underwriting, document

preparation, commitment fees. They all are lender profit;

- Single premium credit life or credit disability insurance. This insurance is very expensive and paying it up front requires you to pay interest on it as well;
- Adding additional products like credit insurance and club memberships;
- Balloon payments: These loans may have a lower monthly rate, but they require paying a large lump sum or “balloon” payment within a few years;
- Charging penalties for paying the loan off early;
- Deed signing: If you are behind on your mortgage, the lender may offer to help find new financing and ask you to deed over your property to them as a “temporary measure” to prevent foreclosure. Then the promised loan never comes and you no longer own your home!
- Mandatory arbitration: If you sign this you will give up your right to sue in court if the lender does something you believe is illegal;
- Bait and switch: The lender promises you one interest rate at the beginning of a deal, and then uses much higher rate at closing; and
- Loan flipping: After you make a few payments on your loan, the predatory lender calls you back to offer you a bigger loan. Each time you do this refinancing, you must then pay high points, fees and a higher interest rate. And if your original loan had a prepayment penalty, you’ll have to pay that also.

### **How can I avoid getting lured into a predatory loan?**

Here is a list of some of the things you can do to

help protect yourself:

- Think twice before borrowing against your home, especially borrowing more than the value of your home. Some lenders may make loans for more than the home is worth. Ask yourself if you must have this loan. If you’re having money problems, consider all your options before you use your home as collateral. Remember, if you decide to get a home loan and can’t make the payments later, the lender could foreclose and you could lose your home;
- If you do borrow, borrow only enough for necessities and at lower rates;
- Borrow only within your income and budget;
- Before you look into borrowing, get the facts about your credit history. Your credit history shows your record of paying back past loans and credit cards. Knowing this will help you know what lenders will find out about you when they check your credit history. It is also important for you to review your credit history because sometimes there are errors, which you will need to correct. There are three companies that maintain national credit databases and provide information about you to lenders requesting your credit history. You should contact all of them, which is what the lenders will do, because each database is different. You are entitled to one free credit report per year. They may charge you a maximum of \$9.00 for a copy of your information.
- The companies are:
  - Equifax, 1-800-685-1111, [www.equifax.com](http://www.equifax.com)
  - Experian, 1-888-397-3742, [www.experian.com](http://www.experian.com)

- Transunion, 1-800-888-4213,  
[www.transunion.com](http://www.transunion.com)

- Always shop around for a loan. Get at least three written quotes for up-front costs, interest rates, loan terms and monthly payments. Avoid lenders that solicit by telemarketing, television ads, direct mail and door-to-door solicitation;
- Don't trust loan ads that say: "No credit, no problem" or agencies who will "fix" bad credit;
- Shop around for home improvement contractors. Get several bids from licensed contractors and don't get talked into borrowing more money than you need. Don't let a contractor refer you to a specific lender to pay for their work;
- Don't just look at the monthly payments on the loan. Consider the duration or term of the loan and the total cost for loan fees;
- Beware of any loan for more than your house is actually worth. This way you could lose your home and still owe additional money to the lender (the amount above the value of your home);
- Read all the documents carefully before you sign. The lender may have changed the numbers or added numbers since you originally talked about the loan;
- Don't give in to high sales pressure tactics;
- You do not need to say yes right away;
- Ask lots of questions;
- If you don't understand the loan terms, ask someone you trust to look the loan documents over for you. If you feel uncomfortable or unsure of some issues, consider hiring an attorney for a few hundred dollars to review any papers you've been asked to sign;
- Don't ever sign a partially blank

document without all the numbers filled in. Beware of lenders who promise to fill the numbers in later; Under the Truth in Lending Act, borrowers can change their mind within three days of signing the contract when their homes are offered as security. But remember three days go by quickly. It's better to research and be comfortable with all aspects of the loan before you sign;

- Make sure any check written for home improvement is not written directly from the lender to the contractor, but to you. You should not pay the contractor until you are satisfied with the work they have completed.

#### **What if I think that I already have a predatory loan?**

Get help! Speak to an attorney. If you are low income and can't afford an attorney contact your local Legal Aid office or the Oregon State Bar Lawyer Referral line at 1-800-452-7636.

Also, you can report bad actors to the state agency that regulates various parts of this industry.

- All consumer issues, questions and complaints – Attorney General's consumer hot line – 1-877- 877-9392 or [www.doj.state.or.us](http://www.doj.state.or.us);
- Investor information and mortgage information programs, license checking – Division of Finance and Corporate Securities 1-866-814-9710;
- Insurance agent and company information, complaints – Insurance Division – 1-888- 877-4894;
- Contractor complaints, license checking – Construction Contractors Board – 503- 378-4621;
- Electrician and plumber complaints,

license checking – Building  
Codes Division –  
1-800-442-7457;

- Elder abuse/exploitation prevention  
– Department of Human Services –  
1-800- 232-3020.

### **3. DEBT COLLECTION and SOCIAL SECURITY**

#### **Is Social Security and Supplemental Security Income (SSI) safe from debt collectors?**

Usually. For most consumer debts Social Security and SSI benefits cannot be collected by creditors.

However, you must be able to prove that the funds in your bank account are only from Social Security or SSI when you receive a legal notice that your bank account containing these funds may be subject to a collection action.

Some types of debts can be collected from Social Security benefits. Child and spousal support, federal income taxes, and non-tax federal debts like mortgage and student loans can be collected from Social Security. These debts cannot be collected from SSI benefits.

#### **What debts can be taken out of my Social Security Check by a creditor?**

Federal Tax Bills: The Secretary of the Treasury can take up to 15% of Social Security benefits each year to collect past due tax bills.

Non-Tax Federal Debts: The government can take anything over the first \$9,000 per year (\$750 per month) in Social Security benefits to collect non-tax federal debts such as student loans, federal mortgages in default, etc.

Child and Spousal Support: The amount of the garnishment for collection of child and spousal support is limited by state and federal law. Federal law limits garnishment to:

- 50%, if the beneficiary is supporting a spouse and/or child other than the spouse and/or child whose support has been ordered.

- 60%, if the beneficiary is not supporting another spouse and/or child.
- The amounts above increase to 55% and 65% if the garnishment order or other evidence submitted indicates the original support ordered is 12 or more weeks in arrears.

In some instances Oregon law is more restrictive than the Federal limitation and will control the maximum withholding. SSI benefits may not be garnished to collect child or spousal support.

Bank Overdraft Fees: A bank may offset overdraft charges from direct deposited Social Security and SSI benefits in the western United States.

#### **Can the government collect more than one kind of debt from my social security benefits at the same time?**

Yes, the government can collect all three types of debts from your monthly social security check. This could leave you with less than \$750 a month. If this happens to you, contact the government agency to whom you owe the debt to lower your payments, and the child support creditor. There is no way to protect your benefits from collection by the federal government since this is done before your benefits are even issued.

#### **How can I protect my Social Security benefits from being wrongfully collected?**

The best way to protect Social Security and SSI benefits from being wrongfully garnished by creditors is to set up direct deposit accounts for your benefits that contain no other sources of funds. If a creditor sends your bank a notice of garnishment, the bank will freeze all of your accounts and send a notice of garnishment to you. You must respond to these notices. If your social security or SSI benefits are in separate bank accounts, it will be easier to establish that the funds are not subject to a garnishment order.

For more information about debt collection, see the

LASO handbook entitled “Unpaid Consumer Bills” in this series.

## 4. UTILITY BILL RIGHTS

### What identification information is required to apply for utility service?

A current valid Oregon driver’s license number;  
AND

- Social security number of person(s) responsible for payment; or
- Valid state or federal photo identification; or
- Original or certified true copy of a birth certificate and current photo identification from school or employer.

### What can I do if I am denied service for failure to provide acceptable identification?

You may ask for the conflict resolution process from the Public Utility Commission (PUC) at 1-800-522-2404.

### Are notices required to be in languages other than English?

Yes. An energy or telephone utility is required to ask whether you would like to receive notices in a language other than English.

All energy and telephone utilities’ disconnect notices need to contain the following information translated into Spanish, Vietnamese, Cambodian, Laotian, and Russian:

**IMPORTANT NOTICE:** Your (electric, gas, or telephone) services will be shut off due to an unpaid balance on your account. You must act immediately to avoid shutoff. Important information about how you can avoid shutoff is printed in English in the enclosed notice. If you cannot understand English, please find someone to translate the notice. If translation assistance is unavailable, please contact (name) at (phone number) who will try to help you. Information on customer's rights and responsibilities printed in this language is

also available by calling that number. **YOU MUST ACT NOW TO AVOID SHUTOFF.**

### What can I do if I dispute a disconnect notice or have another problem with a utility company?

If you have a dispute with a utility about any bill, charge, or service, the utility is required to thoroughly investigate the matter and promptly report the results of its investigation to you. You also have the right to a supervisory review of any dispute. This includes, but is not limited to, establishment of credit and termination of service. If a dispute is not resolved, the utility is required to inform you of the PUC’s dispute resolution procedure and its toll-free telephone number. If you cannot resolve your dispute with the utility, you have a right to file a formal written complaint with the PUC. The utility must answer the complaint within 15 days of the complaint. The PUC will set the matter for an expedited (quick) hearing.

If you have a registered dispute or formal complaint pending with the Commission, you are entitled to continued or restored service provided:

- Service was not terminated for theft of service or failure to establish credit;
- A bona fide dispute exists;
- When termination is based on nonpayment, you have made adequate payment arrangements; and
- You pursue conflict resolution with the PUC.

### What can I do if I cannot pay gas or electric bill?

*First, you may submit a medical certificate from a medical professional to the utility.*

An electric or gas utility cannot disconnect service until the PUC conducts a hearing if you submit certification from a medical professional stating that disconnection would significantly endanger your or a household member’s physical health. This may be a verbal certification and must be followed up by a written confirmation within 14

days by the medical professional prescribing medical care.

You are required to enter into a written time-payment agreement with the electric or gas utility when an overdue balance exists. When financial hardship can be shown, a customer with a medical certificate may renegotiate the terms of a time-payment agreement with the electric or gas utility. You are entitled to a hearing before the PUC prior to disconnection when you have a valid medical certificate filed with the utility.

*Second, you may request a Time-Payment Agreement from the utility.*

A gas or electric utility may not disconnect your service for nonpayment if you enter into a written time-payment plan. You will be offered the choice of payment agreements. At a minimum, you may choose between a levelized payment plan and an equal-pay arrearage plan.

If you select a levelized payment plan, you will pay a down payment equal to the average annual bill including the account balance, divided by 12, and a like payment each month for 11 months. The utility will review the monthly installment plan periodically and will adjust the installment amount to bring the account into balance within the time specified in the original agreement.

If you select an equal-pay arrearage plan, you will pay a down payment equal to one-twelfth the amount owed for past utility service. Each month, for the next 11 months, an amount equal to the down payment will be added to, and payable with, the current charges due.

You and the utility may agree in writing to an alternate payment arrangement as well.

If you fail to abide by the time-payment agreement, the utility may disconnect service after giving you a 15 day disconnection notice.

### **What must a telephone utility do before disconnecting your service?**

At least five days before a telephone utility disconnects service for nonpayment, the utility

must provide you with a written notice of the disconnection.

You have a right to use the PUC complaint process. The utility must provide you with the toll-free number for the PUC (1-800-522-2404).

A telephone utility cannot disconnect local exchange service to you if you submit certification from a qualified medical professional stating that disconnection would significantly endanger your or a household member's physical health.

A telephone utility may not disconnect local exchange residential service for nonpayment if you have submitted a valid emergency medical certificate and you pay the greater of \$10 or 25 percent of the balance owing and enter into a time-payment agreement to bring the account into balance within 90 days of the date of the agreement.

### **May a utility disconnect my service for reasons other than non-payment of the bill?**

Yes, service may be disconnected if you fail to:

- Establish credit by paying a deposit;  
or
- Provide valid identification; or
- Set up a time-payment agreement;  
or
- Abide by the terms of a time-payment plan.

### **Can a utility refuse to provide service to me?**

Sometimes. Unless a disconnection was for theft of service, an *energy* utility must provide service to you upon receiving payment equal to at least one-half of any overdue amount.

A *telephone* utility may refuse to provide service to you until it receives full payment of any overdue amount.

### **Can I ask that a third party receive my bills and notices?**

Yes. You may designate a third party to receive bills and notices in addition to the notices provided to you.

### **Can a utility charge a late-payment fee?**

Yes. However, a utility cannot charge late-payment fees unless:

- The utility offers you the right to select or change a billing date;
- The balance owed is more than \$200; or
- The charge is applied only to amounts carried forward for two consecutive months.

### **Can I ask for a meter test if I believe the bill is incorrect?**

Yes. The test must be made within 20 working days of your request at no cost to you.

### **Can I pay a deposit in installments?**

Yes. You may pay the deposit in full or in three installments. The first installment is due immediately; the remaining installments are due 30 days and 60 days after the first installment payment.

### **Is a utility required to give notice to a tenant in addition to a landlord before disconnection of gas or electric service?**

Yes.

### **Can a utility require a reconnection fee?**

Yes.

### **How can I get help paying my energy bills?**

There are a number of programs available to help low-income people pay their energy bills.

- Oregon Housing and Community Services has a program called the Low Income Energy Assistance Program (LIEAP) which is a federally funded program to help low-income people with home heating costs. They can be reached at 503-986-2000, or [www.ohcs.oregon.gov/OHCS/SOS\\_LowIncomeEnergyAssistance.shtml](http://www.ohcs.oregon.gov/OHCS/SOS_LowIncomeEnergyAssistance.shtml)
- Oregon HEAT is an organization that helps to prevent someone's power from being turned off due to

lack of payment. They can be reached at 503-612-3790, or [www.oregonheat.org](http://www.oregonheat.org);

- Community Energy Project has a program to assist people in keeping their energy usage down through improved weatherization. They can be reached at 503-284-6827, or [www.communityenergyproject.org](http://www.communityenergyproject.org);
- Other agencies and organizations throughout the state that may be of assistance are listed by the National Energy Affordability and Accessibility Project, at [www.ncat.org/liheap/profiles/Oregon.htm](http://www.ncat.org/liheap/profiles/Oregon.htm);
- 211 is an information and referral number and may have other listings.

### **What else can I do if I am unable to pay the bill?**

You may contact your local Community Action Program agency to apply for Energy Assistance (in the winter) as well as other assistance programs to help pay the bill.

To file a complaint against a utility, call the Public Utility Commission's customer complaint service at 1-800-522-2404. You may also contact Legal Aid Services of Oregon at 503-224-4086 to receive advice concerning your utility bill rights.

## **5. STOPPING TELEMARKETING CALLS**

### **What can I do about unwanted telemarketing calls?**

If you are receiving unwanted telemarketing calls there are steps you can take to reduce the number of calls. The National Do Not Call Registry allows you to register your phone number on a national "do not call" list. Most telemarketers are prohibited from calling any phone number registered on the "do not call" list. By registering your phone number on the "do not call" list, you can reduce the number of unwanted telemarketing

calls you receive. The National Do Not Call Registry was created in 2003 by the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC).

**Will registering my phone number with the National Do Not Call Registry prevent all telemarketing calls?**

No. The National Do Not Call Registry only prohibits commercial telemarketers from calling numbers on the list. Commercial telemarketing includes any call by a seller of goods or services. The Registry does not prohibit calls for donations from political or charitable organizations or telephone surveys. There are also exceptions for commercial telemarketers. For example, a seller may contact you for up to eighteen months if it has an established business relationship with you. (This would allow your phone company or your cable company to contact you regarding offers for new services). If you are receiving unwanted calls from a company that has an established business relationship with you, you can still specifically request not to be called by that company. In addition, a seller may contact you if you have given it express written consent, or if you have requested information in the past three months.

**How do I register my phone number with the Do Not Call Registry?**

You may register for the National Do Not Call Registry either online or by phone. If you register by phone, you must call from the phone number that you wish to register on the list.

**Phone: 1-888-382-1222**  
**TTY: 1-866-290-4236**  
**Web site: [www.donotcall.gov](http://www.donotcall.gov)**

Once you register, your phone number should appear on the Registry by the next day. Sellers have three months to update their records, so you should stop receiving most telemarketing calls

within three months. Registration lasts for five years.

You can check the status of your registration or remove your number from the list by calling the Do Not Call Registry. You must re-register if you move, even if your phone number remains the same.

**How much does it cost to register on the National Do Not Call Registry?**

Registration is free.

**If I have already registered with the Oregon “do not call list” do I need to register on the National Do Not Call Registry?**

Yes. You will have to register with the National Do Not Call Registry even if you have already registered for the Oregon “do not call” list. Oregon has not merged its information with the national registry.

**What should I do if a telemarketer calls me even though I have registered with the National Do Not Call Registry?**

If you receive a call from a telemarketer that you believe should not be calling you and your phone number has been registered for at least three months, you should file a complaint with the National Do Not Call Registry. *Make sure to record the name or telephone number of the company that called you and the date of the call.*

You can file a complaint either online at [www.donotcall.gov](http://www.donotcall.gov) or by phone at 1-888-382-1222.

The FTC does not resolve individual complaints. However, the FTC will enter information from all complaints it receives in a secure, online database. This database is available to criminal and civil law enforcement agencies worldwide.

**How can I avoid “Do Not Call” scams?**

You should never receive a phone call from a company inviting you to “pre-register” for the National Do Not Call Registry or to confirm your registration. *If you receive a call like this, you may*

*be the target of a scam.* The FTC does not allow private companies to register third parties on the Do Not Call Registry.

The FTC suggests that you take the following steps to protect yourself from these scams:

- Never give out information about your bank account or credit cards unless you know whom you are dealing with;
- Never share your Social Security number with a person you do not know; and
- Do not share your personal information if someone calls claiming to represent a “Do Not Call” registry, an organization to stop fraud, or even the FTC itself. If you get such a call, either hang up immediately or write down the caller’s organization and phone number and report it to the FTC at [www.ftc.gov](http://www.ftc.gov) or 1-877-382-4357.

### **Besides registering my phone number on the National Do Not Call Registry, how else can I protect myself from telemarketing fraud?**

The following are additional resources on consumer fraud issues:

Federal Trade Commission  
[www.ftc.gov/ftc/consumer.htm](http://www.ftc.gov/ftc/consumer.htm)  
1-877-382-4357

Oregon Department of Justice,  
Attorney General’s Office  
[www.doj.state.or.us/FinFraud/welcome3.htm](http://www.doj.state.or.us/FinFraud/welcome3.htm)  
Salem: 503-378-4320  
Portland: 503-229-5576  
Toll Free: 1-877-877-9392  
Email: [consumer.hotline@doj.state.or.us](mailto:consumer.hotline@doj.state.or.us)

National Fraud Information Center  
[www.fraud.org](http://www.fraud.org)  
Fraud Hotline: 1-800-876-7060

### **How can I stop receiving unsolicited credit card offers?**

Now you can make a single phone call to a number established by the credit reporting industry. This number is:

### **1-888-5-OPT-OUT (1-888-567-8688)**

When you call this number, you may request to have your name and address removed from national credit bureau lists that are sold to the credit industry. The three national credit reporting agencies-- Experian (formerly TRW), Trans Union, and Equifax-- will **remove your name for a two-year period** from any list provided to others relating to any potential consumer credit transaction that you did not initiate. You will have to provide some personal information and follow the directions you receive from a prerecorded message. If you follow these directions, your name should be removed from these lists within five business days.

## **6. IDENTITY THEFT**

### **What is Identity Theft?**

Identity theft occurs when someone claiming to be you makes purchases in your name or uses your identity to deceive someone else. They do this by getting access to your personal information, such as your name, Social Security number, credit card number, or other identifying information.

### **How can I prevent identity theft?**

There are several things you can do to help prevent identity theft. First, do not give out your personal information such as Social Security number or credit card number unless you are required by law or you trust the source. Second, be careful when throwing papers in the garbage that they do not have identifying information on them. If they do, it is best to shred those documents. Do not leave for recycling any documents or receipts that have identifying information on them. For more information about protecting your identity, visit the identity theft web site created by the Federal Trade Commission listed at the end of this section.

In 2007, Oregon passed a law prohibiting people from printing an individual’s Social Security number on any letter or printed material not requested by the individual or on any card required for the individual to access products or services.

Social Security numbers may still be collected and released, but only as required by state or federal law. One such permitted collection of a Social Security number is on an attorney consent form when the attorney has agreed to represent you in matters involving the Social Security Administration.

### **How do I know if I am a victim of identity theft?**

You may be a victim of identity theft if you have unexplained withdrawals or deductions from a bank account, unexplained purchases on a credit card bill, or you receive a bad credit report for no apparent reason.

### **What can I do if I am a victim of identity theft?**

If you are the victim of identity theft there are a few steps that you need to take:

Contact the fraud departments at all of the three major credit bureaus. After you do this, creditors will contact you before opening up any new accounts or changing your existing accounts. The three major credit bureaus are:

1. Equifax: 1-800-525-6285
2. Experian: 1-888-397-3742
3. Trans Union: 1-800-680-7289;

- Close any accounts that you believe have been tampered with. When closing a credit card, the credit card company will usually cancel your card, issue you a new card, and have its fraud department investigate the charges that you claim are not yours;
- Fill out an affidavit explaining what has happened. This is important because you do not want to be held responsible for the debts created by the thief. An affidavit form can be found at the Federal Trade Commission (FTC) web site listed below;
- File a police report, and get a copy to submit to your creditors; and
- File a complaint with the Federal

Trade Commission.

- Generally, you should not be held responsible for any debts or losses that occur once you report the theft. In addition, most of the major credit card companies will not hold you responsible for any fraudulent charges occurring before you reported the identity theft. Unfortunately, not all credit card companies are very helpful. If you are held responsible for fraudulent charges, you may need to consult an attorney to help you enforce your rights.

### **How can I learn more about Identity Theft?**

To learn more about how to prevent identity theft and what to do if you are a victim of it, go to the Federal Trade Commission web site on identity theft, at [www.consumer.gov/idtheft/](http://www.consumer.gov/idtheft/).

## **7. REVERSE MORTGAGES**

### **What is a Reverse Mortgage?**

A reverse mortgage is a way for people 62 and older to borrow money on the home in which they currently live or to purchase a home. The homeowner, not the bank, owns the home. The homeowner must use the home as her principal residence. Unlike with a traditional mortgage, the borrower doesn't have to make monthly payments on the loan. The loan generally has to be paid back only upon the occurrence of certain events (discussed below).

If a borrower takes out a reverse mortgage on a home in which she currently lives and has enough equity, she may be eligible to receive lump sum and/or monthly payments from the proceeds of the loan. The payments can be used for any purpose. Amounts that you don't take from the proceeds generally remain in an account with the bank until and if you withdraw them.

### **Who is eligible to get a reverse mortgage?**

To qualify for a reverse mortgage on an existing home, the borrower(s) must be at least 62 years old and must own their home as a principal residence. The borrower also must have a lot of equity in her home, meaning the value of the home must be

significantly greater than any existing mortgages and liens on the property.

To qualify for a reverse mortgage to buy a home, the borrower(s) must be at least 62 years old and must buy the home as a primary residence. The borrower is required to make a very large down payment on a home to buy it with a reverse mortgage.

Currently, borrowers do not have to have income or a good credit history to be able to qualify for a reverse mortgage. New rules, however, will soon require banks to take these factors into consideration when deciding whether to approve a reverse mortgage application.

### **What happens if I end up owing more money than my home is worth?**

Almost all reverse mortgages are insured by the Federal Housing Administration (FHA). When an insured loan becomes due, if the home is worth less than the loan amount, the lender cannot recover the difference from you or your estate. Proprietary reverse mortgages, or those not insured by the FHA, are also available. Proprietary reverse mortgages are typically for borrowers with higher home values and may not provide the same protections as do FHA-insured reverse mortgages.

### **When does a reverse mortgage have to be paid off?**

In general, the loan becomes due: when a borrower dies and the property is not the principal residence of at least one surviving borrower; when the borrower(s) sell the home; the borrower(s) change their principal residence; the borrower(s) does not physically occupy the property for 12 or more consecutive months because of physical or mental illness; or the borrower fails to perform an obligation under the mortgage, such as paying property taxes, insurance or homeowners association dues. Usually the loan is then paid off from the sale of the house, and any remaining amount from the sale goes to the borrower or the borrower's estate.

### **What are the risks or drawbacks to reverse mortgages?**

First, to avoid defaulting on the loan, the borrower must continue to pay property taxes, insurance and homeowners association fees, and continue to maintain the home. Second, the closing costs and interest rate on reverse mortgages are usually higher than for other loans, and monthly mortgage insurance premium payments will add to the loan balance, causing the borrower to lose equity in the home. You should make a comparison of the loan costs. Federal law requires lenders to disclose the Total Annual Loan Cost of each mortgage. Third, if a borrower takes out and holds too much in proceeds from the loan, her public benefits, she may become ineligible for benefits such as Supplemental Security Income or Medicaid. Fourth, in Oregon, a homeowner with a reverse mortgage is not eligible for a deferral of property taxes.

It is recommended that homeowners who are interested in a reverse mortgage consider alternative ways to obtain money or reduce homeowner expenses. This might be done through a state property tax relief program, sale of the home and purchase of a less expensive home, or renting the home. You should also deal only with reputable financial institutions and should avoid obtaining a reverse mortgage from a company that contacts you.

### **Where can I find out more information about reverse mortgages?**

The following web sites have information about reverse mortgages:

- Department of Housing and Urban Development (HUD) at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/hecm/hecmhome](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hecm/hecmhome).
- Consumer Financial Protection Bureau at [http://files.consumerfinance.gov/f/201206\\_cfpb\\_Reverse\\_Mortgage\\_Guidance.pdf](http://files.consumerfinance.gov/f/201206_cfpb_Reverse_Mortgage_Guidance.pdf).

- AARP, at [www.aarp.org/revmort/](http://www.aarp.org/revmort/).

**If I receive Supplemental Security Income (SSI), will a reverse mortgage make me lose my benefits?**

Maybe. A single person can't have more than \$2,000 in certain resources as of the first day of any month for which she receives SSI. A couple can't have more than \$3,000 in certain resources. These resources include things you own such as cash, bank accounts and certain other things which could be changed to cash and used for food or shelter.

If you receive monthly and/or lump sum payments from the proceeds of a reverse mortgage and, for example, keep them as cash or deposit them in your bank account, they can count as resources under the SSI program. If the resources exceed the limit as of the first day of any particular month, you are ineligible to receive SSI that month and are required to report your resources to the Social Security Administration.

As long as amounts you have on the first day of any particular month, including amounts you have taken from the proceeds of a reverse mortgage, don't exceed the resource limit, you should be eligible for SSI. Note, however, that the Social Security Administration has not definitively determined whether, for SSI purposes, resources include proceeds from a reverse mortgage that are held by the bank and which you have not taken out as cash or deposited into your bank account.

Receiving income may reduce or eliminate your eligibility for SSI benefits. Reverse mortgage proceeds, however, do not count as income for SSI purposes.

For more information on foreclosures, see the information at

<http://www.oregon.gov/DCBS/foreclosurehelp/pages/index.aspx>.

## Legal Services Offices and Volunteer Lawyer Programs

These offices provide legal assistance to low-income persons who live in the counties that are listed.

**Albany Regional Office**  
(Linn, Benton)  
Legal Aid Services of Oregon  
433 Fourth Ave. SW  
Albany, OR 97321-2262  
(541) 926-8678  
1(800) 817-4605

**Bend Regional Office**  
(Jefferson, Crook, Deschutes)  
Legal Aid Services of Oregon  
20360 Empire Ave. Suite B-3  
Bend, OR 97701  
(541) 385-6944  
1 (800) 678-6944

**Center for NonProfit Legal Services**  
(Jackson)  
225 W Main  
P.O. Box 1586  
Medford, OR 97501  
(541) 779-7291

**Columbia County Legal Aid**  
(Columbia)  
270 S. 1<sup>st</sup> St.  
PO Box 1090  
St. Helens, OR 97051  
(503) 397-1628

**Coos Bay Regional Office**  
(Coos, Curry, Western Douglas)  
Oregon Law Center  
455 S. 4<sup>th</sup> St., #5  
P.O. Box 1098  
Coos Bay, OR 97420-0241  
(541) 269-1226  
1 (800) 303-3638

**Farmworker Office**  
(Mid-Willamette Valley  
farmworkers)  
Legal Aid Services of Oregon  
397 N. First Street  
Woodburn, OR 97071-4623  
(503) 981-5291  
1(800) 662-6096

**Grants Pass Regional Office**  
(Josephine)  
Oregon Law Center  
424 NW 6<sup>th</sup> St., Suite 102  
Grants Pass, OR 97526-3133  
(541) 476-1058

**Hillsboro Regional Office**  
(Washington, Columbia,  
Tillamook, Clatsop, Yamhill)  
Legal Aid Services of Oregon  
230 NE Second Ave., Suite F  
Hillsboro, OR 97124-3011

(503) 640-4115  
1 (877) 296-4076

**Klamath & Lake Counties**  
Legal Aid Services of Oregon  
403 Pine Street #250  
Klamath Falls, OR 97601

English: (541) 273-0533  
1-800-480-9160  
Spanish: (541) 882-2008  
1-800-250-9877

**Eugene Regional Office**  
(Lane)  
Legal Aid Services of Oregon  
376 East 11th St.  
Eugene, OR 97401  
(541) 485-1017  
1 (800) 422-5247

**Lane County Legal Aid and Advocacy Center**  
(Lane)  
376 E 11<sup>th</sup> Avenue  
Eugene, OR 97401  
(541) 485-1017  
1-800-575-9283

**Lincoln County Office**  
(Lincoln)  
Legal Aid Services of Oregon  
304 SW Coast Highway  
P.O. Box 1970  
Newport, OR 97365-0132  
(541) 265-5305  
1-800-222-3884

**Marion-Polk Legal Aid**  
Legal Aid Services of Oregon  
(Marion, Polk)  
1650 State Street #B  
Salem, OR 97301  
(503) 485-0696  
1-800-601-7907

**McMinnville Office**  
(Yamhill)  
Legal Aid Services of Oregon  
720 East Third  
P.O. Box 141  
McMinnville, OR 97128-0141  
(503) 472-9561  
1-888-245-4091

**Portland Regional Office**  
(Multnomah, Hood River, Clackamas,  
Wasco, Sherman)  
Legal Aid Services of Oregon  
520 SW 6<sup>th</sup> Ave. Suite #700  
Portland, OR 97204

(503) 224-4086  
1-888-610-8764

**Native American Program**  
1827 NE 44<sup>th</sup> Ave. Suite #230  
Portland, OR 97213  
(503) 223-9483

**Ontario Regional Office**  
(Malheur, Harney, Grant, Baker)  
Oregon Law Center  
35 SE 5<sup>th</sup> Ave. #1  
Ontario, OR 97914  
(541) 889-3121  
1-800-250-9877

**Pendleton Regional Office**  
(Gilliam, Morrow, Umatilla,  
Union, Wallowa, Wheeler)  
Legal Aid Services of Oregon  
365 SE Third Street  
P.O. Box 1327  
Pendleton, OR 97801-0260  
(541) 276-6685 1-800-843-1115

**Roseburg Office**  
(Douglas)  
Legal Aid Services of Oregon  
700 SE Kane  
P.O. Box 219  
Roseburg, OR 97470-0039  
(541) 673-1181  
(888) 668-9406

## OTHER RESOURCES

### **Aging and Disability Resource Connection of Oregon**

**1-855-673-2372**

Statewide Helpline with access to local information and services for seniors and people with disabilities. Also accessible online: <https://www.adrcoforegon.org>

### **OREGON STATE BAR**

#### **Lawyer Referral Service**

Oregon State Bar  
503-684-3763 in Portland, or  
1-800-452-7636 toll free in Oregon

This service gives you the name of an attorney in your community. There is a fee of \$35 for the first meeting with the lawyer. LRS also operates the Modest Means Program, which makes referrals to lawyers who provide reduced-fee legal services on some cases to clients that meet eligibility guidelines. Call for information.

In addition, there is a collection of online legal topics that can be found at:

[www.osbar.org/public/legalinfo.html](http://www.osbar.org/public/legalinfo.html)

211: easy-to-use phone number to obtain information and referrals on health and human services. 211.

#### **Attorney General's consumer hotline:**

503-378-4320 (Salem only)  
503 229-5576 (Portland area only) or  
toll-free 1-877-877-9392.

Consumers wanting more information about consumer protection in Oregon may call this number.

This organization represents the interests of seniors in the Portland Metropolitan area through volunteer programs.

#### **Long Term Care Ombudsman**

1-800-522-2602  
TTY: 503-378-5847 Dial 711

The Ombudsman program is an independent state agency that serves long term care facility residents through complaint investigation, resolution and advocacy for improvement on resident care.

<http://www.oregon.gov/ltco/Pages/index.aspx>

#### **Fair Housing Council of Oregon**

1-800-424-3247  
503-223-8197 (Portland)

This statewide organization enforces fair housing laws.  
[www.fhco.org](http://www.fhco.org)

#### **HUD--Fair Housing and Equal Opportunity (FHEO)**

971-222-2600

This federal agency enforces fair housing laws.

#### **Equal Opportunity Employment**

##### **Commission (EEOC)**

1-800-669-4000

[www.eeoc.gov/](http://www.eeoc.gov/)

This federal agency will assist people who feel they have been discriminated against because of their age or disability.

#### **Bureau of Labor and Industry (BOLI)**

971-673-0761

<http://www.oregon.gov/boli/>

This state agency will assist people who feel they have been discriminated against because of their age or disability.

#### **Organizations Specifically for Seniors or People with Disabilities**

##### **Elder or Persons with Disabilities Abuse Reporting**

1-800-232-3020

##### **Elders in Action (Multnomah County)**

503-235-5474

[www.eldersaction.org](http://www.eldersaction.org)

SHIBA (Senior Health Insurance Benefits Assistance)

1-800-722-4134 SHIBA is a statewide network of trained volunteers who educate and assist people with Medicare.

**<http://www.oregon.gov/dcbs/insurance/SHIBA/Pages/shiba.aspx>**

**Disability Rights Oregon (DRO)**  
**(formerly Oregon Advocacy Center)**  
503-243-2081

OAC is a non-profit law firm that provides legal services to people with disabilities for legal problems that are connected with their disability

**AREA AGENCIES ON AGING (AAA), DHS OFFICES, AND SENIOR CENTERS**  
**(Offices that process Medicaid applications are marked with an \*)**

<b><u>Baker</u></b>		<u>Yoncalla Community Center</u>	(541) 849-2951
<u>Community Connection of NE Oregon*</u>	(541) 963-3186	<u>Senior Services - Glide</u>	(541) 496-3736
<u>Baker County Senior Center</u>	(541) 523-6591	DHS (Roseburg)	(541)440-3580
<b><u>Benton</u></b>		<b><u>Gilliam</u></b>	
<u>AAA</u>	(541) 928-3636	AAA	1 (888) 316-1362
		DHS*	(541) 298-4114
<b><u>Clackamas</u></b>		<b><u>Grant</u></b>	
<u>AAA*</u>	(503) 655-8640	AAA Contractor	(541) 575-2949
<u>Canby Senior Center</u>	(503) 266-2970	Monument Senior Center	
<u>Estacada Adult Center</u>	(503) 630-7454	Prairie City Senior Center	
<u>Gladstone Senior Center</u>	(503) 655-7701	DHS*	(541) 575-0255
<u>Hoodland Senior Center - Welches</u>	(503) 622-3331		
<u>Lake Oswego Adult Center</u>	(503) 635-3758	<b><u>Harney</u></b>	
<u>Milwaukie Senior Center</u>	(503) 653-8100	Harney County Senior Center - Burns	(541) 573-6024
<u>Molalla Senior Center</u>	(503) 829-4214	DHS (Burns)*	(541) 573-2691
<u>Pioneer Comm. Center – Oregon City</u>	(503) 657-8287		
<u>Sandy Senior Center</u>	(503) 668-5569	<b><u>Hood River</u></b>	
<u>Wilsonville Senior Center</u>	(503) 682-3727	AAA	(541) 298-4101
		Down Manor Retirement Center	(541) 386-5115
		Hood River Valley Adult Center	(541) 386-2060
<b><u>Clatsop</u></b>		<b><u>Jackson</u></b>	
AAA -NW Senior & Disability Services*	(503) 861-4200	ADRC	(855) 673-2372
North Coast Senior & Disability Services	(503) 325-4543	Central Point Senior Center	(541) 664-4933
Astoria Senior Center	(503) 325-3231	Medford Senior Center	(541)772-2273
		Upper Rogue Community Center	(541) 878-2702
		Shady Cove	
		Medford Senior Services Office*	(541) 776-6222
<b><u>Columbia</u></b>		<b><u>Jefferson</u></b>	
AAA (Community Action Team)	(503) 397-3511	Jefferson County Senior Center – Madras	(541) 475-1148
<u>Clatskanie Senior Center</u>	(503) 728-3608	Warm Springs Senior Center	(541) 553-3313
<u>Rainier Senior Center</u>	(503) 556-3889	DHS (Madras)*	(541) 475-6773
<u>Scappoose Senior Center</u>	(503) 543-2047		
<u>St. Helens Senior Center</u>	(503) 397-3377		
<u>Vernonia Senior Center</u>	(503) 429-3912		
<u>DHS*</u>	(503) 397-5863		
<b><u>Coos</u></b>		<b><u>Josephine</u></b>	
AAA	(541) 269-2013	AAA	(541) 664-6674
<u>Bandon Senior Activity Center</u>	(541) 347-4131	Illinois Valley Senior Center	(541) 592-6888
<u>Coquille Senior Center</u>	(541) 396-5208	Grants Pass Senior & Disability Services*	(541) 474-3110
<u>Lakeside Senior Center</u>	(541) 759-3819		
<u>Myrtle Point Senior Center</u>	(541) 572-3151		
<u>North Bend Senior Center</u>	(541) 756-7622	<b><u>Klamath</u></b>	
<u>Powers Senior Activity Center</u>	(541) 439-3861	Klamath Basin Senior Center	(541)883-7171
<u>DHS*</u>	(541) 756-2017	DHS*	(541) 883-5551
<b><u>Crook</u></b>		<b><u>Lake</u></b>	
Central Oregon Council on Aging	(541) 548-8817	Klamath-Lake County Council on Aging	(541) 205-5400
<u>DHS*</u>	(541) 447-4511	Lake County Senior Center – Lakeview	(541) 947-4966
		DHS Lakeview	(541) 947-3172
<b><u>Curry</u></b>		<b><u>Lane</u></b>	
AAA	(541) 269-2013	AAA – Senior and Disabled Services/ Lane Council of Governments:	
<u>Chetco Senior Activity Center - Brookings</u>	(541) 469-6822	Eugene	(541) 682-4498
<u>Gold Beach Senior Center</u>	(541) 247-7506	Cottage Grove Office	(541) 942-5577
<u>Port Orford Senior Center</u>	(541) 332-5771	Florence Office	(541) 902-9430
DHS - Brookings	(541) 469-9299	Oakridge Office	(541) 7824726
DHS - Gold Beach	(541) 247-4515	Celeste Campbell Senior Center – Eugene	(541) 682-5318
		Cottage Grove Senior Center	(541) 942-5577
<b><u>Deschutes</u></b>		Hilyard Community Center – Eugene	(541) 682-5311
Central Oregon Council on Aging	(541) 678-5483	Peterson Barn Community Center – Eugene	(541) 682-5521
Bend Senior Center	(541) 388-1133	River Road Park & Rec. Center	(541) 688-4052
La Pine Senior Center	(541) 536-6237	Tony Garcia Service Center - Veneta	(541) 935-2262
Redmond Senior Center	(541) 548-6325	Viking Sal Senior Center – Junction City	(541) 998-1556
Crooked River Ranch	(541) 548-8939	Willamalane Adult Act. Cntr. – Springfield	(541) 736-4444
DHS (La Pine)*	(541) 536-8919		
DHS (Bend)*	(541) 388-6240		
DHS (Redmond)*	(541) 548-2206		
<b><u>Douglas</u></b>		<b><u>Lincoln</u></b>	
Douglas County Senior Center – Roseburg	(541) 440-3519	AAA – Oregon Cascades West Council of Governments	(541) 967-8630
Lower Umpqua Senior Center – Reedsport	(541) 271-4884	Toledo AAA*	(541) 336-1510
Special People's Depot – Glendale	(541) 832-3220	Newport Senior Activity Center	(541) 265-9617
Sutherlin Senior Services	(541) 459-9405	North Lincoln Senior Center - Lincoln City	(541) 994-2722
Winston Community Center	(541) 679-9715	<u>South Lincoln Senior Center - Waldport</u>	<u>(541) 563-3042</u>

<b>Linn</b>			
<u>AAA – Oregon Cascades West</u>			(541) 276-5303
<u>Council of Governments</u>	(541) 967-8630		(541) 922-4727
<u>Albany Senior Center</u>	(541) 917-7760		(541) 567-2274
<u>Brownsville Senior Center</u>	(541) 466-5935		1 (800) 442-4352
<u>Lebanon Senior Center</u>	(541) 258-4919		<b>(541) 278-4161</b>
<u>Scio Senior Center</u>	(503) 394-2511		
<u>Sweet Home Senior Center</u>	(541) 367-4775		
<b>Malheur</b>			
<u>Malheur Council on Aging</u>	(541) 889-7651		(541) 963-3186
<u>Ontario Senior Center</u>	(541) 889-5450		(541) 963-7532
<u>DHS (Ontario)*</u>	(541) 889-7553		(541) 963-7276
<b>Marion</b>			
<u>NW Senior &amp; Disability Services</u>	(503) 304-3400		(541) 963-3186
<u>Mount Angel Senior Center</u>	(503) 845-6998		(541) 426-3840
<u>Salem Senior Center</u>	(503) 588-6303		(541) 963-7276
<u>Keizer-Salem Senior Center</u>	(503) 390-7441		(541) 426-3155
<u>DHS - Salem</u>	(503) 304-3400		
<b>Morrow</b>			
<u>AAA (Community Action Program)</u>	(541) 276-1926		
<u>Heppner Senior Center</u>	(541) 676-9030		
<u>Stokes Landing Senior Center - Irrigon</u>	(541) 922-3603		
<u>DHS (Hermiston)*</u>	(541) 567-2274		
<b>Multnomah</b>			
<b>DHS/AAA</b>			
<u>AAA – Multnomah County*</u>	(503) 988-3646		
<u>Aging and Disability Services</u>	(503) 988-3040		
<u>Mid-area Aging &amp; Disability</u>	(503) 988-5480		
<u>East-area Aging &amp; Disability</u>	(503) 988-3840		
<u>Northeast-AAA</u>	(503) 988-5470		
<u>Southeast-AAA</u>	(503) 988-3660		
<u>West-AAA</u>	(503) 988-5460		
<b>Senior Centers/District Centers</b>			
<u>Fook Lok Woodstock Senior Center</u>	(503) 771-3601		
<u>Friendly House, Inc. (NW)</u>	(503) 224-2640		
<u>Gresham Senior Center (YWCA)*</u>	(503) 988-3840		
<u>Hollywood Senior Center</u>	(503) 288-8303		
<u>Mid-County YWCA*</u>	(503) 988-5480		
<u>Mittleman Jewish Community Center</u>	(503) 244-1442		
<u>Neighborhood House Senior Center (SW)</u>	(503) 244-5204		
<u>Northeast Multicultural Senior Center</u>	(503) 988-5470		
<u>Northwest Pilot Project</u>	(503) 227-5605		
<u>Portland Impact, Inc. (SE)</u>	(503) 988-3660		
<u>Rose Center for Seniors (NE)</u>	(503) 239-1221		
<u>Volunteers of America – Adult Day Care</u>	(503) 235-8655		
<u>YWCA Senior Center (North)</u>	(503) 721-6777		
<b>Polk</b>			
<u>NW Senior &amp; Disability Services*</u>	(503) 304-3400		
<u>Senior Services Agency</u>	(503) 623-2301		
<u>Dallas Senior Center</u>	(503) 623-8554		
<u>Independence Senior Center</u>	(503) 838-2143		
<u>Monmouth Senior Center</u>	(503) 838-5678		
<u>DHS - Dallas</u>	(503) 623-2301		
<b>Sherman</b>			
<u>AAA (The Dalles)</u>	(541) 298-4101		
<u>Mid-Columbia Senior &amp; Disability Services*</u>	(541) 298-4114		
<u>Sherman County Senior Center</u>	(541) 565-3191		
<b>Tillamook</b>			
<u>AAA Northwest Senior &amp; Disability Services</u>	(503) 842-2770		
<u>Tillamook AAA*</u>	(503) 842-4221		
<u>Kiwanda Senior &amp; Comm. Center-</u>			
<u>Pacific City</u>	(503) 965-7900		
<b>DHS Tillamook</b>	<b>(503) 842-</b>		
<b>2770</b>			
<b>Umatilla</b>			
<u>AAA (Community Action Program)</u>	(541) 276-1926		
<u>Hermiston Senior Center</u>	(541) 567-3582		
<u>Milton-Freewater Neighborhood Center</u>	(541) 938-3311		
<u>Pendleton Senior Center</u>			(541) 276-5303
<u>Umatilla Senior Center</u>			(541) 922-4727
<u>DHS (Hermiston)*</u>			(541) 567-2274
<u>DHS (Pendleton)*</u>			1 (800) 442-4352
<b>Union</b>			<b>(541) 278-4161</b>
<b>AAA</b>			(541) 963-3186
<u>Union County Senior Center – La Grande</u>			(541) 963-7532
<u>DHS (La Grande)*</u>			(541) 963-7276
<b>Wallowa</b>			
<b>AAA</b>			(541) 963-3186
<u>Wallowa Senior Center</u>			(541) 426-3840
<u>DHS (La Grande)*</u>			(541) 963-7276
<u>DHS (Enterprise)*</u>			(541) 426-3155
<b>Wasco</b>			
<b>AAA*</b>			(541) 298-4114
<u>Mid-Columbia Senior Center – The Dalles</u>			(541) 296-4788
<u>DHS (The Dalles)</u>			(541) 298-4114
<b>Washington</b>			
<b>AAA* – Washington County</b>			
<u>Disability, Aging &amp; Veteran’s Services</u>	(503) 640-3489		(503) 640-3489
<u>DHS (Hillsboro)</u>	(503) 640-3489		(503) 627-0362
<u>DHS (Beaverton)</u>	(503) 627-0362		(503) 968-2312
<u>DHS (Tigard)</u>	(503) 968-2312		(503) 629-6342
<u>Elsie J. Stuhr Adult Center – Beaverton</u>	(503) 629-6342		(503) 357-2021
<u>Forest Grove Senior Center</u>	(503) 357-2021		(503) 648-3823
<u>Hillsboro Community Senior Center</u>	(503) 648-3823		(503) 647-5666
<u>North Plains Senior Center</u>	(503) 647-5666		(503) 625-5644
<u>Sherwood Senior Center</u>	(503) 625-5644		(503) 620-4613
<u>Tigard Senior Center</u>	(503) 620-4613		(503) 692-6767
<u>Tualatin/Durham Senior Center</u>	(503) 692-6767		(503) 693-0999
<u>Hillsboro Senior Resource Center*</u>	(503) 693-0999		(503) 968-2312
<u>Tigard Senior Resource Center*</u>	(503) 968-2312		
<b>Wheeler</b>			
<b>AAA</b>			(541) 298-4101
<u>DHS* (Wasco)</u>			(541) 298-4114
<b>Yamhill</b>			
<u>AAA McMinnville</u>			(503) 472-9441
<u>Mid-Willamette Valley Senior Services*</u>			(503) 304-3400
<u>McMinnville Senior Center</u>			(503) 472-4214
<u>Chehalem Senior Center</u>			(503) 538-1490
<u>DHS (McMinnville)</u>			(503) 472-9441

