Elder Law in Oregon

Legal Aid Services of Oregon
www.oregonlawhelp.org

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 July 2018. 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 website at www.oregonlawhelp.org or consult a lawyer.**

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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 programs. These programs are run by the Social Security Administration (SSA).

Who can receive Social Security benefits?

People (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 the credits you earned by looking at your income for a three-month period called a "calendar quarter." Now 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 credits?

You should receive a statement from SSA each year. The statement lists you 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 earning s information is incorrect, you or one of your family members, should contact SSA to correct the mistake. You can also get your statement by calling or writing SSA or submitting a request on line.

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 at least 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 and should contact SSA for more information. The earliest you can be paid RIB is at age 62, but this is considered early retirement and your monthly benefits will be permanently reduced. Full benefits are not paid until you reach normal retirement age. If you were born in 1937 or earlier, 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: www.ssa.gov/benefits/retirement/estimator.html

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 a current spouse if the marriage lasted for 10 or more years. The benefits paid to your family members will be reduced if you retire early.

Can my spouse get 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 get 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 before age 22.

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

Yes. Before 1999, retirement benefits were reduced by any money a person 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 $17,040 a year ($1,420/month) for earnings in 2018.

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 2018 limit on earnings for the months before full retirement is $45,360.

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 under regular social security 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 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 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 receive 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. For 2018, if the individual has only monthly earnings income of $1,180 or more per month (up to $1,585), then the person may not be eligible for SSI disability unless s/he is blind. Unearned income exclusions are the first $20 per month and the first $60 of infrequent or irregularly received income in a quarter. After that, your benefits may be reduced. You must report earned income, failure to do so can result in large penalties.

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

Many of your resources are not counted by SSA. For 2018, these include your home, one car, most of your personal belongings, a separate burial fund valued up to $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.

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. Some 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. Benefits include the following:

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

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 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. If active duty occurred after September 7, 1980, you must have served at least 24 months or the full period that were called up. 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. Education assistance is available to the children of certain veterans.

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

The Oregon Veterans' Homes are located in The Dalles and Lebanon. They provide 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 and parents who had a child die while serving in the U.S. Armed Forces may also be eligible to live at the Oregon Veterans' homes.

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, about VA funded nursing homes call the Oregon Veterans' Home in The Dalles at (541) 296-7190 or the Oregon Veterans' Home in Lebanon at (541) 497-7265. Visit their web site at www.oregonveteranshomes.com.

The VA will pay for some skilled nursing care in private facilities for veterans who meet very specific criteria (e.g. former prisoners of war). Contact the VA to find out if you qualify.

What do I do if I lost my DD214 or don't have military ID to show I am a veteran?

If you are not sure what benefits you may be eligible for, or if you have lost your records you can get help getting new ones. Your local VA or veterans services office should have information. You can call 800-692-0666 or look online at: https://www.oregon.gov/odva/Pages/default.aspx

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (aka: SNAP, the Oregon Trail Card, or food stamps)

What is SNAP?

SNAP is the federal food assistance program that was known as food stamps. It helps low-income households maintain proper nutrition by giving them a way 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 bankcards. 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 people who are 65 or older, or who receive SSI.

How do EBT (Oregon Trail) Cards work?

You will receive an Oregon Trail Card if you get SNAP benefits. When you buy groceries at major supermarkets (e.g., Fred Meyer, Safeway), the check stand computer will automatically separate your food items form your non-food items. Some smaller markets may have to separate food items from non-food items by hand. You will use your EBT/Oregon Trail card like a credit card 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. Your receipt should show your available balance after each purchase.

How much will I get in SNAP?

SNAP benefits are 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 reduce the income that will be counted for SNAP (and increase your SNAP benefits). You can estimate what your payments will probably be by going online at the DHS website: Aix-xweb1p.state.or.us/caf_xweb/SNAP_Estimate/frmEstimate.cfm.

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. More information about SNAP benefits is available on the internet: see www.oregonlawhelp.org.

What if I am married?

If you are married but living separately you can still apply for SNAP benefits. If you are living with someone, who is not your spouse, and are not sharing meals you can apply separately. If you are living with someone and share food or are married to that person legally then you will have to jointly apply.

Can I use my SNAP/Oregon Trail card at my local farmers market?

Sometimes, and sometimes they will double between $5-10 of your benefits so your dollars will go further at the local market.

Ask at your local Growers Market. If they are part of the program all you have to do is go to the main market booth with credit on your Oregon Trail Card and present it to them. They will tell you what the extra benefit is at that time and give you vouchers that you spend like cash at the local venders.

LOW COST PHONE DATA SERVICE AND FREE PHONES

If I am low income can I get help paying for my phone bill/data service?

Probably. Oregon has the Oregon Telephone Assistance Program (OTAP). This reduces the cost of service to low income services for people who receive SNAP, Medicaid, SSI, Federal Public Housing Assistance, VA or Survivors Pension Benefit or if your total household income is at or below 135% of the federal poverty guideline. For more information contact the PUC at 1-800-848-4442 Monday through Friday, 9 a.m. – 4 p.m.

If I have a disability that impacts my ability to use a normal phone is there any help?

Yes. The Oregon Telecommunication Devices Access Program (TDAP) provides specialized phones and communications to people who have a disability impacting: hearing, vision, speech, mobility, and cognition. A person must have a disability that can be assisted with the available technology and be an Oregon resident age 4 and up. For more information contact the PUC at 1-800-848-4442 Monday through Friday, 9 a.m. – 4 p.m.

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:

1) Original Medicare. Available nationwide.
Part A covers hospital, skilled nursing facility, and some home health care service. Part B is optional and covers physician, hospital outpatient care, and medical equipment.

2) Medicare Advantage. Is a managed care program known as Part C. (Now known as Medicare Advantage).

3) Medicare Part D covers some prescription drug costs. Depending on where you live, you may have a choice between Original Medicare and Medicare Advantage Care. It is important for you to understand that Medicare does not cover everything and does not pay the total cost for most covered services or supplies.

Who is eligible for Medicare in 2018?

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 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 deductibles 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 website at 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 premiums are $134 per month. People with higher incomes (more than $85,000/year for a single person or $170,000 for a couple in 2018) 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 website at 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?

Your enrolment period is called the Initial Enrollment Period (IEP) and is very important. You should enroll for Medicare benefits three months before your 65th 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 miss the IEP, you can enroll during the General Enrollment Period, which is currently January 1-

March 31st. However, if you receive Social Security Disability Insurance (NOT Supplemental Security Income) then the IEP starts 24 months before your 65th birthday, you should get a "welcome to Medicare" packet automatically. You need to ask your worker if you do not.

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

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 significantly 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 very rare cases. This lifetime penalty means that you pay the extra money every year except in very rare 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 the enrollment and penalty 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?

The enrollment age for Medicare has not changed 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.

What services are covered under the Original Medicare Plan?

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

Medicare Part B: Helps cover doctors' services, outpatient hospital care, and some other medical services that Part A does not cover. This includes: some of the services of physical and occupational therapists; durable medical equipment (e.g., oxygen equipment, wheelchairs, breast prostheses after 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 <u>not</u> 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 copayments 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; most health care while traveling outside of the United States; orthopedic shoes and routine foot care; routine eye care and most eyeglasses; routine or yearly physical exams; most screening tests; and most vaccinations. Some exceptions are covered below in Assistance for Low-Income Medicare Beneficiaries."

What is Medicare Advantage, aka Part C?

Medicare Part C aka Medicare Advantage is another way to get your Medicare benefits. 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 what is covered under Medicare Part A and Part B. However, your costs may be different, and you may have extra benefits, like better 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. 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 standalone prescription drug plan (PDP) or a Medicare Advantage Plan with Prescription Drug Coverage (MA_PD). (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. There are a lot of plans, 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, coverage gaps, maximum out of pocket costs to you, convenience, and quality.

Where do I get free help?

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 (800) 722-4134. You can also consult the Medicare Plan Finder that will provide you with a list of Medicare health plan choices at www.medicare.gov/find-a-plan/questions/home.aspx.

What are the payment policies for Medicare?

The Original Medicare Part A 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 people.

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 you 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 (800) 633-3227 or SHIBA at (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 people 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 form 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. These programs are no longer subject to estate recovery by the state. The programs in Oregon are called:

1) Qualified Medicare Beneficiary-Basic (QMB-BAS);
2) Qualified Medicare Beneficiary-Disabled Worker (QMB-DW);
3) Qualified Medicare Beneficiary-Special Medicare Beneficiary (QMB-SMB)
4) Qualified Medicare Beneficiary- Supplemental Medicare Full (QMB-SMF).

1) Qualified Medicare Beneficiary Basic (QMB-BAS)

Who is eligible as of 2018?

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

- Be eligible for and receiving or conditionally enrolled in Medicare Hospital Insurance (Part A); and
- Have an annual income which does **not** exceed the Federal Poverty Level (FPL) (In 2018, $1,012 per month for an individual and $1,372 per month for a couple).*

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

What are the benefits?

For people who qualify as QMB-BASIC, the state will pay Medicare part A and B premiums, deductibles, and co-insurance for Medicare covered services. Providers are not allowed to charge participants additional amounts for covered services.

2) Qualified Medicare Beneficiary Disabled Worker Program (QMB-DW)

Who is eligible as of 2018?

Oregon does not have this program, and will not as long as it has the OSIPM-EPD program. However, to qualify as a QMB-DW, an individual must:

- Be eligible for Medicare Hospital Insurance (Part A) as a qualified disabled worker. This includes people under age 65 who have become ineligible for Social Security disability benefits because they are currently substantially gainfully employed, but can contribute to receive Part A of Medicare by paying a premium;
- Have an annual income which does not exceed 200 percent of the FPL (In 2018, $2,024 per month for an individual, and $2,774 per month for a couple). For help with eligibility questions, contact the Oregon Administrative Rules (OAR) at (461)155-0291.

What is the benefit?

Payment of Medicare Part A premiums.

3) Qualified Medicare Beneficiary – Special Medicare Beneficiary (QMB-SMB)

Who is eligible as of 2018?

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

- Be receiving Medicare Hospital Insurance (Part A); and
- Have an annual income which does not exceed 120 percent of the FPL (In 2018, $1,214 per month for an individual and $1,646 per month for a couple); For help with eligibility

questions contact the OAR at (461)155-0295; and
- Not otherwise eligible for Medicaid.

What is the benefit?

For people who qualify as QMB-SMB, the state pays only 60% of the Part B monthly premium.

4) Qualified Medicare Beneficiary Supplemental Medicare Full (QMB-SMF)

Who is eligible in 2018?

To qualify as a (QMB-SMF), an individual must:
- Be entitled to Medicare Hospital Insurance (Part A); and
- Have an annual income between 120 percent and 135 percent of the FPL (in 2018, $1,366 per month for an individual and $1,858 per month for a couple).

People who live 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 people who qualify as a QMB-SMF, the state pays 100% of the Part B monthly premium.

Where can I find out more information about these programs?

For more information on these programs, contact your local Oregon Department of Human Resources office, or SHIBA.

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 people.

What do I do if I think my provider has overcharged me or charged me for things I shouldn't have to pay for?

A provider is not allowed to request that you waive your rights as a QMB recipient. Part of their agreement with the state is that they will accept the preset payment amount as full payment. If they try to charge you more or send a covered bill to collections call 1-800-MEDICARE to file a complaint or check with your Medicare Advantage Plan to find out what their complaint process is.

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 a service you think you should get. You can appeal whether you are in the Original Medicare Plan, a Medicare Advantage managed care plan, or a Medicare Prescription Drug 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. If you are getting Medicare services from a hospital, skilled nursing facility, home health agency, comprehensive outpatient rehabilitation facility, or hospice and think your services are ending too soon, you may have the right to a fast appeal. You should receive a written notice that tells you how to ask for a fast appeal. If you are not given this notice, ask for it.

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 SHIBA or an elder law attorney to help with your specific needs.

Summary of Original Medicare Appeals

Review your Medicare Summary Notice and within 120 days you must file an appeal.

1. Redetermination by the company that handles claims for Medicare (180 days to appeal).
2. Reconsideration by a Qualified Independent Contractor (60 days to appeal).
3. Hearing before an Administrative Law Judge (60 days to appeal.)
4. Review by Medicare Appeal Council (60 days to appeal.)
5. Judicial Review by Federal Court.

1. Appeals of Original Medicare

Step #1: Redetermination

If you are enrolled in Medicare, your appeal rights are on the back of the Explanation of Medicare Benefits or Medicare Summary Notice (MSN) that is mailed to you when service or equipment is approved or denied. Read your MSN carefully for information about your appeal rights. Within 120 days of receiving your MSN, you must file your appeal. You can file an appeal by either:

(1) completing a "Medicare Redetermination Request Form" available at www.medicare.gov;

(2) following the instructions on the back of your MSN; or

(3) sending a written request to the company that handles claims for Medicare. Generally, you will get a decision form Medicare Administrative Contractor within 60 days after they receive your request. The decision you receive is called a Medicare Redetermination Notice. You have 180 to appeal the Redetermination Notice.

Step #2: Reconsideration

Once you have received a Redetermination Notice, you can file a request for reconsideration by either:

(1) completing a "Medicare Reconsideration Request Form" available at www.medicare.gov; or

(2) submitting a written request to the Qualified Independent Contractor (QIC) listed on your Redetermination Notice. When you ask for reconsideration, explain why you disagree with the Medicare Redetermination Notice. The QIC will issue a Reconsideration Notice. If you disagree with what the QIC decides, you have 60 days to request a hearing by an Administrative Law Judge. If the QIC does not issue a decision within about 60 days, you may ask the QIC to move the case to the next step in the appeals process.

Step #3: Administrative Law Judge Hearing

An Administrative Law Judge (ALJ) will review the facts of your appeal independently, listen to testimony, and then make a new, impartial decision. The hearing is usually by phone or video. To get an ALJ hearing, your case must meet the minimum dollar amount required. In 2018, the minimum is $160. To get a hearing, either:

(1) Follow the directions in the Medicare Reconsideration Notice from the QIC and send the request to the Office of Medicare Reconsideration Notice from the QIC and send the request to the Office of Medicare Hearing and Appeals listed in the Reconsideration Notice;

(2) Complete a "Request for Administrative Law Judge (ALJ) Hearing or Review of Dismissal" form available at www.medicare.gov; or

(3) submit a written request to the Office of Medicare Hearings and Appeals that will handle you ALJ hearing. If you disagree with the ALJ's decision you have 60 days to request a review by the Medicare Appeals Council.

Step #4: Medicare Appeals Council

To appeal the ALJ decision, file a request for Appeals Council review by either (1) completing a "Request for Review of an Administrative Law Judge (ALJ) Medicare Decision/Dismissal" form available at www.medicare.gov, or (2) submitting a request to the Appeals Council. For information about the Appeals Council Review Process, call (800) MEDICARE. You should get an Appeals Council decision within 90 days. If you do not get a decision after 90 days, consider asking the Appeals Council to move your case to the next step in the appeals process. If you disagree with the Appeals Council decision, you have 60 days to appeal it to the Federal District Court for judicial review.

Step #5: Federal District Court

To get judicial review of your case, you must claim the minimum dollar amount. In 2018, $1,600. Follow the directions in the Medicare Appeals Council's decision letter to file for judicial review. A doctor or prescriber can request this level appeal on your behalf, but you need to submit an "Appointment of Representative" form, available at www.medicare.gov.

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. Within 2 days of your admission and prior to your discharge, you should get a notice called "An Important Message from Medicare about Your Rights." 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, contact (as of the publication of this booklet) Livanta LLC toll free at (877) 588-1123. Livanta contracts with the federal government to conduct these reviews, advise you about your rights under Medicare, and conduct reviews for Medicare recipients who feel they are not receiving proper care. Livanta 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 will 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 form 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. Appeals of Medicare Advantage Plan

If you belong to a Medicare Advantage Plan before the appeals process, you have the right to request that your plan provide or pay for items of services you think should be covered, provided, or continued. This request is an organization determination. The plan usually issues a decision within 14 days. If you think your health could be seriously harmed by waiting, ask your plan for a fast decision. The plan must give you a decision within 72 hours. If you disagree with the initial decision you have 60 days to appeal it.

Step #1: Reconsideration from your plan

To get a reconsideration, you, your representative, or your doctor must file a written standard or expedited request for reconsideration. If your plan decides fully or partially against you, your appeal is automatically sent to level 2. Your plan will give you a notice that gives you the reasons for any full or partial denial and that the plan is sending your case to the next level of appeal.

Step #2: Review by an independent review entity

An independent review entity (IRE) will review your plan's reconsideration. To provide an IRE information about your case, send the information to them using IRE's address on the notice. The IRE must receive the information within 10 days of your plan giving you notice that your case has been sent to an IRE. Depending on the type of request, you should receive a written Reconsideration Determination in either 72 hours for expedited requests, 30 days for standard requests, or 60 days for payment request. If you disagree with the IRE's Reconsideration Determination, you have 60 days from the date of the determination to appeal.

Step #3: Administrative Law Judge Hearing

An Administrative Law Judge (ALJ) will review the facts of your appeal independently, listen to testimony, and then make a new, impartial decision. The hearing is usually by phone or video. To get an ALJ hearing, your case must meet the minimum dollar amount required. In 2018, the minimum is $160. To get a hearing, either:

(1) follow the directions in the Medicare Reconsideration Notice from the QIC and send the request to the Office of Medicare Reconsideration Notice from the QIC and send

the request to the Office of Medicare Hearing and Appeals listed in the Reconsideration Notice;

(2) complete a "Request for Administrative Law Judge (ALJ) Hearing or Review of Dismissal" form available at www.medicare.gov; or

(3) submit a written request to the Office of Medicare Hearings and Appeals that will handle you ALJ hearing. If you disagree with the ALJ's decision you have 60 days to request a review by the Medicare Appeals Council.

Step #4: Medicare Appeals Council

To appeal the ALJ decision, file a request for Appeals Council review by either:

(1) filling out a "Request for Review of an Administrative Law Judge (ALJ) Medicare Decision/Dismissal" form available at www.medicare.gov; or

(2) submit a request to the Appeals Council. For information about the Appeals Council Review Process, call 1-800-MEDICARE. You should get an Appeals Council decision within 90 days. If you don't get a decision after 90 days, consider asking the Appeals Council to move your case to the next step in the appeals process. If you disagree with the Appeals Council decision, you have 60 days to appeal it to the Federal District Court for judicial review.

Step #5: Federal District Court

To get judicial review of your case, you must claim the minimum dollar amount. In 2018, the minimum dollar amount is $1,600. Follow the directions in the Medicare Appeals Council's decision letter to file for judicial review. A doctor or prescriber can request this level appeal on your behalf, but you need to submit an "Appointment of Representative" form available at www.medicare.gov.

4. Appeals of Medicare Prescription Plans

Your plan will send you information explaining your rights under the plan. This information is called "Evidence of Coverage." You have the right to ask your plan to provide or pay for any drug you think should be covered, provided, or continued. If your plan won't cover a drug you think you need take the following steps:

(1) talk to your prescriber;

(2) get a written explanation from your Medicare drug plan; and

(3) ask for an exception.

If your pharmacy cannot fill a prescription, they will show you a notice that explains how to contact your Medicare drug plan. To ask your plan for a coverage determination or exception, you can complete a "Model Coverage Determination Request" form at www.medicare.gov. If your plan denies your request or exception to the plan, use the appeals process described directly above this section "Appeals of Medicare Health Plan."

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. Depending on the level of appeal, you will need to submit an "Appointment of Representative" form, available at www.medicare.gov.

MEDICARE PRESCRIPTION DRUG COVERAGE

What is Medicare Part D prescription drug coverage?

Medicare Part D offers Medicare consumers prescription drug insurance through private insurance companies whose programs have been approved by Medicare. You can choose Part D coverage through a stand-alone Medicare Prescription Drug Plan 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. 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. People 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, the VA, TRICARE, 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 Notice of Creditable Coverage telling you whether your drug coverage is creditable. 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 prescription drug coverage that is as good as, or better than, Part D coverage. You need to check each year whether you other coverage is still considered to be creditable coverage. While you should receive a letter each September, you may not and it is important to check with your insurance program.

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

The Part D plans can have significant out-of-pocket costs for some people. These costs include premiums, deductibles, and co-pays depending on the plan you choose. Medicare beneficiaries whose income and assets meet certain criteria may be eligible for financial help with these costs. The low-income subsidy (LIS) comes from the Federal Government and is called "Extra Help." It may pay for costs of prescription drug coverage worth about $4,000 per year.

Who is eligible for the Extra Help Prescription Drug subsidy?

People who either have full Medicaid coverage, get help from the Oregon Medicaid program, or get Supplemental Security Income (SSI) benefits automatically qualify. In 2018, people who have Medicare Part A or Medicare Part B; and live in the U.S., and have yearly income of $18,210 ($24,690 for married couples) and $14,100 ($28,150 for married couples) of countable resources (savings, investments, and real estate) may qualify for the subsidy. If you think you qualify you should apply. If you qualify, your 2018 co-pays will be capped at $3.35 for generic drugs and $8.35 for name brand drugs.

How do I apply for Low-Income Subsidy (LIS) or "Extra Help" and do I have to apply each year?

You need to apply to Extra Help through the Social Security Administration (SSA) at www.ssa.gov/benefits/medicare/prescriptionhelp, or by calling (800) 772-1213 (TTY 1-877-486-2048). Changes in your income or countable resources may cause you no longer to qualify for Extra Help. However, if you don't receive a notice from Medicare, you'll get the same level of Extra Help that you received in the current year. If you no longer qualify for Extra Help for the coming year, you will receive a Medicare "Loss of Deemed Status Notice" by the end of September. However, even if you receive this notice, don't give up as you may still qualify, but you will have to reapply through the SSA. If your copays change for the coming year, you'll receive a Medicare "Change Extra Help Notice" in the mail in October.

What can I do if I am denied eligibility for Extra Help?

If you disagree with the denial of eligibility, complete an "Appeal of Determination for Extra Help with Medicare Prescription Drug Plan Costs" form found at www.ssa.gov or call the SSA at (800) 772-1213. You have 60 days from the date you receive the decision to request an appeal.

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

No. People 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 to pay for their medications.

How do I enroll in a prescription drug plan?

You must choose and enroll in either a Medicare Prescription Drug Plan (Part D) or a Medicare Advantage Plan (Part C) 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?

Part D's enrollment rules are generally 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 substantial penalty. Unless you are someone who is 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 65th birthday (3 months before, the month of, and three months after your birthday). There are other IEPs and you can ask a SHIBA volunteer if you qualify for one.

What happens if I don't enroll during my Initial Enrollment Period (IEP)?

A late penalty will be imposed on people who don't enroll in a drug plan during their IEP when they are first eligible, unless the person doesn't go 63 days or more in a row without coverage comparable to the Medicare Part D prescription drug benefit. Employers who provide comparable coverage, VA, and TRICARE benefits are considered to be comparable coverage. Medicare recipients who don't enroll during the IEP, will be subject to a late enrollment penalty of 1% of the national base beneficiary premium ($35.02 in 2018) for every full month they could have been, but were not enrolled.

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

Most people can only change plans once a year during the open enrollment period. The Open Enrollment Period runs from October 15 to December 7 with coverage starting January 1. This is also the period for enrolling into or changing a Medicare Advantage plan.

During the Medicare Advantage Disenrollment Period from January 1 to February 14, you can leave the Medicare Advantage Plan, and switch to Original Medicare. You have until February 14 to join a Medicare PDP and you cannot change your PDP or Medicare Advantage plan during this period.

When certain life events happen, you may qualify to make changes to your Medicare Advantage and Medicare prescription drug coverage during the Special Enrollment Period. www.medicare.gov gives you a list of qualifying life events.

Will all my drugs be covered?

Specific drug coverage rules vary per Medicare drug plan. Coverage rules may include prior authorization, quantity limits, and trying certain drugs in a specific order. Except for vaccines covered under Medicare Part B, all medically necessary and commercially available vaccines are covered under Medicare drug plans. For specific coverage rules, contact your Medicare drug plan.

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 drug, you or your doctor can contact

your plan to ask for an exception. If the plan refuses to give you an exception, you can appeal. There are very strict time limits for the plan to make a decision and for you to 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 aren't contained in your plan's formulary.

Can a plan stop covering me?

Certain special circumstances permit prescription drug plans to stop coverage. If you lose coverage, you may qualify to change your Medicare Advantage and Medicare prescription drug coverage during the Special Enrollment Period.

What is the coverage gap known as the donut hole?

The donut hole is a coverage gap that acts as a temporary limit on what a drug plan will cover for drugs. In 2018, once you and your plan have spent $3,750 on covered drugs then you're in the coverage gap and you'll pay no more than 35% of the plan's costs for covered brand-name prescription drugs. People who obtain Extra Help paying Part D costs won't enter the coverage gap. The discounts will be applied at the pharmacy. Payments toward your yearly deductible, coinsurance, copayments, and discounts on brand-name drugs will count towards the coverage gap. However, drug plan premiums, pharmacy dispensing fees and payment for drugs that aren't covered don't count towards the coverage gap.

MEDICAID/OREGON HEALTH PLAN

What do I need to know about Medicaid, the Modified Adjusted Gross Income (MAGI) Medicaid, the Oregon Health Plan, and the Oregon Supplemental Income Program (OSIP)?

The Oregon Health Plan is another name for Medicaid. Itis a joint federal and state health care benefit program for low-income people and is not the same as Medicare. The program varies from state to state. Under the Affordable Care Act (ACA also known as Obamacare), Medicaid benefits were greatly expanded. These changes to the program are often called "MAGI Medicaid." Under MAGI Medicaid, adults under 65 years old with income up to 133% of the FPL may qualify. Before MAGI, it was very difficult for childless adults without disabilities to qualify for Medicaid in Oregon. Oregon determines financial eligibility for MAGI Medicaid based on your modified adjusted gross income. The formula does not count certain income including, Veterans' benefits, child support, scholarships, grants, and awards used for education purposes. MAGI Medicaid allows some income deductions not allowed under traditional Medicaid, including, alimony paid and pre-tax contributions for expenses such as child care or retirement. For more information, contact the Oregon Health Authority at www.oregon.gov/oha or call (800) 375-2863. In addition to the new ACA based Medicaid, Oregon offers cash and medical benefits to low income and disabled residents, called the Oregon Supplemental Income Program (OSIP). Unlike MAGI, the OSIP has stricter income and asset eligibility guidelines. For more information, contact the Oregon Department of Human Services at www.oregon.gov/dhs or call (503) 945-5600.

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

Medicaid eligibility for people 65 and older is determined using the same guidelines as Federal SSI. Some people who are eligible for both Medicaid and Medicare are called "dual eligible."

What does Medicaid cover?

Each state establishes and administers their own Medicaid program, and states determine the type, amount, duration, and scope of services. Federal law requires states to provide "mandatory" benefits and allows states the choice of covering other "optional" benefits. 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 services if the

underlying health condition is covered. Oregon limits coverage to specific health conditions based on coverage to specific health conditions based on a prioritized list of illnesses and health conditions. The list emphasizes prevention and patient education. Treatments that help prevent illnesses are ranked higher than services that treat illnesses after it occurs. For the 2018 Prioritized List, visit www.oregon.gov/oha/HPA/CSI-HERC/Pages/Prioritized-List.

Sometimes a non-covered health service is covered if it adversely affects a covered health condition. If you are in Medicaid managed care you can appeal a denial of coverage by filing a grievance with the managed care company or by filing a request for a hearing. Each state covers different services so it is important to check coverage before you move. The health care services provided under Oregon Health Plan Plus include inpatient and outpatient medical services, prescription drugs, medical transportation, vision (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.

Are there differences in the coverage between traditional and MAGI Medicaid?

There are very small differences in the types of services covered between traditional and MAGI Medicaid.

How much does Medicaid cost?

There are no monthly premiums associated with Medicaid. Some services will require a small co-pay of $3 for certain outpatient services, and $1 or $3 for certain prescription drugs.

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

If you don't have health coverage already, you can find out about different plans and purchase coverage through www.oregonhealthcare.gov or you can call (855) 268-3767.

I am on Medicare. Do I need to use the health insurance marketplace?

No. If you receive Medicare, you are not considered uninsured. The health insurance marketplace is for uninsured people.

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. The rule does not apply to people who are receiving SSDI, SSI, or Medicare. Refer to www.healthcare.gov for a list of documents you can submit to satisfy the citizenship requirement.

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

As of January 1, 2018, the Oregon Health Plan now covers children, regardless of immigration status. However, for adults, immigration status is a factor in determining eligibility for the Oregon Health Plan.

LONG TERM CARE SERVICES

Can Medicaid help me with long term care?

Sometimes. Long term care includes medical and personal services for people with a chronic illness or disability. These services may be provided at home, in community care facilities, or by nursing homes. It is expensive and many people depend on Medicaid. Not all facilities accept Medicaid payments and you need to ask if the facility accepts Medicaid before you move into it. Once you begin receiving Medicaid, you will have to meet additional functional requirements to qualify for long term care services.

Who qualifies for Medicaid Long Term Care Services?

You must meet the functional and financial requirements to be eligible for Medicaid long term care services. Oregon determines eligibility for long term care based on how well a person can perform the normal activities daily living (ADLs). These are activities that are essential for health

and safety (for example: bathing, walking, thinking).

How much income can I have and still qualify for help with my long term care expenses as of 2018?

In general, you can have income up to 300% of the SSI federal benefit rate. However, there are exceptions and people who live in a long term care or assisted living facility may have different limits and rules. The SSI benefit rate in 2018 was $750 per month. This means that as of 2018 you can receive $2,250 a month and be eligible for Medicaid long term care. IF your income is more than that, you will need to have an income cap trust. These are not easy to do by yourself and should be done by a licensed lawyer. You should contact an attorney before you spend all your savings on long term care for advice on estate planning.

How much property (assets) can I have and still qualify as of 2018?

You can only have $2,000 in countable resources, but some property doesn't count. The property you can have without counting changes and this is a complicated area. You should consult a lawyer or Senior Services to find out what will, or will not be counted. The value of your home is excluded (up to a monetary limit) while you or a qualified family member are living there or sometimes if you are planning to return to live there in the future. Your assets can also be divided between you and your spouse (if you have one) and they can keep a significant amount of cash and other non-exempt assets separate from yours. It is important to plan ahead so that if a couple has assets, say a $100,000 retirement savings those are not spent but remain for the care of the other spouse.

If you are over the limit for each spouse you will usually have to spend down all countable resources to the $2,000 limit. However, if you sell or give away countable resources for less than they are worth, you may be ineligible for SSI and other benefits for years. This means you cannot give countable assets to your children without penalty. However, this is a very complex area of law and changes often so you really need to get advice from a lawyer.

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

In general, NO, you cannot give your property away within the five years before applying for Medicaid. This rule applies even if you transfer your property in good faith or if you are healthy when you do it. As explained below you may be disqualified for payments if you transfer assets. 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?

Some, but it is tricky. You may be able to transfer assets to (or for the sole benefit of) your spouse or a blind or disabled child (either a minor or an adult). You may 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 at least a year before you filed your application. Sometimes, you home can be transferred to a son or daughter who has lived with you and provided "free" care for you at least two years.

What if I have a life insurance policy?

If you have a current life insurance policy, you should not let it lapse without considering your options. Many life insurance policies have an extra (often unknown) benefit called "accelerated death benefit." This can provide you with income to pay for expenses such as long-term care or in-home care in some circumstances. Terminally ill people will have more options here. You should also find out if you can sell your policy, but this can be tricky so watch out for fraud. In some cases, you can convert or transfer the sum value of your life insurance (or sometimes a long-term care insurance policy) to a fund that will pay for long-term care and other needs. These options vary and you should get advice about them before you stop paying for your life insurance.

How long will the penalty period last?

It varies depending on the value of the asset transferred, but can be years. 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 changes. The resulting time period is the length of time you will be ineligible for Medicaid. The penalty period begins the day you would otherwise be eligible for Medicaid., This means the penalty period won't start until you need long term care and can't afford to pay for it. The penalty period look back income cases may be more than 5 years. Consult an attorney to advise you before making any transfers or if you made a particularly large transfer at some point, since the penalty is now very harsh.

Can I give my spouse some of my income or assets for his or her living expenses?

Medicaid has special rules that allow someone who receives Medicaid long term care services (called the institutionalized spouse) to pay an allowance to their spouse (the community spouse). 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 $2,057 a month (2018) 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 $3,090 a month (2018). These amounts change yearly. Sometimes a higher amount is approved in extraordinary circumstances.

How many of our assets can my spouse keep?

The amount that Medicaid allows your spouse to keep is known at the community spouse resource allowance (CSRA). All of your countable resources are "valued" on the date you began receiving care. In 2018, Medicaid allows your spouse to keep half of your combined countable resources, up to a maximum of $123,600 or a minimum of $24,720. The CSRA can be increased if it will generate income that allows your spouse to have enough income to equal the 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 promptly 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.

MEDICARE/MEDICAID FRAUD

Medicare and Medicaid fraud is common and costs the taxpayers millions every year. In some cases, reporting can earn you up to $1,000. If you suspect fraud call 1-800-MEDICARE or SHIBA. You should be suspicious of doctors, health care providers, or suppliers who ask for your Medicare Number:

- In exchange for free equipment or services;
- For "record keeping purposes;"
- Tell you that tests are cheaper as more of them are provided;
- Advertise "free" consultations to people with Medicare;
- Call or visit you and say they represent Medicare or the federal government;
- Use telephone or door-to-door sales;
- Use pressure or scare tactics to sell you medical services or diagnostic tests;
- Bill Medicare for services you never received or a diagnosis you do not have;
- Offer non-medical transportation, or housekeeping services and tell you that it is a Medicare-approved service (which it is not);

- Bill home health services for patients who are not confined to their home, or for patients who still drive a car;
- Bill Medicare for medical equipment for people in nursing homes;
- Bill Medicare for test received as a hospital inpatient or within 72 hours of admission or discharge; or
- Bill Medicare for a power wheelchair or scooter when you don't meet Medicare's qualifications.

OTHER PRESCRIPTION DRUG PROGRAMS

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

You may be eligible for the Medicare Part D prescription drug benefit, discussed above.

What is the Oregon Prescription Drug Program (OPDP)?

OPDP allows members to purchase prescription drugs from participating pharmacies at discounted rates. It covers all uninsured or underinsured Oregon residents. However, you need to file an application. You can get the application either by phone at 1-800-913-4146, or online at www.opdp.org.

If I am enrolled in Medicare Part D drug coverage, may I still use my OPDP drug 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. If you are receiving low-income assistance with your Medicare Part D coverage you may not have such a coverage gap or deductible costs.

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 website listing these programs can be found at www.needymeds.com/pap. Generally, 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.

OREGON PROJECT INDEPENDENCE (OPI)

What is Oregon Project Independence?

Oregon Project Independence (OPI) is a program that helps people 60 or older live independently in their own homes when they can no longer take care of their daily needs without assistance. Services offered include: Personal care, home care, transportation, respite for caregivers, case management, home delivered meals, and emergency response devices.

Who qualifies for this program?

OPI serves low-income Oregonians aged 60 or older (or people of any age suffering from Alzheimer's 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. People receiving OPI must live in a private residence.

How much do OPI services cost?

Your costs for OPI services are based on your household adjusted net income. Clients pay a percentage of the cost associated with the in-home services.

How do I apply for OPI?

Contact your local Oregon Department of Human Services Office at (503) 945-5600 or visit the website at www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/Pages/OPI.aspx.

FINANCES AND ESTATE PLANNING

DIRECT DEPOSIT

What is direct deposit?

Direct deposit is a way to have payments sent directly into your bank or credit union account. You can have your Social Security, Supplemental Security Income (SSI), Veterans Administration, and most other pension and employment payments sent directly to your account at no extra charge to you. Federal law requires, with some exceptions, that federal payments be by direct deposit or on a special electronic benefit card issued by the Social Security Administration. Having your payment direct deposited to your account keeps checks out of your mailbox, which helps prevent theft. It also may 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 a check being lost or stolen. Your monthly statement will show the amount of the direct deposit. You can change your direct deposit to a different account if needed. Direct deposits 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 direct deposited to my account?

To set up direct deposit, contact the source of the payment and ask what information is needed or if a form is required to be completed. For example; contact the Social Security Administration, or your retirement fund, and ask that your payment be direct deposited to your account. You will need to provide the agency or employer with your account and routing number. You may need to contact your bank or credit union, to ensure you have the correct account and routing numbers.

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 owns all of the money and can use the entire 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, automatically. There are some very limited exceptions to this, but not many.

Is a joint account a good idea?

Sometimes, but it has real risks. 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 child on an account, and her they could then make deposits for and write checks on the account to pay bills. In most cases, the survivor gets the money in the account automatically when the other person on the account dies.

The main disadvantage to adding someone else to your bank account is that the other person has the same access to the money as you do. Your money may be at risk in two ways. First, if the person you add to your account is dishonest, s/he can take money out of the account without your knowledge or permission. Second, if the person added to your account has debts, creditors may be able to garnish, or collect against, the account. This means if they are, for example, in an accident and there is a judgment against them, or if they have a medical issue and can't pay the bills the money may come out of your account.

PENSION AND RETIREMENT PLANS

What are pension and retirement plans?

Retirement plans are annuities or work-related plans that provide income when employment ends. These include pension, disability, and retirement plans administered by an employer or union. There are also individual retirement accounts (IRA) and plans for self-employed people sometimes called Keogh plans.

When can I start taking money out of my retirement plans or accounts?

The rules on retirement plan or retirement account withdrawals are very complex. You should speak with your financial advisor or plan administrator about mandatory withdrawals. Different accounts may have different rules. Since laws governing retirement plans or accounts change from year to year, it is important to get reliable and current financial and tax advice regularly.

Can retirement funds affect my eligibility for public benefits?

Yes, retirement plans or accounts can affect eligibility for public assistance programs. If you have a retirement plan or account 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 monthly payments. In some instances, a lump sum withdrawal of retirement plan or account benefits within five years of applying for a public benefit program can result in a period of ineligibility for benefits. In addition, some public benefit programs consider retirement plans or accounts as unearned income or as a resource.

POWER OF ATTORNEY

What is a power of attorney?

A power of attorney (POA) gives another person, or legal entity, the legal authority to take care of some or all of your financial matters. A POA must be in writing and must be signed. It need not be witnessed, but is usually notarized. It must be notarized if you want to use the POA for real estate matters. Many banks have their own forms and require notarization. You can name almost anyone to act for you, but since it gives the person with a POA a great deal of authority, you should be careful. It is often best to use a form that you get from a local (not national) stationery store or a lawyer. Some banks and other institutions have their own forms of Powers of Attorney as well.

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

Your POA can take effect when you sign it, or at some time in the future, whichever you put in it. For example, if you want to use the POA only after you become seriously ill, you can have it take effect only after your doctor states you are unable to manage your own affairs. The authority you give continues in effect even after you become unable to manage your affairs, or change your POA. Your POA is automatically terminated and therefore ends at your death. You cannot use it as a substitute for a will. It ends earlier if you cancel or revoke 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 someone to be able to handle all of your financial matters you can give them general authority or if you want someone to pay your bills and handle your bank account, you can give them 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 POA. But you do name someone else who also has authority to act for you. Therefore, you both have the authority at the same time.

How can I cancel or revoke my power of attorney?

You can revoke or cancel a POA at any time. There is no specific required form to revoke a POA, but you need to provide notice of the revocation. A sample form is included at the end of this booklet. You can also write revoked or canceled in large letters across a copy of the POA. Regardless of how you revoke your POA you should send a written notice and copy of your revocation to the person you named to act for you, and send copies to others who have possession of the POA, such as your bank so they will know you cancelled it.

Are there power of attorney forms I can use?

There are pre-printed power of attorney forms at office supply stores and online. However, 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 guardianship?

A guardianship is a court proceeding where a court is asked to appoint someone called a guardian to make important decisions for a person called the proposed protected person. If the court decides that the protected person is unable to understand and make decisions about basic needs for food, shelter, and health care, and is likely to be seriously harmed unless the guardian is appointed, the court will appoint a guardian to make some of those decisions. For example, an adult child can ask the court to be appointed guardian of a parent if they think the parent is unable to make important decisions about health and safety and is likely to become seriously injured or ill. A court should 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 temporary guardianship?

A temporary guardian has the powers and responsibilities of a permanent guardian, but for a limited 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 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 person's 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 updated information about the protected person, their finances, 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 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 Oregon Long-term Care Ombudsman. The Ombudsman office can be reached at (800) 522-2602. The protected person can also call the Disability Rights Oregon at (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 visitor must not have a personal interest in the case being evaluated. The visitor meets in person with the proposed protected person, 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 proposed protected person, their family members, or any other interested person that the court allows may object to a guardianship. An objection may be made in writing or 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. 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 proposed protected person is called the respondent. They have 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 make a fair decision in the case. The respondent may be required to pay the costs for the lawyer and others appointed.

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 Advanced 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 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 where the court is asked to appoint 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, and 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 proposed protected person for whom the court is being asked to appoint a conservator, as well as others, such as the 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 payments on behalf of someone else and to act for the other person in dealing with the agency. They often do this for free, but some are paid at a minimal rate, set by the government. Social Security, Railroad Retirement, and Veterans Affairs programs all use representative payees. For example, Social Security could appoint an older person's child to act as a father's representative payee. The father's Social security payments would be made out payable to his child. His child would be legally required to use the payments for the father's benefit, not for their own benefit. The child would be required to account for the money received on the father's behalf. As representative payee, the child would also receive notices from Social Security about any changes in the father's benefits and would be responsible to notify Social Security about any changes in the father's situation which could affect his payments.

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 else. This can be a professional agency (who will charge you a little bit) or it can be someone you trust. Also 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 finances. Each government agency that uses representative payees has its own rules and procedures. You, 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 payments.

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 a 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 printed document, signed by you and correctly witnessed by two other people at the same time. Each witness should sign a special affidavit attesting to the will signing. Oregon does not recognize holographic or hand written wills like many states do. A will says what you want done with your estate upon your death. Your will can specify who gets your real estate, car, personal belongings, and money from non-survivorship accounts or assets. Your will can also name a custodian for assets being transferred to a minor and propose a guardian for your children if you have any who are not yet adults. You should always use percentages and never flat dollar amounts for your bequests under a will.

Can I write it up myself?

Probably not. Some states do accept a handwritten unwitnessed will, but not Oregon. While, there is no law prohibiting you from drafting your own will if you do it wrong then you will be dead and unable to fix it. Many things can be done yourself, but this should not be one of them.

Can a paralegal draft a will in Oregon?

Paralegals are not allowed to draft wills or give other forms of legal advice in Oregon as of 2018, unless they are under the direct supervision of a licensed lawyer. Oregon does not have a licensed paralegal program like many other states do. However, that may be changing and Oregon may in the future allow some paralegals to become independently licensed. It is important to make sure that if you use a paralegal they have insurance and an actual license from Oregon, and not just some out of state certification.

Do I need a will?

Not everyone needs to have a will. If you want to leave part of your estate to a charity, church, or non-family member you will probably need a proper will. If you do not have a will, then your estate will be handled through a process called "intestate succession." This means that your estate will automatically be distributed to your family according to the following system:

- If you are married and do not have children with someone other than your spouse, then your spouse will receive all of your property.
- If you are married and have children who are not also your spouse's children, then half of your property will go to your spouse and the other half will be divided equally among those children that you do not share with your spouse, regardless of how many there are. This means if you have one other child, and 5 with your spouse the one child will get ½ and your spouse will get ½.
- If you are not married, then your children, if you have any, 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 then your brothers and sisters receive your property, and so on out several more generations.
- If you have no family or extended family, and you do not have a will or trust then it may go to the state. However, they will try very hard to find your family first.

If this kind of automatic distribution of your estate 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. However, doing it this way has some serious risks. Please read the sections on property ownership and survivorship interest in this handbook for more information. Putting other people on your property may disqualify you from benefits and have other adverse consequences.

A lawyer can draft simple wills relatively inexpensively. Complex issues may cost more. Even a simple will using a form should be reviewed by an attorney to make sure it does not create more problems than it solves. Oregon does not have holographic wills like many other states do.

What is probate?

Many people in Oregon will not be required to do a full probate but will have an estate that qualifies for the small estate process, as descried below. For larger estates, probate is a process for distributing your estate, paying bills, and settling claims, which takes place after your death. Your estate is the property that doesn't pass automatically by survivorship on 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 if I don't have much property when I die?

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 (3 to 6 months), usually less expensive, and requires less paperwork than regular probate.

In 2018, to qualify for small estate probate, your real property (land or house) must have a fair market value less than $200,000 and your personal property (car, furniture, clothes, etc.) must have a fair market value less than $75,000. If either your real property or personal property is worth more than the amounts specified above, then you do not qualify for small estate probate and your property will be distributed through regular probate. As of 2018, there are no Oregon state-wide small estate probate forms available so check with your local court for forms. Refer to the Oregon Judicial Department website at www.courts.oregon.gov. Your local independent stationary store should also have Oregon specific forms.

What is survivorship Interest?

Another method for distributing your property, without using a will, is to create a survivorship interest in the property. For example, most married spouses 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, personal property, or bank accounts. There are risks involved in creating a survivorship interest. For example, giving a child a survivorship interest in your bank account give 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 credit union 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 trust property, the Trustee manages the trust assets, and the Beneficiary is the person who benefits from the trust in the form of payments.

There are generally two types of trusts: a testamentary trust and a living trust. First, a testamentary trust is created in your will and it takes effect only after your death. For example, you can create a trust for another person, providing that no money will be distributed to them as a beneficiary until after he or she graduates from college.

Second, the other kind of trust is a living trust. You can avoid probate if all of your property is placed and kept in a living trust. If later in life any of the property, say a new CD or bank account is not properly opened in the name of the trust that asset will still need to be probated. If people own real property out of state, or have a very large estate this may be useful. However, remember that probate in Oregon is easier than in many other states.

Under a trust, your property should be distributed according to the living trust. It can be hard for beneficiaries to get a copy of the trust to be sure that has really happened. A good living trust is complex and expensive for a lawyer to create, and you are advised to seek the assistance of an estate planning attorney (not a paralegal).

A living trust is maintained during your lifetime and you must keep all your assets in the name of the living trustor it will defeat the purpose and any assets that are accidentally left out of the trust will have to go through probate. For example, if you open a new bank account you have to provide the bank copies of your trust.

Do I need a trust?

Most people do not. If you own real property in another state, you may and should speak with a lawyer from that state. Otherwise, it depends on your finances and family needs. Full probate in Oregon is only for large states (see Small Estate Probate above). Even people who do not qualify for the small estate probate often will not need a trust because the Probate process is much simpler and efficient in Oregon than in other states. An estate planning attorney can help you decide what is right for you.

DEALING WITH DEATH

We all know we are going to die, but talking about it and dealing with the aftermath is difficult. Fortunately, there are more and more resources to help us plan a good death and to deal with the loss of our loved ones.

Where can I get information about Advanced Directives or Physicians Orders on Life Support?

The State of Oregon recognizes the importance of each person being able to direct how they should be cared for. However, most people will not be able to speak for themselves at some point in their life. Therefore, there are forms that are widely available. The Advanced Directive and Healthcare Representative Appointment forms are one way to do this. These forms give guidance to your representative and family about what you wish to happen when you are near death or can't otherwise speak for yourself. You can get the forms from your hospital, your medical provider or online at: https://healthcare.oregon.gov/shiba/topics/Pages/advance-directives.aspx

I know it is important to speak with my family about my wishes, but are there any resources to help me do that?

Yes, there are a number of resources that will help guide your conversation with your family. Some religious institutions have their own guides. Also, your local Hospice will have materials that may be of assistance. Some questions to think about are:

- Do you want any and all life sustaining treatments, or a more limited approach?
- Is there anyone in your family who has very different views from your own and might try to disrupt your choices?
- How much pain is acceptable to you?
- Do you want to die at home?
- Who, if anyone, do you want to be with you when you die?
- What most concerns you about the physical process of dying?
- What matters most to you in life?
- Who do you want to know what about your end of life care, now and then?

Are there any grief support groups in my area?

The answer, almost anywhere in Oregon is yes. However, sometimes they are hard to find. You may want to ask your medical provider or, if you have one, your religious leader or mental health provider. There are Hospice agencies or offices all over the State of Oregon, they usually have written materials as well as offering a variety of classes and support groups to help people with grief, death, and dying.

MANAGING HEALTH CARE CHOICES

ADVANCE DIRECTIVE

What is an Advance Directive for Health Care?

An Advance Directive for Health Care is a legal form where you to appoint your Health Care Representative. They can make decisions for you when you are no longer able to communicate or make your own decisions. Your Representative needs to be someone you trust absolutely, who knows your wishes about health care, and what you want at the end of your life. They must be willing to carry out your wishes. The Advance Directive also says what care you want or don't want, to receive depending on your circumstance. For example, you can state whether or not you want tube feeding or other life support measures to be used when you are close to death.

Who completes an Advance Directive?

You must complete and sign the Advance Directive form with two adult witnesses present. Although your health care provider does not complete the advance directive form, it is a good idea to consult with your provider. If you name a Health Care Representative, they must also sign the form. When the form is completed you should give copies to your health care provider, 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 name a Health Care Representative to act for you when you can't act for yourself, and you give directions on the medical decisions to be made. The form is not hard to complete, and you don't lose your right to make your own decisions while you are able.

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 Directive to Physicians and the Power of Attorney for Health Care forms. If you have completed these earlier forms, you should replace them 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. It is different from a Directive to Physician or living will.

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

The Advance Directive takes effect only when you can't make your own medical decisions. As long as you are able to make and communicate your own decisions, your Advance Directive does not take effect. If you do become unable to make your own decisions, then the Advance Directive takes effect. When the Advance Directive takes effect, your doctors and health care providers are legally required to follow it. However, some medical providers will not take actions if they are morally opposed to. In those cases, they must transfer your care to another provider. It is best to talk with your provider about these issues beforehand.

Where can I get an Advanced Directive?

You should be able to get them from most doctors, hospitals, assisted living facilities, and online from the Oregon Senior Health Insurance Benefits Assistance at: healthcare.oregon.gov/shiba/topics/Pages/advance-directives.aspx.

PHYSICIAN ORDERS FOR LIFE SUSTAINING TREATMENT (POLST) FORM

What is the POLST form?

A POLST is a document which your doctor completes and signs after learning your wishes about what end-of-life health care you want and don't want. It is not the same as an Advanced Directive and goes a step beyond your Directive by turning your wishes about life sustaining treatment into specific, written medical orders that can be understood and followed by other doctors, nurses, emergency personnel ("EMTs"), and health facilities, but only if they are given copies of the POLST form.

The orders in a 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. This is sometimes also called a do-not-resuscitate or "DNR" order. No matter what your POLST form says about your wishes concerning life-sustaining treatment, you should 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 easy to recognize. If you live at home, you should keep it somewhere obvious, such as on your refrigerator. If you live in a long-term care facility, your POLST form will be kept in your medical chart. There is also a statewide registry that you can use to record your POLST.

Who should have a POLST form?

If you have a serious or 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 and hospice facilities. If you are named in an Advance Directive as the Health Care Representative for someone who is now unable to communicate their medical, the person's provider 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?

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.

THE OREGON DEATH WITH DIGNITY ACT

What is the Oregon Death with Dignity Act?

The 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. The Act requires that the patient be: 1) a mentally competent adult; 2) an Oregon resident; 3) diagnosed by two physicians as having a terminal illness with less than six months to live; and 4) be capable of communicating the medical decisions. You can get more information at: www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Pages/index.aspx.

Are there safeguards in the Act?

Yes, the law absolutely prohibits "mercy killings" and requires that a patient make a fully informed, voluntary decision. There are many requirements that must be met and Psychological counseling is always available if either of the patient's physicians think the patient needs counseling.

LONG TERM CARE

What is Long Term Care?

If you are elderly or disabled and cannot live on your own, you may need Long Term Care. It is designed to help you with activities of daily living (such as eating, dressing, bathing, walking, moving, going to the bathroom, etc.) as well as more complicated medical care and treatment. Long Term Care 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 enough money, you may need to pay for your own Long Term Care. 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 if you require a certain level of assistance, called a "*Service Priority Level.*" The Oregon Department of Human Services, Seniors and People with Disabilities, determines whether you qualify for Long Term Care paid for by the state.

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 Seniors and People with Disabilities office. If you are receiving Long Term Care in your own home or at a facility, the Oregon 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, 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 or someone else experiences elder abuse, neglect, or financial exploitation you should call the Oregon Department of Human Services at (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 each resident has the right to:

- Be treated as an adult with dignity and respect;
- Be informed of all resident rights and house policies;
- Be free from abuse;
- Complete privacy when receiving treatment or personal care;
- Have access to participate in social and religious activities;
- Be free of discrimination in regard to race, color, national origin, gender, sexual orientation, or religion; and
- Not to be transferred or moved out of a facility without 30 days written notice and an opportunity for a hearing before.

DIFFERENT TYPES OF LONG TERM CARE AND YOUR RIGHTS

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 to continue doing so. In Home Care provides essential supportive services that range from assistance with general household tasks to 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 (AFH) are private homes where 5 or less elderly or disabled adults live and receive care in a "family-style" setting. The care provided 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 must have a 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.

Once you are admitted as a resident in an AFH, you cannot be asked to leave against your will, be asked to move to another room within the AFH, or be transferred to another AFH for a temporary stay except for very specific reasons. These reasons, include but are not limited to: Medical reasons; Behavior which poses a threat to yourself or others; Failure to pay for care; and your needs exceed the ability or classification of the AFH provider.

Usually, even if a resident is asked to move involuntarily, they must be given 30-day notice before they are asked to move out. If you are asked to move out of 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 the AFH.

3. Residential Care Facilities

Residential Care Facilities (RCF) are facilities where six or more seniors and/or people with disabilities live and receive care. All RCF 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 socialization. Only limited medical or health care services may be provided. An RCF is designed to provide care in a home-like place that promotes resident participation, choice, dignity, privacy, and independence.

Once you are admitted as a resident in an RCF, you cannot 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; or Needs exceed the ability or the classification of the facility.

If you live in an RCF 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 advocate with you for your formal hearing.

4. Assisted Living Facilities

An Assisted Living Facility (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 must have common areas, such as activity and dining rooms. 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.

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's medical needs. Carefully check with any ALF to make sure that they have the staff and training needed to handle your 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.

An ALF may ask that you move out of the facility. However, they can only ask you to leave under certain circumstances. These include but are not limited to: Development of a medical condition that the facility cannot safely care for; Failure to pay for your rent or care at the facility; Behavior dangerous to yourself or 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 resolve any issues between yourself and the facility. If you can't come to a resolution 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 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.

A Nursing Home can only ask you move out or transfer under certain circumstances. The facility must always comply with strict rules of transfer. You may be asked to leave if your condition improves to the point where you don't need Nursing Facility care any longer, non-payment of services, or for behavior reasons. Before requiring that you move, 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 (800) 522-2602, or your local Legal Aid office for help regarding a conference or hearing.

PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

What is the Program of All-Inclusive Care for the Elderly?

PACE provides comprehensive health and social services for seniors. For most participants, the program allows them to continue living at home while providing a wide range of services. Participants retain the freedom to choose where they live and will be picked up at their homes and transported to the care facility for health and social services. Some PACE participants live in long-term care facilities owned or operated by the PACE provider. As of 2018, the PACE facilities are located in Hillsboro, Milwaukie, Portland, and Seaside, Oregon.

How can I find out more about PACE?

The government website for PACE is: www.cms.gov/Medicare/Health-Plans/PACE/Overview.html.

or you can contact the provider of PACE at:

Providence Elder Place Administration
4531 SE Belmont St.
Portland, Oregon 97215
(503) 215-6556

LONG TERM CARE INSURANCE

What is long term care insurance?

Long term care insurance pays for assistance when someone has 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. Exactly what is covered will depend on the policy that is purchased.

Won't Medicare cover my 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.

Can my life insurance pay for long term care?

Sometimes. Sometimes it can be sold or converted into another type of policy or account that will pay for long term care. You should read your policy carefully. Also, see above in the Medicaid section for an explanation of options with life insurance.

How do I know if long term care insurance is right for me?

That is a personal choice. 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 valid option for you. Here are some things to keep in mind:

- Can you afford the current and future monthly insurance premiums?
- Will you be able to afford the premiums in the future? Your monthly premiums will vary depending on the type of insurance policy;
- Do you anticipate that you will need extensive long-term care?
- Do you want to be independent of family members with regard to your money, assets, and health care?

Long term care insurance is generally not right for people who cannot afford the premiums, have few assets, will end up on Medicaid, or whose only income is Social Security or SSI.

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 start?
- How are the benefits triggered? Are they triggered by a doctor, or the insurance company?
- How much assistance with daily living do I need before benefits are paid?
- If at some point, I can't afford to continue the policy can I convert it?

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 and the house or building that is attached to the land. Personal property is one's possessions, including cars, clothes, furniture, household items, RVs, trailers, etc. This section applies only to the ownership and transfer of real property.

What types of property ownership are there?

1. "Sole Ownership." Sole ownership means that you own the property solely in your name and you own all the rights to that property.

2. "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 or other estate plan, or transfer it in some other way.

3. A "Survivorship Estate," is where two or more people hold property together with a survivorship interest. This 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 says to transfer the property elsewhere. Married spouses usually hold property together with right of survivorship. If you are legally married and own property with your spouse in a survivorship estate, and you want someone other than your spouse to receive your interest upon your death, then you should talk to a lawyer about converting your ownership.

4. Finally, there is a "Life Estate" where you give your property to another person but you keep the right to live there until your death. You can also create a life estate in your will. For example, you could give the right to live on the property to a care provider, child or spouse but after that person dies or moves then the property would be transferred to someone else.

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 title insurance, 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 or property ownership unless you are selling it through a licensed realtor. There are several ways to transfer your ownership of property.

First, you can sell it. Generally, property will be sold for cash or for payments made by the buyer. The 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, or through a survivorship interest. Property that is sold or given away will require the proper completion of a deed. If you want to give your property away upon your death, then you should do it in a will, or trust. Sometimes people create a survivorship interest in a deed, but you need to do this carefully. Doing this may create a gift resulting in 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. If you give it to a married couple and they divorce, the court may award your property or require it to be sold.

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.

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.

PROPERTY TAX DEFERRAL PROGRAMS FOR DISABLED AND SENIOR CITIZENS

You may be eligible to delay payment of your property tax if you qualify for the State of Oregon Property Tax Deferral Program. If you qualify, the state will pay your property taxes. You will be charged six percent interest per year, but payment of the interest will also be postponed. A lien is placed on your property until the taxes, interest, and recording fees are paid.

Am I eligible for property tax deferral?

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

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

Is my property eligible for tax deferral?

The property must be insured and generally be the residence of the applicant for five years before April 15th of the year you apply. Unless you had a home on the deferral program, moved, and meet specific criteria. A home subject to a new reverse mortgage is not eligible. Manufactured Dwellings may qualify, but you will not be allowed to get a trip permit until payment is made in full if you need to move. Your home must be under the real market value limit, which varies.

Is there an income/asset test to qualify?

Yes, your total household income must be less than the income limit set by the state for the preceding year. In 2018 that amount is $44,000. Household income includes both taxable income and nontaxable income, including social security and pensions. You must have less than $500,000 in assets.

How do I apply?

You may obtain an application from your county assessor's office between January 1 and April 15. The Oregon 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 and assets 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;
- A copy of the power of attorney form, if you have a designated power of attorney; and
- A copy of your Trust, if any.

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 either 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 re-certify for the program?

Participants must recertify not less than once every two years. Participants must timely return the recertification form or risk losing their deferral for that year. However, if an individual is disqualified for failing to re-certify, they may reapply the next 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 signed the original application; and is 59 ½ or older at the time of the taxpayer's death, the deferral will continue.

If you are younger than 59 ½ and the 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 (800) 0356-4222, or visit their website at: www.oregon.gov/DOR/programs/property/Pages/deferral.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 they could auction the house in a foreclosure sale. With some exceptions, your lender 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?

In Oregon, the lender may use either a judicial or a non-judicial foreclosure process. In the judicial foreclosure process, the lender must go to court and get a judgement before it can schedule a foreclosure sale. In the non-judicial foreclosure process, the lender doesn't go to court. It can use a person or company known as a trustee to administer the process, which still ends in a foreclosure sale.

How long does the foreclosure process usually take?

The foreclose process often takes about six months. In some cases, it could take longer and in other cases it could take less time. It will depend a great deal on your lender.

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

No. The foreclosure process 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 once 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 your lender uses the judicial foreclosure process to try to action your home, it must file a lawsuit. If your lender 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. Some may be able to help you, but some may be trying to take advantage of you. Treat all direct solicitations with extreme 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?

Call the Oregon Legal Aid Foreclosure Help hotline at (855) 412-8828 or the Department of Housing and Urban Development (HUD) at (800) 569-4287.

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 affect your credit.

LOW INCOME RENTAL ASSISTANCE

What are the different kinds of 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): You have to find housing on your own from a private landlord or non-profit, but the state will help you pay for it. 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 Voucher (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: In 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 may be some adjustments, depending on the program, for medical expenses. You must be a citizen or a non-citizen with eligible immigration 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?

Generally, 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, Legal Aid, or the Fair Housing Council of Oregon at (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 are no countable assets. *Revocable trusts* are counted as a source of income and an asset. The income from the trust is counted when calculating 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.

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. For all the other types of housing, you need to contact each building and apply separately for the housing. The Housing Authority or the local Aging and Disabled Services Office has a list of most of those kinds of housing.

Can I be evicted from my 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 the landlord 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.

In all housing, 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 always give you notice in writing before s/he can evict you. After the time on the notice is up, the landlord must go to court and file an eviction case. If you want to fight the eviction you must go to court to defend your tenancy and you have the right to a trial before the landlord can evict you. The Sheriff can NOT lock you out before the case goes to court. You should always consult an attorney if you receive an eviction notice. If you are a person with a disability, and you believe that the reason for the eviction has something to do with your disability, then you have the right to ask for a reasonable accommodation which may entitle you to avoid eviction.

Can I have a pet in subsidized housing?

Residents of rental housing for the elderly or disabled have a right to common, household pets. A 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, if the tenant has a disability and the tenant needs a companion or service 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. See the forms at the end of this booklet for more information.

Where can I find additional help?

- Fair Housing Council of Oregon: (800) 424-3247 or (503) 223-8197;
- Oregon Bureau of Labor and Industries (BOLI) Civil Rights Division; (971) 673-0761;
- HUD – Fair Housing and Equal Opportunity (FHEO): (800) 877-0246;

- If your HUD-subsidized housing is unsafe, you may contact the Oregon Health & Safety Issues Hotline at (800) 453-5511.

What is the Elderly Rental Assistance (ERA) Program?

The Oregon 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 ERA program?

You qualify for ERA if **ALL** the following are true:
You or a household member is age 58 or older;
You are homeless, in imminent risk of homelessness, homeless under other federal statutes, fleeing/attempting to flee domestic violence, or you are unstably housed;
The total gross household income at or below 50% of area median income;

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

No. Payments to ERA participants who is already receiving rental subsidy through other public sources or payments to assisted living or care facilities are not eligible activities.

How do I apply for Elderly Rental Assistance?

You must contact the Oregon Housing and Community Services at (503) 986-2000 and they will provide contact information for the ERA program administrator in your county.

HOUSING RIGHTS FOR PERSONS WITH A DISABILITY

If I have a disability, can I have someone live with me to help me out?

If you are a person with a disability, regardless of age, as defined under the fair housing laws, and need someone to live with you to help because of your disability, the housing provider must allow you to have a live-in aide. You should make a request for a reasonable accommodation in writing and provide a letter from your health care provider to verify that you need live-in help. Keep a copy of that letter for your records. Generally, for a care provider who lives with you full time they cannot have other full-time employment and must be required for your 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. If you have questions or problems with this contact your local Legal Aid office.

What if I need a parking space or other rule changed to let me live in a place with a disability?

If you need other changes to the rules due to a disability, you can also ask for a reasonable accommodation. These can cover any change to any rule that is not a fundamental change to the facility or housing provider. For example, people with mobility issue can get an assigned parking space, even if no one else can. People who need a ramp or physical modification to the dwelling are allowed to make that modification at their own expense (the landlord may require them to change it back at the end of a tenancy). Contact your local Legal Aid program for advice on what is, or is not, a reasonable accommodation. There are forms at the end of this book for you and your medical provider to use to request different accommodations.

Can I have a dog?

If you have a disability that would be helped if you have a dog, you should be able to have one. You can ask for a reasonable accommodation if your medical or mental health provider believes that you would benefit from having a dog. In some cases, this will be a service animal. A service animal is: 1) Individually trained, but need not be certified or trained by a professional; 2) to perform a specific task; that 3) Relates to your disability and makes it possible for you to do something you might otherwise not be able to do.

GRANDPARENT VISITATION AND CUSTODY

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 in an easier way?

Yes, and you do not have to go to court to do this. A child's parent can give you a Power of Attorney (POA), which is also known as a Delegation of Powers. This delegation/POA is neither a legal custody order nor a guardianship and has some limits. However, is usually accepted by schools, doctors, etc. A child's parent or guardian can sign a delegation/POA form, which you can buy from most local stationery stores. You also can find a free form and instructions at www.oregonlawhelp.org, click on "Family" then "Guardianships for Children." The parent must sign the completed form in front of a notary public. Make sure to keep a copy of the form for your records.

In most cases, a delegation/POA 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 delegation/POA that lasts for the time of active duty plus 30 days.

A delegation/POA may be ended at any time. Generally a parent will sign something saying they revoke or end the power or attorney.

This method is much easier for everyone because it does not require a court order to start, or end. A delegation/POA is not the same as a guardianship or full custody, but it will usually allow a grandparent to take care of all of a child's needs.

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 cannot take away parents' rights to custody of their child and give you custody unless you can prove that the parents are not acting in the best interest of the child 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. These are situations that might cause psychological, emotional, or physical harm to the child, or other physical harm to the child, or other facts that show situations that are harmful to the child;
- 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.

What if the court decides that the parent <u>is</u> 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 <u>not</u> 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 judge finds that it would benefit the child to live with you then the judge can give you legal custody. 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. This is a court order and must be followed.

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.

VISITATION RIGHTS

What are visitation rights?

Visitation is the right to court ordered time with a child. In Oregon, visitation is often called parenting time. If a parent is willing to allow visitation, even under certain conditions, it is often going to be cheaper and more effective to work something out with the parent rather than litigate the issues.

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

Yes, but it is similar to the process above. You will need to file a court case and show:

1. That you have either a "child-parent relationship" with the child or 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 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 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. These situations that might cause psychological, emotional, or physical harm to the child, or other facts that show situations that are harmful to the child;
- Whether the parent has encouraged or consent 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.

What if the court decides that the parent <u>is</u> 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. It is usually a good idea to try to avoid going to court over visitation.

If the court decides that the parent is <u>not</u> acting in the child's best interest, what is the next step?

If the court decides that the parent is <u>not</u> 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 finds that it would benefit the child to visit with you then the judge can give you visitation rights, and you will receive a written court order that specifically sets out the details of the visits that you will be allowed to have the child.

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

Your visitation order will last until the child turns 18, or is emancipated, or the court ends or changes the order before that time.

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 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 witness 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 either the child's parents or I 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.

GRANDPARENT VISITATION RIGHTS WHEN A STEP-PARENT WANTS TO ADOPT A GRANDCHILD

What are my rights when a stepparent wants to adopt my grandchild?

When a stepparent 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;
- That you had a substantial relationship with the child before the adoption request;
- That 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.

FINANCIAL HELP TO RAISE MY GRANDCHILD

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. However, 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 for public benefits. 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.

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 (see above) is automatically eligible for OHP. Even if your grandchild is not eligible for TANF, s/he may be eligible for form of OHP. To apply, contact the Oregon Health Plan Customer Service at *(800)699-9075*.

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.

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 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 for themselves and the child. Contact your local Oregon Department of Human Services Office to apply.

PROTECTION FROM ABUSE and DISCRIMINATION

ELDER ABUSE

What is elder abuse?

Elder abuse occurs when a caregiver, 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, the 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 the Oregon Department of Human Services (855) 503-SAFE.

What are the 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; and 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; signatures supposedly by a senior who cannot write; changes or creation of a power of attorney, 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, missing personal belongings of senior; sudden appearance of previously uninvolved relatives claiming their rights to a senior's affairs and possessions; and 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 knowing consent. This means the person must be competent to consent. It includes, sexual molestation, unwanted touching, and rape. Sexual assault occurs when one person uses coercion, 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.

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 survivors will say something, most will not. Some signs of sexual abuse or assault include, but are not limited to: unexplained vaginal or anal bleeding; sexually transmitted diseases; infections; torn or bloody underwear; sudden changes in the emotional or psychological state of the senior.

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

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 who sends threatening letters or cards; a person who follows, watches, or waits for you; a person who 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, Health and safety hazards in the senior's living space; leaving senior in an unsafe place; rashes; sores, malnourishment, dehydration, sudden weight loss; untreated medical conditions; lack of spending on the care of the senior, including personal grooming items.

COURT INTERVENTION: RESTRAINING ORDERS AND CLAIMS FOR DAMAGES

If I am a survivor 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 with Disabilities Abuse Prevention Act restraining order.
- **SPO** a Stalking Protective Order.
- **SAPO** Sexual Abuse 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.

Can the abuser challenge my protective order?

Yes. The abuser has 30 days from service 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 side and the abuser's side, and decide whether to continue the restraining order. There are no filing or service fees for restraining orders.

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 at (503) 684-3763, 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 and click on the "Protection from Abuse" link.

How can I get help with restraining and stalking orders?

Your local domestic violence program, the victims' assistance at the 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.

How long do restraining and stalking orders last?

FAPA, EPPDAPA, and SAPO orders last for one year and may be renewed, depending on the facts of your situation. Stalking orders are usually permanent. If you want to renew an order you must file the court papers to renew your order before it 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 occurred. 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 fee, and other types of relief to protect you. Contact a lawyer for further information about this type of lawsuit.

What are the different types of restraining and stalking orders?

1. Family Abuse Prevention Act (FAPA) Restraining Order. You can get a FAPA 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; and 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; made you afraid that s/he was going to physically hurt you; 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 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; neglected you, causing you physical harm; used derogatory, threatening, intimidating, or harassing language towards you; made inappropriate sexual comments to you; made sexual contact with you without your consent; 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 stalker has made two or more unwanted contacts that were threatening or frightening; the stalker knows that you want to be left alone; the unwanted contacts have made you feel unsafe or 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.

4. Sexual Abuse Protective Order (SAPO). You may be eligible for a Sexual Abuse Protective Order if: you have been subjected to sexual abuse and reasonable fears for your physical safety; you and the abuser are not family or household members; the abuser is not prohibited from contacting you pursuant to another type of restraining order or criminal action; you fear for your physical safety; In the last 180 days, the abuser subjected you to sexual 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.

How can I get a FAPA, EPPDAPAP or SAPO restraining order?

You can get help and forms free from your local domestic violence program. Free forms and instructions for restraining orders are also available at all courthouse and online at www.courts.oregon.gov/forms/pages/default.aspx

To get a protective order, go to the court at the right time, usually that is first thing in the morning. You will fill out a Petition and have a short 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 to stay away from you. The Protective Order is not enforceable until it has been served on the other person.

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 schedule 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.

STATE ASSISTANCE AND PROTECTION 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 (people 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 Protectives 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 bedsores, and hazardous or unsafe living conditions. Neglect may also occur when a vulnerable adult does not adequately care for themselves and doesn't get the help they need. 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. You can also call 855-503-SAFE(7233).

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.

AGE AND DISABILITY DISCRIMINATION

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. The EEOC can be reached at (800) 669-4000 or www.eeoc.gov.

Oregon has a 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 or public accommodation, you may contact the Oregon Bureau of Labor and Industry (BOLI) to talk to a representative for assistance.
BOLI can be reached at (971) 673-0761 or www.oregon.gov/boli/pages/index.aspx.

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, agencies, government offices providing public services and programs, and by places of "public accommodation," such as restaurants, stores, hotels, etc. Oregon also has its own state laws prohibiting disability discrimination.

What should I do if I think I have been discriminated against?

If you feel you have been discriminated against seek advice from the EEOC, BOLI, or from an attorney with expertise in civil rights law. You may wish to contact your local Legal Aid program. For assistance finding a private attorney, call the Oregon State Bar Lawyer Referral Service at (800) 452-7636.

Because of strict deadlines for filing complaints, as well as rules for where you file your complaint, you should seek assistance soon after the discriminatory event occurred.

You should also document what happened, who might have witnessed any discriminatory event and make notes about what you remember and how you feel as soon as something happens. If the discrimination was related to your housing, you may also wish to contact the Fair Housing Counsel of Oregon.

CONSUMER PROTECTION LAWS

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. Generally, be very skeptical if someone approaches you with a loan offer.

Predatory lenders often make promises that seem amazing and use high-pressure tactics to convince homeowners to sign up on the spot. These lenders charge more than what is reasonable, but hide these costs. They often 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 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 what out for:

- Monthly payments that are higher than you can afford to pay;
- 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;
- 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, a higher interest rate, and if your original loan had a prepayment penalty, you'll have to pay that also;
- Charging penalties for paying the loan off early;
- High interest rates that are more than 14%;
- Bait and switch. The lender promises you one interest rate at the beginning of a deal, and then uses much higher rate at closing;
- High points and fees. Avoid paying fees exceeding 3% of the loan. There are all kinds of fees: Origination, underwriting, document preparation, and commitment fees. They all are lender profit;
- Adding additional products like credit insurance and club memberships;
- Requiring 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;
- 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.

How can I avoid getting lured into a predatory loan?

Here is a list of some of the things you can do to protect yourself:

- Think twice before borrowing against your home. Avoid borrowing more than the home is worth;
- Ask yourself if you must have this loan. If you're having money problems, really consider all your options before you use your home as collateral. If you 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, check your credit history. This will help you know what lenders will find out about you when they check. You should 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 and per company. Call (877) 322-8228 or visit wwww.annualcreditreport.com. Do not use other websites.
- The credit companies are:
    - Equifax, (888) 548-7878 or www.equifax.com
    - Experian, (888) 397 3742 or www.experian.com
    - Transunion, (800) 916-8800 or 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 of 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 because the loan amount is above the value of your home;
- Read all the documents carefully before you sign. The lender may have changed the amounts since you originally talked about the loan;
- Don't give in to high sales pressure tactics;
- You do need to say yes right away;
- Ask a lot of questions;
- If you don't understand the loan terms, ask someone you trust to review the loan documents 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 amounts filled in. Beware of lenders who promise to fill the amounts 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 checks written for home improvement is not written directly from the lender to the contractor. 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! You can report bad actors to the state agency that regulates various parts of this industry.

- All consumer issues, questions, and complaints;
    - Oregon Consumer Protection hotline: (877) 877-9392 or www.doj.state.or.us/consumer-protection

- Investor information, mortgage information, license verification, insurance information, and complaints;
    - Oregon Division of Financial Regulation: (866) 814-9710 for financial services help, (888) 877-4894 for insurance help, or dfr.oregon.gov
- Contractor license verification and complaints;
    - Oregon Construction Contractors Board: (503) 378-4621 or www.oregon.gov/ccb
- Electrician and plumber license verification and complaints;
    - Oregon Building Codes Division: (800) 442-7457 or www.oregon.gov/bcd
- Elder abuse/exploitation prevention.
    - Oregon Department of Human Services: (855) 503-7233 or www.oregon.gov/DHS/abuse

REVERSE MORTGAGES

What is a reverse mortgage?

A reverse mortgage is a way for people 62 and older to borrow money on the home where they live or sometimes to purchase a home as a principal residence. Unlike a traditional mortgage, the borrower doesn't make monthly payments on the loan, but they do have to pay taxes, HOA fees, insurance, and maintain the home. The loan normally 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 s/he currently lives and has enough equity, s/he 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. You will usually pay interest on the full amount in a lump sum even if you are not using it at that time.

What are the risks or drawbacks to reverse mortgages?

There are several potential problems with reverse mortgages. First, to avoid defaulting on the loan, you must continue to pay property taxes, insurance, HOA fees, and maintain the home. Second, the closing costs and interest rates are usually higher than for other loans, and monthly mortgage insurance premium payments are added to the loan balance, causing the borrower to more rapidly lose equity in the home. You should make a comparison of the total loan costs. Lenders must disclose the Total Annual Loan Cost of each mortgage. Third, if you take out and hold too much cash from the loan, you may become ineligible for benefits such as SSI or Medicaid. Fourth, a homeowner with a reverse mortgage is not eligible for a deferral of Oregon property taxes. Finally, it is an expensive way to borrow and will often use up the equity in property; reducing options later in life and eliminating any inheritances.

Homeowners who are interested in a reverse mortgage should consider alternative ways to obtain money or reduce their 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 avoid obtaining a mortgage from a company that contacts you.

Who is eligible for a reverse mortgage?

To qualify for a reverse mortgage on an existing home, the borrower must be at least 62 years old and must own the home as a principal residence. The borrower also must have a lot of equity in the home, meaning the value of the home must be significantly greater than any existing mortgages or liens. 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.

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, with all the interest, is then paid off from the sale of the house, and if there is any remaining amount from the sale it goes to the borrower or the borrower's estate.

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: https://www.hud.gov/program_offices/housing/sfh/hecm/hecmhome;
- Consumer Financial Protection Bureau at: www.consumerfinance.gov/data-research/research-reports/reverse-mortgages-report/
- Federal Trade Commission at: www.consumer.ftc.gov/articles/0192-reverse-mortgages;
- AARP at: www.aarp.org/money/credit-loans-debt/reverse_mortgages/.

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.

DEBT COLLECTION AND SOCIAL SECURITY

Is Social Security and Supplemental Security Income (SSI) safe from debt collectors?

Up to a limit. For most things Social Security and SSI benefits (and most other retirement benefits) cannot be directly garnished by creditors. A creditor can try to get money from a bank account. However, if you have the funds directly deposited then up to two-months' worth of payments is automatically protected from garnishment. If funds are paid by check they are exempt, which is not the same, you would need to file a claim of exemption in court to get the money back.

Some 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.

Can a bank take a garnishment fee from my protected account?

No, they cannot charge for processing the garnishment.

What debts can be garnished from my Social Security benefits by a creditor?

- Federal Income Tax Debts: The federal government can garnish up to 15% of Social Security benefits each year to collect past due federal income taxes'
- Non-income Tax Debts: The federal government can garnish anything over the first $9,000 per year ($750 per month) of Social Security benefits to collect non-income tax federal debts such as student loans, federal mortgages, and default benefit overpayments, etc.;
- Child and Spousal Support: The amount of the garnishment 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;
  - 55% or 65% if the garnishment order or other evidence submitted indicates the original support ordered is 12 or more weeks in arrears.
- Garnishment of court ordered victim restitution is allowed.
- Bank Overdraft Fees: A bank may offset overdraft charges from direct deposited Social Security and SSI benefits.

Can the government collect more than one kind of debt form my Social Security benefits at the same time?

Yes, the government can collect all three types of debts from your monthly social security payment. 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 and the child support creditor to try to lower your payments. There is no way to protect your benefits from collection by the federal government since this is done before your benefits are issued.

How can I protect my Social Security payments from being wrongfully garnished?

The best way to protect Social Security payments from being wrongfully garnished by creditors is to have them directly deposited to your account. If the bank gets a notice of garnishment, it is required by state to automatically protect your direct deposit funds. However, if you get a notice of garnishment it is critical to respond to it.

UTILITY BILL OF 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 Oregon Public Utility Commission (PUC) at (800) 522-2404 or www.puc.state.or.us.

What are disconnection notices?

Electric or natural gas utilities must provide a 15 day disconnection notice and a 5 business day final notice. Service may not be disconnected on the day before a weekend or state holiday. The notice must explain:

- The reason for disconnection;
- The amount that must be paid to avoid shut off;
- The date your service will be disconnected;
- On the day of disconnection, your utility will attempt to advise you or an adult at the residence that your service will be disconnected unless you make a payment.

Telephone utilities must provide at least 5 days notice, in writing, for nonpayment before they disconnect you.

Are disconnection notices required to be in languages other than English?

Yes. An electric, natural gas, or telephone utility is required to ask if you would like to receive disconnection notices in translated into Spanish, Vietnamese, Cambodian, Laotian, and Russian.

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, the PUC may direct the utility company to continue or reconnect service while the dispute is pending.
To file a complaint against a utility company, call the PUC at (800) 522-2404.

What can I do if I cannot pay an electric, natural gas, or telephone utility bill?

If you have significant medical need, you may:

- Submit an Emergency Medical Certificate (EMC) from a licensed physician, physician's assistant, or nurse practitioner to the utility company. A medical provider can call the utility company and provide an oral EMC, but the EMC must be confirmed in writing within 14 days. An electric, natural gas, or telephone utility cannot disconnect service if you have a properly submitted EMC that states that disconnection would significantly endanger your health.
- After securing an EMC, you become eligible for a flexible-time payment arrangement with your utility. An EMC expires in 6 months unless you have a chronic medical condition, which would allow an extension for up to 12 months. The utility company will notify you at least 15 days before your EMC is due to expire for renewal.

If you do not have medical need, you may request a payment plan agreement:

- An electric or natural gas utility may not disconnect your service for nonpayment if you enter into a written payment plan. Generally, an equal payment plan based on your total utility usage will be offered.

May a utility disconnect my service for reasons other than nonpayment?

Yes, service may be disconnected if you fail to:

- Establish credit by paying a deposit;
- Provide valid identification;
- Set up a time-payment;
- 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;
- 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 four installments. The first installment is due immediately; the remaining installments are due 30 days, 60 days, and 90 days after the first installment payment.

Is a utility required to give notice to both the tenant and the 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.

- You may have a local Community Action Program or other service provider who can assist you. You can contact the Energy Assistance Program at 800-453-5511 or see https://www.benefits.gov/benefit/1571.

- The Energy Trust of Oregon does not directly help with bills but they can come to your home and install many energy saving devices for free if you qualify. You can reach them at 1-866-368-7878.

LIMITING TELEMARKETING CALLS AND JUNK MAILS

What can I do about unwanted telemarketing calls?

If you receive unwanted telemarketing calls you can reduce the number of calls. The National Do Not Call Registry allows you to register your phone number on a "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.

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. The Registry does not prohibit calls from charities, political groups, debt collectors, and 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 telephone or 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.

However, in general if you are signed up on the do not call list and a new company calls you that should send up a major red flag and you may want to hang up on them.

How do I register my phone number with the Do Not Call Registry?

You may register for the National Do Not Call Registry by phone or online. If you register by phone, you must call from the telephone number that you wish to register. Call (888) 382-1222 or visit www.donotcall.gov.

Once you register, your phone number should appear on the Registry by the next day. Most sales call will stop once your telephone number has been registered for 31 days. Telephone numbers on the registry do not expire.

You can check the status of your registration or remove your number from the list by calling the Do Not Call Registry or visiting its website.

How much does it cost to register on the National Do Not Call Registry?

Registration is free.

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 31 days, you should file a complaint with the National Do Not Call Registry. Make sure to record the telephone number, date, time, whether the call was a recorded message or a robocall, whether you received a phone call or a mobile text message, and what the call was about.

You can file a complaint with the Federal Trade Commission (FTC) by calling (888) 382-1222 or by visiting www.donotcall.gov.

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?

The FTC does not allow private companies to register third parties on the Do Not Call Registry. Hang up the phone if you receive a call asking you to register, renew, or confirm your registration. The FTC suggests that you take the following steps to protect yourself from these scams:

First, never give out or confirm information about your bank account or credit cards unless you know whom you are dealing with.

Second, never share your Social Security number with a person you do not know. Third, 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, hang up immediately and file a complaint with the FTC at www.ftccomplaintassistant.gov.

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, Consumer Information at www.consumer.ftc.gov/features/scam-alerts
- Oregon Department of Justice, Consumer Protection at www.doj.state.or.us/consumer-protection
- National Fraud Information Center at www.fraud.org

How can I stop receiving unsolicited, prescreened credit card and insurance offers?

You can opt out of receiving prescreened offers via mail by calling the Consumer Credit Reporting Industry at (888) 567-8688 or visiting www.optoutprescreen.com. By opting out for five years or permanently, you prevent consumer credit reporting companies (Equifax, Experian, Transunion, Innovis) from providing your credit file information to creditors or insurers. You will need to provide some personal information to opt-out. Your request becomes effective within 5 days of opting out.

How can I reduce my physical junk (marketing) mail?

Physical junk mail can be reduced by:

- Registering with the Data & Marketing Association Choice, which represents 80% of the total volume of marketing mail in the United States. You can register for free online at www.dmachoice.org or by mail-in registration. It will take at least 90 days for your request to take effect;

- Registering with CatalogChoice, which is a service that cancels specific catalogs and other types of paper mail you no longer wish to receive. You can register for free at www.catalogchoice.org;
- Contacting each company that sends you junk mail.

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 driver's license, birth certificate, social security number, Medicare number, health insurance number, bank account number, debit card number, credit card number, voter registration card, bank PIN numbers, and online passwords.

How can I prevent identify theft?

Take steps to protect yourself from identify theft by:

- Secure your Social Security number;
- Don't respond to unsolicited request for personal information;
- Review your credit reports annually by contacting the three major credit bureaus;
- Review your medical explanation of benefits or Medicare Summary Notice;
- File your income taxes early in the season;
- Collect mail promptly;
- Pay attention to your billing cycles;
- Review your credit card and bank account statements;
- Shred receipts, credit offers, account statements, and expired debit or credit cards;
- Store personal information in a safe place;
- Create complex online passwords and avoid using easily available information such as your mother's maiden name and birthdate.

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 charges on a credit card, or if you receive an unexpectedly bad credit report. Charges may start out small, so it is important to read your statements.

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:

1. Call the companies where you know fraud occurred and explain that someone stole your identity;
    a. Ask the companies to close or freeze the accounts;
    b. Change account logins, passwords, and PINS.

2. Place a free, 90-day fraud alert with the three major credit bureaus and get your credit reports;
    The three major credit bureaus are:
    1. Equifax: (888) 766-0008 or www.equifax.com/creditreportassistance;
    2. Experian: (888) 397-3742 or www.experian.com/fraudalert;
    3. TransUnion: (800) 680-7289 or transunion.com/fraud.

3. Report identity theft to the Federal Trade Commission by calling (877) 438-4338 or visiting www.identitytheft.gov;

4. Consider filing a report with your local police department;

5. Close new accounts opened in your name;

6. Remove fraudulent charges from your accounts;

7. Correct your credit report through the three major credit bureaus listed above;

8. Report a misused Social Security number by contacting your local Social Security Office; and

9. Replace government-issued IDs.

How can I learn more about identity theft?

Check the Federal Trade Commission web site at www.consumer.gov/idtheft.

PROTECTING YOUR INFORMATION ONLINE

What is phishing?

When a scammer uses fake email, text messages, or copycat websites to try to steal your identity or personal information, such as credit card numbers, bank account numbers, Social Security Number, or birth date. The scammer may state that your account has been compromised or that one of your accounts was charged incorrectly.

A scammer will instruct you to click on a link in the email or reply with your bank account number to confirm your identity or verify your account. They will sometimes threaten to disable your account if you don't reply, but don't believe it. Legitimate companies never ask for your password or account number by email.

How can I protect myself from phishing scams?

If you believe that a company needs personal information from you, call the number from their legitimate website or your address book. Do not call the number or use the links in the email. Tell the customer service representative about the request and ask if your account has been compromised.

You can also turn on two-factor authentication, which requires you to enter your password and an additional piece of information when you log in to a website. This protects your account even when your password has been stolen.

How do I report phishing scams?

File an e-complaint with the Federal Trade Commissions (FTC) Complaint assisted at www.ftccomplaintassistant.com or the FBI Internet Crime Complaint Center at www.ic3.gov/complaint.

What is malware?

This involves dangerous software that is designed to disable computers and computer systems.

How can I protect myself from malware?

Update your antivirus software and antispyware programs. Most types of antivirus software can be set up to make automatic updates. You can find inexpensive software to download from the internet or at your local computer store, but only install programs from a trusted source.

BUYING A VEHICLE

What should I do before I go to the dealer?

1. Know what kind of car you want, what features you are willing to pay for, and what safety scores you think are appropriate for you and your family.

2. Know the fair purchase price for the vehicle you are interested in. Check different sources to compare different cars and how much you should expect to pay for them.

3. Do the Math. Before going to a dealer, calculate the most you want to spend and then figure out what monthly payments fit your budget. If you negotiate based solely on what you can pay per month, you may end up paying far more over the life of the loan.

4. Research your financing options. Often, the best rate is available when the manufacturer is offering special rates. You should always, check financing rates and options with your bank or credit union.

5. Know your credit score. Knowing your credit score will help you determine if you may qualify for better financing.

6. Choose a dealer you trust. Before you do business with anyone, check the Oregon Consumer Complaints Database by calling the Department of Justice at 877-877-9392 or at: justice.oregon.gov/complaints.

How do I negotiate a vehicle deal?

1. Everything is negotiable. The vehicle price, trade-in value of your current vehicle, financing options, insurance, and service contracts are all on the table.

2. Buying a car includes multiple transactions. Buying your new car, selling your old car, and financing your new car are three separate steps in the transaction. Approaching your purchase this way will help you understand what you are paying for.

3. Get the best interest rate. Always ask the dealer if the interest rate being offered is the lowest available. You can even inquire how much the dealer profits.

4. Don't lower your monthly payments. It may sound like a good idea, but it could cost you thousands of dollars in interest over the term of the loan. Vehicles lose value the moment they leave the lot and continue to do so every year after. The longer the term of the loan, the more likely it is for the value of the car to fall below the amount left on the loan.

How do I close a vehicle deal?

1. Be prepared to walk away. They need to sell cars more than you need to buy one. You have no obligation to sign a contract, especially if the negotiated terms have changed.

2. Make sure that all promises are in writing. If a contract has terms substantially different from what the salesperson initially promised, do not sign the contract unless you are willing to accept the new terms.

3. Take your time. Do not let anyone rush you to sign paperwork without reviewing the terms of the agreement. Read all documents and understand all terms before you commit to them.

4. Get an expert opinion. If you are purchasing a used vehicle, have it inspected by a trusted mechanic. Be wary of any dealer who resists an independent inspection.
5. Do not lie. Do not allow false information on any forms. Beware of any salesperson who suggests putting false information, such as higher income, a larger down payment, or false living expenses on your finance application.

6. Do not sign a blank contract or application. Draw a line through all blanks on any document you sign.

7. Processing the paperwork. A purchaser of a vehicle may negotiate the amount of the document processing fee with a vehicle dealer, but in no case shall the document processing fee charged by a vehicle dealer exceed $150, if the dealer uses an integrator or $115, if the vehicle does not use an integrator (ORS 822.043).

8. There is no sales tax on any vehicle purchased in Oregon. If you are buying a car in another state, make sure the dealer fills out paperwork for Oregon residents so that you do not have to pay sales tax.

SAMPLE LETTERS AND FORMS

Anytime you have a problem with a company, landlord, agency, or such we encourage you to communicate in writing. When you send a letter, it is a good idea to note down the date you sent it, to whom you sent it, what the letter was about, and always keep a copy. These sample letters are to be used as guides. You can write or type your own letter using the wording in the samples. Change the wording to fit your situation. Written notice is often required to for taking legal action and is a good idea in all cases. You should get promises and agreements in writing.

SAMPLE LETTER #1: REASONABLE ACCOMMODATION LETTER (NON-EMPLOYMENT RELATED)

This is a sample letter asking for a reasonable accommodation. You can request a reasonable accommodation from any agency, business, company, landlord, or housing manager. A reasonable accommodation is a change in rules, policies, practices, or services that a person with a disability needs so that they will have an equal opportunity to use the services, premises, or enjoy a dwelling unit or common space in a way that is similar to that enjoyed by a person who does not have that disability. The agency, business, company, landlord or property manager should do everything she or he can do to assist without significant cost or expense or fundamentally changing their services . They are not required to make changes that would fundamentally alter a business or create an undue financial or administrative burden. Common accommodations include assigning parking spaces, allowing the use of a service or companion animal, providing information in large print, providing an interpreter and such.

[*Date*]
[*Name of the agency, business, company, housing manager, or landlord*]
[*Their mailing address*]

Dear [*their name*]:

I am writing to request a reasonable accommodation. I have a disability. Because of my disability, I need you to *[describe what the agency, business, company, housing manager or landlord needs to do due to your disability*]. Please make an exception to your current rule or policy that says [*describe what current policy is in effect that you would like changed*]. I need this accommodation to enjoy the goods or services you provide or to live in this housing.

Please respond to my request by [*specify a date 10-14 days from the date of the Letter*]. If I do not hear from you by that date, I will take that as a denial of my request. I would prefer that you respond in writing. I have attached a request from my medical/health provider documenting my need for the requested accommodation and documenting that I have a disability. If you need further information please tell me, specifically, what it is you will need. Thank you for your time and attention to this matter.

Sincerely,

[*Sign your name*]
[*Print your name*]
[*Your mailing address*]

SAMPLE LETTER #2: REASONABLE ACCOMMODATION VERIFICATION FORM FOR MEDICAL PROVIDER

REASONABLE ACCOMMODATION REQUEST
VERIFICATION FORM

Date:_____

Re:_____ DOB_____
Name of Patient/Client

Health Care Provider's Name & Address:
_____
_____
_____

Name of Landlord/Agency/Business/Facility from whom Accommodation is requested:__
_____
_____

Specific Accommodation Requested:
My client/patient is requesting the following Reasonable Accommodation:
_____
_____
_____
_____

Dear Health Professional:

Your patient, listed above, is requesting changes in the policies or procedures of the above listed landlord, agency, employer, business or public facility. This may include asking permission to alter a unit or some other aspect of rental housing to accommodate their disability.

Under fair housing law landlords, employers, governmental bodies, public facilities and accommodations must consider such requests and provide the accommodation if it is reasonable.

You are asked to verify that this person qualifies as "disabled" under federal law and requires the requested accommodation in order to have an equal opportunity to use and enjoy the housing, facility, benefit, or public accommodation.

Please complete the form and return it to your patient/client. If necessary, a self-addressed, stamped envelope is enclosed for this purpose. Your patient/client has consented to this release of information, as shown on the next page.

INFORMATION REQUESTED

In your professional opinion, does your patient/client need the requested accommodation in order to

have the same opportunity that a non-disabled individual has to use and enjoy the housing, service, location, etc.?

Yes _____ No _____

Is this person disabled as defined below?

Yes _____ No _____

DEFINITION OF "DISABLED"

Under fair housing law, an individual is disabled if he/she has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction, and alcoholism. This definition doesn't include any individual who is a drug addict and currently using illegal drugs or an alcoholic who poses a direct threat to property or safety because of alcohol use [24 CFR Part 8.3, and HUD Handbook 4350.3, (Exhibit 2-2)]

Name and title of person verifying disability:_____

Signature of person verifying disability: _____

Date of verification: _____

CLIENT/PATIENT RELEASE

I hereby authorize the release of the requested information. Information obtained under this consent is limited to information that is no older than 12 months.

Signature_____
Date_____

SAMPLE LETTER #3: RESPONSE TO BAD DEBT COLLECTOR FOR BAD DEBT COLLECTION

This letter may help if you owe money to a collection agency and do not have enough money or property to pay what you owe. It may also help if you do not owe the debt. The goal of this letter is to tell a debt collector that you are judgment proof. You can use this letter if you have a judgment against you. A Judgment is a court order that confirms you owe a debt. A debt collector or creditor that gets a judgment can normally force you to pay that debt by (1) selling non-exempt property and using the money from the sale to pay your debt and/or (2) by garnishing your wages or bank account. Garnishment means a creditor can make an employer or bank take money from your paycheck or your bank account and give it to the creditor. It is important to know that some property and income is exempt from sale or garnishment. Exempt property or income can include unemployment, Social Security, disability, child support, spousal support, or veterans' benefits. It is important you consult a lawyer to find out if your property or income is exempt. Legal aid can give you a list of exempt property or you can find it at www.oregonlawhelp.org. ORS 18.345; ORS 18.618.

[*Date*]
[*Debt collector's name*]
[*Debt collector's mailing address*]

Dear [*debt collector's name*]:
Your company contacted me about a debt you say I owe. I am not admitting that I owe this money. I am unable to pay the debt you say I owe. My income is exempt from sale or garnishment. This means that even with a court order or judgment saying that I owe money, you cannot collect it from me.

The Fair Debt Collection Practices Act prohibits a debt collector or creditor from communicating further with a consumer if the debtor notifies the debt collector or creditor in writing that the consumer wishes the debt collector to cease further communication. Please stop contacting me about this debt.

Thank you.

Sincerely,

[*Sign your name*]
[*Print your name*]
[*Your mailing address*]

SAMPLE FORM #1: REQUEST FOR FREE CREDIT REPORT

SAMPLE FORM #2: DELEGATION OF PARENTAL/GUARDIAN POWERS FORM

This form allows a parent or legal guardian of a minor child to temporarily give another person the authority to care for the child and make decisions with regard to the child for a limited period of time. To give the other person authority to care for the child and make decisions, the parent or legal guardian needs to complete a form such as this one. The delegation/POA does not give the person caring for the child any permanent rights, such as the right to consent to marriage or the adoption of the child. It is important that you trust the person who will be caring for your child. Be sure that the person understands that he or she must return the child when you want them to and that the power you give them gives no permanent rights to the child. However, it is also important for you to realize that someone who has physical custody of your child for substantial periods of time may be able to petition the court for custody or visitation. This delegation is good for 6 months, or less if that is what the parent prefers. A parent can do a new delegation when an older one is expiring.

State of Oregon
County of _____

I, _____, am the (natural mother) (natural father) (legal guardian) (circle one) of the following minor child/ren:

Name:_____ Date of Birth:_____
Pursuant to ORS 109.056, I temporarily appoint _____
of_____(city),_____(state) to act lawfully and with full authority for me and in my name and place:

(Initial all that apply)
1. To have the care, custody, and control of the above child/ren and their property;
2. To consent to any medical, dental, psychological, or psychiatric examinations, care, or treatment for the above child/ren.
3. To enroll the above child/ren in school and to authorize participation in school activities;
4.To apply for public benefits for the above child/ren;
5.To act for me in any other matter regarding the health or welfare of the above child/ren except:_____
(Initial one of the following)
_____ This Power of Attorney is valid six months from the date I have signed it, unless revoked earlier by me.
_____ This Power of Attorney is valid until_____, 20 , unless revoked earlier by me.

Date:_____Signature_____

SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 20
by _____.

_____
Notary Public for Oregon
My Commission expires:_____

SAMPLE FORM #3: REVOCATION OF DELEGATION OF PARENTAL/GUARDIAN POWERS FORM

A delegation of powers/POA can last no more than six months in most cases. After the six months are up, a new form can be filled out. A school can be given a delegation that lasts up to 12 months. If you are in the U.S. Armed Forces Reserves and called to active duty, you can give a delegation that lasts for the time you are on active duty plus 30 days. In the sample form, there is a place to initial if you want it to last for six months from the date it is signed and a place to initial if you want it to last for less than six months (a specific date needs to be written in the blank). If you want to stop the delegation before it is supposed to end, write, date and sign a statement that says you are "revoking the delegation given on _____ (date)." It is a good idea to have that statement notarized. After it is notarized, make a copy and keep it for yourself. Then, give the statement to the person named in the power of attorney form.

I hereby revoke (withdraw) the delegation of parental/guardian powers over my minor child/ren:

_____ _____
(FULL NAME OF MINOR CHILD) (DATE OF BIRTH)

_____ _____
(FULL NAME OF MINOR CHILD) (DATE OF BIRTH)

_____ _____
(FULL NAME OF MINOR CHILD) (DATE OF BIRTH)

That was granted to _____ on the following date
(FULL NAME OF PERSON WHO HAD CHILD/REN)

_____. That delegation is now revoked.

By: _____ Today's date: _____

SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 20____

by _____.

_____
Notary Public for Oregon
My Commission expires:_____

RESOURCES

STATEWIDE RESOURCES

2-1-1
Free, confidential referral and information about essential health and human services, 24 hours a day, seven days a week.
Phone: 211. www.211info.org.

Aging and Disability Resource Connection of Oregon
Helpline with access to local information and services for seniors and people with disabilities.
(855) 673-2372. www.adrcoforegon.org.

Bureau of Labor and Industry (BOLI)
This state agency will assist people who have problems with an employer, who have not been paid by an employer, or who feel they have been discriminated against because of their age or disability.
(971) 673-0761. www.oregon.gov/BOLI.

Construction Contractors Board (CCB):
Regulates roofers, carpentry, electrical, plumbing, tree service, air conditioning, and heating contractors. Check before hiring contractors, or if you have problem with completed work.
(503) 378-4621. www.oregon.gov/CCB.

Department of Human Services Elder and Vulnerable Adult Abuse Hotline
If you suspect abuse, neglect, or financial exploitation of an elderly person or an adult with physical disabilities.
(855) 503-7233. www.oregon.gov/DHS/abuse.

Department of Human Services Aging and People with Disabilities

Help with food stamps, medical, and long-term care.
(503) 945-5600. www.oregon.gov/DHS/APD.

Department of Justice Consumer Law Hotline
Check the record or file a complaint of a business or charity.
(877) 877-9392. www.doj.state.or.us/consumer-protection.

Disability Rights Oregon (DRO)
The DRO is a non-profit firm that provides legal services to people with disabilities for legal problems that are connected with their disability.
(503) 243-2081. www.droregon.org.

Fair Housing Council of Oregon
Fights illegal housing discrimination.
(800) 424-3247. www.fhco.org.

Long Term Care Ombudsman
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.
(800) 522-2602. www.oltco.org

Oregon Law Help
Guide to free and low-cost legal aid, assistance, and services in Oregon.
www.oregonlawhelp.org

Oregon State Bar Lawyer Referral Service
This service gives you the name of a lawyer in your community. There is a fee of $35 for a 30 minute consultation with the lawyer. The service 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.
(800) 452-7636. www.osbar.org/public/ris

Senior Health Insurance Benefits Assistance (SHIBA)
Network of trained volunteers who educate and assist people with Medicare.
(800) 722-4134.
www.healthcare.oregon.gov/shiba