

**Enrolled**  
**Senate Bill 1088**

Sponsored by COMMITTEE ON RULES

CHAPTER .....

AN ACT

Relating to payment for prescription drugs for a person who is eligible for both Medicare and Medicaid prescription drug benefits; creating new provisions; amending ORS 115.125 and 411.795; and declaring an emergency.

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

**SECTION 1.** (1) Notwithstanding ORS 414.705 to 414.750, the Department of Human Services shall adopt rules modifying the prescription drug benefits for persons who are eligible for Medicare Part D prescription drug coverage and who receive prescription drug benefits under the state medical assistance program or Title XIX of the Social Security Act. The rules shall include but need not be limited to:

(a) Identification of the Part D classes of drugs for which federal financial participation is not available and that are not covered classes of drugs;

(b) Identification of the Part D classes of drugs for which federal financial participation is not available and that are covered classes of drugs;

(c) Identification of the classes of drugs not covered under Medicare Part D prescription drug coverage for which federal financial participation is available and that are covered classes of drugs; and

(d) Cost-sharing obligations related to the provision of Part D classes of drugs for which federal financial participation is not available.

(2) As used in this section, "covered classes of drugs" means classes of prescription drugs provided to persons eligible for prescription drug coverage under the state medical assistance program or Title XIX of the Social Security Act.

**SECTION 2.** ORS 411.795 is amended to read:

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

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

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

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

**SECTION 3.** ORS 115.125 is amended to read:

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

- (a) Support of spouse and children, subject to the limitations imposed by ORS 114.065.
- (b) Expenses of administration.
- (c) Expenses of a plain and decent funeral and disposition of the remains of the decedent.
- (d) Debts and taxes with preference under federal law.
- (e) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent.
- (f) Taxes with preference under the laws of this state that are due and payable while possession of the estate of the decedent is retained by the personal representative.
- (g) Debts owed employees of the decedent for labor performed within 90 days immediately preceding the date of death of the decedent.
- (h) Child support arrearages.
- (i) The claim of the Department of Human Services for the net amount of [public] assistance[, as defined in ORS 411.010,] paid to or for the decedent, [and] **in the following order:**
  - (A) The amount of the state's monthly contribution to the federal government to defray the costs of outpatient prescription drug coverage provided to a person who is eligible for Medicare Part D prescription drug coverage and who receives benefits under the state medical assistance program or Title XIX of the Social Security Act;**
  - (B) Public assistance, as defined in ORS 411.010, funded entirely by moneys from the General Fund; and**
  - (C) Public assistance, as defined in ORS 411.010, funded by a combination of state and federal funds.**
- (j) The claim of the Department of Corrections for care and maintenance of any decedent who was at a state institution to the extent provided in ORS 179.610 to 179.770.

[j)] **(k)** All other claims against the estate.

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

**SECTION 4.** The amendments to ORS 115.125 by section 3 of this 2005 Act apply to claims against an estate filed on or after the effective date of this 2005 Act.

**SECTION 5.** During the 2005-2007 biennium, the Department of Human Services shall report regularly to the appropriate legislative interim committees with oversight of health care or human services programs on:

- (1) The adoption of rules under section 1 of this 2005 Act; and**
- (2) The implementation of the Medicare Part D prescription drug coverage for persons who are eligible for Medicare Part D prescription drug coverage and who receive prescription drug benefits under the state medical assistance program or Title XIX of the Social Security Act.**

**SECTION 6.** This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect July 1, 2005.

**Passed by Senate July 13, 2005**

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Secretary of Senate

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President of Senate

**Passed by House July 27, 2005**

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Speaker of House

**Received by Governor:**

.....M,....., 2005

**Approved:**

.....M,....., 2005

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2005

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Secretary of State