

5122-36-01

**Purpose and definitions.**

(A) The purpose of RSS is to provide cash assistance to medicaid-eligible aged, blind, or disabled adults who have increased needs due to a medical or behavioral health condition which may not be severe enough to require institutionalization. The RSS cash payment is used together with the individual's personal income to help prevent premature or unnecessary institutionalization, and to deinstitutionalize those aged, blind, or disabled adults who have been inappropriately placed in long term care facilities and who can return to the community through alternative living arrangements.

**(B) Definitions**

As used throughout this chapter, the following definitions apply:

- (1) "RSS" means the residential state supplement program described in section 5119.41 of the Revised Code.
- (2) "Individual" means a person who is applying for or receiving RSS benefits.
- (3) "CDJFS" means "county department of job and family services."
- (4) "Living arrangement" means an arrangement listed under division (D)(1) of section 5119.41 of the Revised Code. "Living arrangement" includes any owner, operator, employee, or volunteer who provides accommodations, supervision, or personal care services in the living arrangement.
- (5) OhioMHAS means "the Ohio department of mental health and addiction services" or the entity designated by OhioMHAS pursuant to division (C) of section 5119.41 of the Revised Code.

OhioMHAS is the RSS administrative agency.

- (6) "Resident" means an individual who is enrolled in the RSS program.

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5122-36-02

**RSS non-financial eligibility.**

The RSS non-financial eligibility criteria are:

- (A) The individual is at least eighteen years of age.
- (B) The individual needs at least a protective level of care as defined in rule 5160#3#06 of the Administrative Code. An individual who is receiving (or authorized for) medicaid vendor payment of the nursing facility stay and is being discharged from a nursing facility as defined in rule 5160# 3#15 of the Administrative Code shall be determined to meet this requirement without the need for an additional level of care assessment.
- (C) The individual must not require more than one hundred twenty days of skilled nursing care, as defined in section 3721.01 of the Revised Code, during any twelve month period unless the individual resides in a licensed residential care facility authorized to provide skilled nursing care in accordance with section 3721.011 of the Revised Code.
- (D) The individual must not have a cognitive impairment which requires the presence of another person on a twenty#four hour a day basis for the purpose of supervision to prevent harm.
- (E) The individual must be accepted for placement or residing in an approved community living arrangement. The appropriate living arrangements are:
- (1) A "residential care facility" as defined in section 3721.01 of the Revised Code, that is licensed under section 3721.02 of the Revised Code, or an assisted living program as defined in section 5111.89 of the Revised Code; or,
  - (2) A residential facility of the type defined in section 5119.34 of the Revised Code, that is licensed by the Ohio department of mental health and addiction services.
- A living arrangement housing more than sixteen individuals shall not be eligible for inclusion in the RSS program, however those individuals residing in such living arrangements on November 20, 2014 shall remain eligible so long as the individual remains in that living arrangement.
- (F) The individual must not be related to the owner or caregiver of the living arrangement.
- (G) The individual must not be a participant in any federal waiver program.
- (H) The individual must not be a participant in the Ohio Department of Job and Family Services' program of all#inclusive care for the elderly (PACE).
- (I) The individual must not be enrolled in a medicare or medicaid#certified hospice

program.

(J) The individual is not a consumer of any home and community#based waiver program.

(K) The individual must execute a release of information form permitting exchange of information between OhioMHAS and other care providers and key contacts as needed for continuity of care and eligibility determination.

(L) If, at any time, a resident no longer meets all the criteria of this rule, the resident is no longer eligible for the RSS program, unless, according to division (G) of section 5119.41 of the Revised Code (as first enacted by Am. Sub. House Bill 253 of the 118th General Assembly), the resident no longer meets all the criteria of this rule solely by reason of their living arrangement, so long as they have continued to reside in the same living arrangement since November 15, 1990.

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5122-36-03

**Application process.**

(A) RSS application process may be through submission of an ODM 07120 form, electronic equivalent, or the use of an electronic system designated by OhioMHAS, and shall include an application for medicaid if the individual is not currently in receipt of medicaid.

(B) OhioMHAS shall record the following information about the individual:

(1) The individual's name, address, telephone number, date of birth, and social security number;

(2) If the individual has an authorized representative, the authorized representative's name, address, and telephone number. "Authorized representative" has the same meaning as in rule 5160:1-1-58 of the Administrative Code;

(3) If the individual has a legal representative, the legal representative's name, address, and telephone number. "Legal representative" means a person that the individual or probate court designates to decide for the individual. Examples of types of legal representatives are guardians, conservators, and attorneys-in-fact who are designated through a power of attorney, including a durable power of attorney for health care decisions; and,

(4) Whether the individual receives Social Security, SSI, or SSDI benefits.

(C) The day the RSS application is completed and submitted to OhioMHAS will be considered the date of application.

(D) Once a completed application has been submitted to OhioMHAS, the non-financial eligibility shall be made available to the department of medicaid and the CDJFS within ten business days, except for the level-of-care determination, for the determination of eligibility in accordance with rule 5160:1-1-58 of the Administrative Code.

(E) OhioMHAS shall allow any individual to withdraw from the application process at any time.

(F) OhioMHAS shall offer enrollment to any individual when:

(1) The individual is determined eligible in accordance with rule 5160:1-1-58 of the Administrative Code; and,

(2) RSS program funds are sufficient to provide cash assistance to all enrollees.

(G) Failure to cooperate: OhioMHAS may deny an individual's enrollment into the RSS program if the applicant fails to cooperate in the enrollment process because:

(1) The individual did not apply for medicaid before the tenth working day after the

date of the determination of eligibility in rule 5160:1-1-58 of the Administrative Code; or,

(2) The individual did not select a living arrangement for a determination of the living arrangement's appropriateness, before the thirtieth day after the date of the determination of eligibility in rule 5160:1-1-58 of the Administrative Code.

An application denied for the reasons listed in this paragraph shall be held as pending by OhioMHAS until such time as the applicant requests it be withdrawn or updates the application to be in compliance with this paragraph.

(H) Hearing rights: If an applicant is denied eligibility for the RSS program pursuant to rules in this chapter; OhioMHAS shall notify the applicant of the right to a hearing, pursuant to division (H) of section 5119.41 of the Revised Code.

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## 5122-36-04 Responsibilities of the living arrangement.

Each living arrangement housing a RSS resident shall:

(A) Furnish accommodations to each resident. "Accommodations" means housing, three nutritious meals per day, meal preparation, laundry service, housekeeping, arranging transportation, social activities within the living arrangement, recreational activities within the living arrangement, maintenance, security service, and similar services.

(B) Furnish supervision to each resident. "Supervision" means ensuring the resident's health, safety, and welfare by observing the resident while he or she engages in activities of daily living or other activities; reminding the resident to engage in or complete an activity of personal hygiene or other self-care activity; or, assisting the resident in making or keeping an appointment.

(C) Furnish personal care services to each resident. "Personal care services" mean services that include assisting a resident with activities of daily living, assisting a resident with self-administration of medications in accordance with rule 5122-33-17 of the Administrative Code, and preparing special diets, if the living arrangement furnishes special diets in accordance with rule 5122-33-20 of the Administrative Code.

(D) Accept the allowable fee in rule 5122-36-05 of the Administrative Code as payment in full for all accommodations, supervision, and personal care services the living arrangement provides to the RSS resident. The living arrangement shall not request additional payment for these services from the resident, the resident's family, or any other local, state, or federal agency.

(E) Provide ODMH's designee with access to any RSS resident's records, including a resident's financial records, and any mental health plans of care as defined in rule 5122-33-18 of the Administrative Code.

(F) Allow each resident to meet privately with ODMH's designee.

(G) Notify ODMH's designee before transferring or discharging a resident to another living arrangement.

(H) Notify ODMH's designee of any significant changes in the resident's status that might affect the resident's needs.

(I) Not act as legal guardian or power of attorney for any resident unless appointed guardian or named power of attorney before July 1, 2000. However, the living arrangement may act as a resident's authorized representative.

(J) Maintain the appropriate licensure or certification.

(K) Return any RSS payment that it receives for a resident who was disenrolled from the program or left the living arrangement before the beginning of the month for which the payment was made.

(L) Give a prorated portion of any RSS payment to a resident who finds it necessary to leave the living arrangement due to extenuating circumstances before the end of the month for which the payment was made. The living arrangement shall pay even if the resident fails to give the minimum notice of departure that an admissions agreement or other contract between the living arrangement and the resident requires. Examples of extenuating circumstances include:

(1) The living arrangement cannot provide the level of care that the resident's mental, emotional, or physical condition requires;

(2) The health, safety, or welfare of the resident or any other person residing in the living arrangement requires a transfer or discharge;

(3) The living arrangement no longer has a current, valid license or certification; or,

(4) The living arrangement goes out of business.

(M) Permit each resident to have daily access to his or her personal funds during regularly-scheduled office hours, as specified in a posted notice that is available to each resident.

(N) Have each resident sign receipts for all funds exchanged between the resident and the living arrangement including payment for care, spending money, and any purchases the living arrangement makes on the resident's behalf. Additionally, the living arrangement shall provide each resident with a quarterly itemized account statement, and, if the resident gives permission to do so, the living arrangement shall provide ODMH's designee with this statement.

(O) Provide transportation for each resident as needed. If the living arrangement provides transportation for a charge to the resident, the living arrangement shall provide the resident with complete information regarding the living arrangement's transportation policy, including information concerning costs, and other transportation options available to the resident.

(P) Refrain from charging a resident more than the usual and customary rate for furnishing transportation or purchasing items.

(Q) Provide for the resident's needs, as determined by ODMH's designee. If the living arrangement cannot meet the resident's needs, it shall cooperate with ODMH's designee to relocate the resident to a living arrangement that can meet the resident's needs.

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R.C. [119.032](#) review dates: 11/30/2011 and 02/17/2017

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Statutory Authority: 5119.69, Section 1616(B)(2) of the Social Security Act

Rule Amplifies: 5119.69

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5122-36-05

**Determination of RSS payment.**

- (A) The residential state supplement (RSS) payment to enrolled individuals shall be equal to the difference between the countable income, as determined for medicaid eligibility, and the financial need standard. This payment calculation includes the twenty dollars that is disregarded for eligibility purposes in paragraph (E)(6) of rule 5160:1-5-01 of the Administrative Code.
- (B) The financial need standard is the aggregate of the allowable fee and the personal needs allowance.
- (C) The allowable fee is the amount a resident pays to a living arrangement, and is one thousand one hundred dollars per month.
- (D) The personal needs allowance is two hundred dollars per month.
- (E) The approval date for the RSS payment shall be determined by OhioMHAS and shall not occur before the date of placement in an appropriate living arrangement, or the date when all financial and non-financial eligibility requirements are met, whichever occurs last.

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