



Residential State Supplement (RSS) Legislative Review Recommendations

Purpose of Review

The Residential State Supplement (RSS) Program is Ohio's Optional State Supplementation (OSS) program as authorized by the Social Security Administration (SSA). States have discretion regarding how to administer their OSS programs, permitting all federal requirements are met. Per Ohio Administrative Code Chapter 5101-17-01:

“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 condition which is not 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.”

Prior to SFY2012, the Ohio Department of Aging had responsibility for administering the RSS program. Due to changes in population over time of individuals receiving RSS, approximately 80% of recipients were individuals with severe and persistent mental illness. The Ohio Department of Mental Health and Addiction Services (OhioMHAS) assumed responsibility for RSS beginning in SFY 2012.

OhioMHAS requested, as part of the SFY 2014-15 biennium budget, the opportunity to review the RSS Program. The budget language states *“The Department of Mental Health and Addiction Services shall, with the input of stakeholders and impacted state agencies, conduct a review of the state and federal rules and statutes governing the Residential State Supplement Program and report on potential improvements to be made in governing the program not later than January 1, 2014.”* As part of the review process, OhioMHAS also examined policies regarding allowable fees for Adult Care Facility (ACF) and Adult Foster Home (AFoH) operators. This report will outline the process utilized during the legislative review process and provide recommendations designed to address the challenges facing the RSS Program.

Current State of Ohio's RSS Program

Purpose

The RSS Program provides financial assistance for adults with low incomes who have disabilities and/or are at least age 60, but do not require long term care at nursing homes. Enrolled consumers use RSS,

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which supplements their income, to pay monthly allowable fees for accommodations, supervision, and personal care services at eligible community residences. The program's stated goal is to prevent unnecessary institutionalization and help individuals live in community settings, therefore, current program guidelines restricts RSS to those who are in a nursing home. Current eligibility criteria for RSS applicants include the following:

- 1) Age 18 or older;
- 2) Enrolled in Medicaid (not a waiver program);
- 3) Receiving Social Security, SSI and/or SSDI; and
- 4) Meet a Protective Level of Care (currently presumed for applicants receiving treatment in a nursing home and planning for discharge).

Funding

The RSS Program is funded by the state's General Revenue Funds (GRF) and the current annual budget is \$7.5 million.

Current Operations

Current program operations limit new RSS enrollments to those who are in a nursing home within the state of Ohio. Applications submitted by individuals interested in RSS go through two eligibility determinations. The first determination is conducted by OhioMHAS who reviews applications for non-financial eligibility. If eligibility criteria are met, the application is then forwarded to the local County Department of Job & Family Services (CDJFS) who conducts the second review for the financial eligibility determination.

Once approved, consumers choose a program-eligible residence. Eligible residences are facilities licensed by OhioMHAS, including Adult Foster Homes (licensed for 1 – 2 Residents) and Adult Care Facilities, which include Adult Family Homes (3 – 5 Residents), Adult Group Homes (6 – 16 Residents), and Residential Care Facilities (RCF's), i.e., Assisted Living licensed by the Ohio Department of Health (ODH) (17 or more residents),. Please see Appendix B for information regarding RSS consumers' types of residences as of the end of SFY 2013.

Once a consumer is enrolled in RSS, the payment is forwarded by the local CDJFS to the individual, legal guardian, and/or representative payee, who then combines the benefit with the individual's income to pay the monthly allowable fee to the home operator. Per Ohio Administrative Code Chapter 5122-36-05, current allowable fees (or "rent") for residents who receive RSS are as follows:

Living Arrangement Type	Monthly Allowable Fee
Adult Family Home	\$774
Adult Foster Home	\$774
Adult Group Home	\$877

Residential Care Facility

\$877

The allowable fee is to be accepted by the residence as payment in full for required accommodations, supervision, and personal care services. However, operators may charge ancillary fees permitting they are listed in the Resident Agreement and agreed to by the resident and/or legal guardian.

Prior to OhioMHAS (then the Ohio Department of Mental Health) assuming responsibility of the program, ODA closed enrollment due to budget reductions. Although OhioMHAS began accepting applications and enrolling new consumers the beginning of SFY 2012, overall enrollment has decreased from approximately 1,450 to 1,240 individuals as of the end of SFY 2013. In addition to opening enrollment to eligible individuals, OhioMHAS has increased consumer choice by eliminating previous restrictions of which regions enrollees could live and allowing individuals to move to eligible residences statewide.

Limitations of the Current State

Upon assuming responsibility of RSS, OhioMHAS became increasingly aware of several concerns and disparities within the program that prompted the request for review in order to make recommendations for improving the program and quality of life for recipients. The following are some of the disparities that were discussed throughout the review process:

1. Current operations do not address one of the program's goals as stated in rule, which is to prevent premature or unnecessary institutionalization.
2. The allowable fee rates have not changed in several years (including any cost-of-living increases), making it difficult for Adult Care Facility (ACF) and Adult Foster Home (AFoH) operators to pay the increased costs to maintain quality standards in their homes.
3. The allowable fee rates impact the disparities experienced by RSS consumers and residents of ACF/AFoH's as a whole. At the end of SFY 2013, RSS consumers lived in approximately 20% of the total licensed ACF/AFoH beds in Ohio. There are reported financial disparities between residents of ACF's who receive RSS and those who do not, although they live in the same homes and frequently have the same service needs. Although these individuals have similar circumstances, they may or may not have been enrolled in RSS per the eligibility criteria of the administrative agency at the time. For example, OhioMHAS currently requires that RSS applicants be receiving treatment in a nursing home, which excludes current residents of ACF's. Current residents of ACF's would have been eligible under ODA's administration if the program had sufficient funding available. Residents who are not enrolled in RSS often have lower incomes, are able to pay less for the same services provided by homes, and have less monthly funds available for personal needs allowances. Regardless of income type, the personal spending amount for those residents is typically no more than \$50/month, which must pay for all other living expenses, including clothing, personal hygiene, co-pays for medical treatment and prescriptions.
4. Another significant disparity created by current federal and state rules and statutes governing RSS is among all enrolled consumers, regardless of their living arrangement. Those receiving RSS

may have Social Security, SSI, and/or SSDI as their income source (please note that the RSS benefit is not considered part of the individuals' income), but they have different cost-of-living allowances (COLA's) according to their income type. According to the federal pass-along provision, SSI recipients who are enrolled in RSS receive a COLA dating back to 1983, which increases annually and to date is \$417/month. The federally mandated income disregard for Social Security and SSDI recipients is \$20/month (Ohio disregards \$50/month), which is significantly less than the disregard for RSS consumers who receive SSI. The substantial discrepancy in personal needs allowances among RSS consumers creates disparities in quality of life for those who have similar service and support needs, but widely varying financial resources to pay for monthly expenses. [Please see Appendix C for detailed information regarding the financial disparities among ACF residents with RSS according to income type.]

The Review Process

The scope of the review addressed the program's consistent issues, including eligibility criteria, current operations, and rules and statutes governing RSS. In addition, the department wanted to examine ongoing concerns for ACF/AFoH's, including allowable fees, disparities between residents enrolled in RSS and those who were not, and disparities among residents with RSS depending upon their type of income. Stakeholder participation was integral throughout the legislative review process and the department provided multiple opportunities for feedback, including workgroup sessions, regional community forums, and telephone surveys for RSS consumers and ACF/AFoH residents. OhioMHAS requested that stakeholders consider the following principles during the review:

- Sustain housing that supports community living in integrated settings;
- Support quality care to increase positive consumer outcomes;
- Reduce disparities among ACF residents;
- Plan within scarcity of state resources; and
- Facilitate systemic collaboration.

OhioMHAS identified the following objectives in order to facilitate a time-limited collaborative study of the rules and statutes governing the RSS Program and provide recommendations to the state legislature:

- Describe current state of RSS, including structure, governance, funding, and current operations;
- Identify rules, statutes, and policies that may impact future program administration;
- Identify stakeholder interests and concerns regarding RSS and allowable fees for home operators;
- Educate stakeholders regarding the need to preserve current housing stock for individuals with behavioral health issues and other disabilities; and
- Foster consensus among stakeholders to prioritize potential recommendations.

Stakeholder Considerations

The legislative review process was developed to ensure feedback from key stakeholders and impacted local and state organizations. Due to the time-limited nature of the review, OhioMHAS provided

simultaneous opportunities for participation in different regions in order to receive maximum input from the community. The department facilitated consensus through the development of a stakeholder workgroup, community forums, and phone surveys of ACF/AFoH residents.

Workgroup

Members of the RSS Legislative Review Workgroup comprised of state agency representatives, advocacy organizations, and home operators due to their expertise and knowledge of the RSS program and/or ACF's. This workgroup served as the gatekeepers of the review process and subsequent recommendations. Members were informed that the review process was deliverable-focused and their contributions would have direct impact on rules and policies regarding RSS and ACF/AFoH's. Detailed information regarding the workgroup's agenda, meeting minutes, and list of attendees is available at <http://mha.ohio.gov/Default.aspx?tabid=569>. The workgroup held five meetings, which were utilized to review the relevant rules, statutes, and policies; vet the concerns and feedback from the community forums and phone surveys; and prioritize recommendations.

Community Forums

In order to engage a broader group of stakeholders, OhioMHAS hosted three community forums in multiple regions across the state. Invitees included all licensed home operators, local Mental Health and Alcohol or Other Drug (AOD) boards and providers, state representatives, and other members of the community. Some RSS and non-RSS residents of ACF's attended and were active participants of the forums. During each meeting OhioMHAS provided background information regarding RSS, including the program's current state. Community attendees were asked to provide recommendations related to program eligibility criteria, allowable fees, quality improvement for ACF/AFoH residents, and disparities among RSS and non-RSS residents.

Regional Phone Surveys of ACF residents

OhioMHAS also wanted to provide an opportunity for RSS consumers and residents of ACF/AFoH's to have input during the review process, as they would be most impacted by any changes to rule and statute. The department also recognized that the other formats for stakeholder input may not be as accommodating for participants' disabilities and determined that phone surveys could reach consumers while in their own homes. OhioMHAS staff at the Consumer & Family Toll-Free Bridge Hotline (telephone response service provided by consumers to the community) administered the phone surveys, but received limited feedback. The majority of respondents reported satisfaction with their current residence and with the RSS Program (for those respondents enrolled). Both RSS and non-RSS residents of ACF/AFoH's reported that enrollment (or lack thereof) in RSS changed their quality of life.

Rationale for the Recommendations

OhioMHAS initiated the request for the legislative review of RSS because the department recognized the ongoing challenges and that improving the program would result in better outcomes for consumers pursuing recovery in community settings. Consensus was built among workgroup members in terms of degrees of control and impact that OhioMHAS had over possible recommendations. The recommendations aim to address the opportunity to improve a program which supports housing stock for adults with disabilities by providing financial assistance to individuals who are at risk of institutionalization.

- The RSS Program is more cost-effective and allows individuals to live in the community with supportive services as opposed to receiving treatment in institutional settings. As individual RSS benefit amounts depend upon the amount of their income, consumers currently receive a maximum of \$635/month (or approximately \$20/day) while enrolled in RSS. The costs for those individuals if they were institutionalized would be \$4,030/month (or approximately \$130/day) for a nursing home admission and \$17,763/month (\$573/day) if they were receiving treatment in a state psychiatric hospital.
- Quality of care for individuals living in ACF/AFoH's is linked to the home operators' financial resources and ability to have adequate staff and training opportunities. Depending on the type of home, operators receive approximately \$25 – 28/day to provide accommodations, supervision, and personal care services in housing that is in accordance with licensure standards. ACF's require reimbursement to allow for increasing operating costs in order to provide safe and stable housing with quality services for residents.

Recommendations:

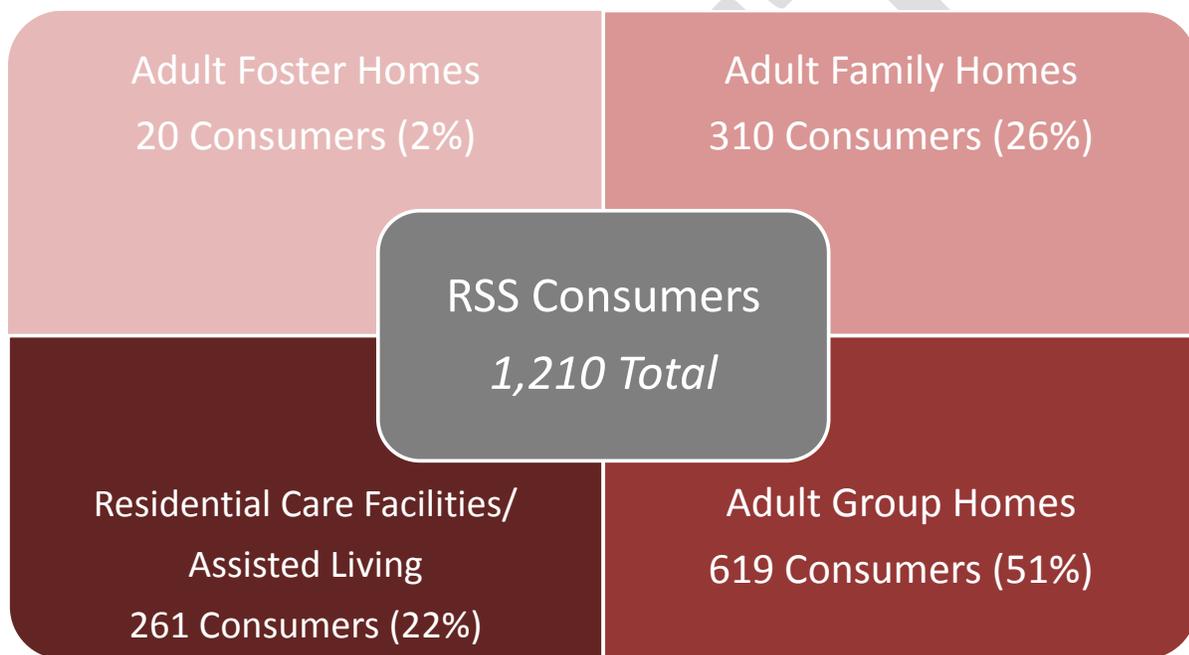
- 1) Open program enrollment to current residents of Adult Care Facilities and Adult Foster Homes in order to align operations with rule by preventing premature or unnecessary institutionalization of individuals who would otherwise meet RSS eligibility criteria.
 - a. Collaborate with ODA and ODM to develop procedure for Level of Care determinations for applicants who are not receiving treatment in a nursing home at the time of application.
- 2) Increase allowable fees so all eligible residences receive the same rates for the same services provided, i.e., increase the allowable fees for Adult Family and Foster Homes to the same rates as Adult Group Homes and Residential Care Facilities.
 - a. Develop a tiered rate system in order to address the increased costs incurred by home operators when they provide specialized services for residents with additional needs.
- 3) Develop a standardized fee schedule for ancillary services as an addendum to current Resident Agreements, e.g., transportation provided by home operators.
- 4) Pursue the COLA issue with state and federal agencies in order to address disparities among RSS consumers per type of income.
 - a. Determine whether the federal pass-along provision for SSI recipients is being correctly applied in Ohio and if so, pursue communications at the federal level regarding possible changes.
 - b. Determine whether the income disregard for Social Security and SSDI recipients should be increased.

Appendix A: Acknowledgement

The department would like to thank the following individuals for their participation in the RSS Legislative Review Workgroup:

Adam Anderson	Ohio Department of Mental Health and Addiction Services
Jonathan Baker	Ohio Department of Mental Health and Addiction Services
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Tracy Plouck	Ohio Department of Mental Health and Addiction Services
Terry Russell	National Alliance on Mental Illness
Dan Schreiber	Ohio Office of Budget & Management
Brandon Sturgill	Ohio Department of Mental Health and Addiction Services
Rick Tully	Governor's Office of Health Transformation
Karla Warren	Ohio Department of Aging
Hugh Wirtz	Ohio Council of Behavioral Health & Family Services Providers

Appendix B: RSS Consumers' Residence Types



**All figures as of June 30, 2013*

Appendix C: Disparity Among Residents with RSS

Comparison of RSS Residents' Personal Spending & Operators' Allowable Fee by Income Type

Example for Adult Group Home Resident (Current Allowable Fee is \$877)			Example for Adult Group Home Resident (Hypothetical Allowable Fee is \$1,000)		
	Unearned Income Type			Unearned Income Type	
	Social Security and/or SSDI	SSI		Social Security and/or SSDI	SSI
Financial Need Standard (Allowable Fee + \$50 Personal Needs Allowance)	\$927			\$1,050	
Actual Income Amount	\$600	\$710		\$600	\$710
COLA Disregard	\$20	\$417		\$20	\$417
Income Amount per CRISE	\$580	\$293		\$580	\$293
RSS Benefit Amount	\$347	\$634		\$470	\$757
Actual Total Monthly Benefit Amount (Unearned Income + RSS)	\$927	\$1,344		\$1,050	\$1,467
Resident's Personal Spending Amount	\$50	\$467		\$50	\$467
Allowable Fee Received by Operator	\$877			\$1,000	

*The purpose of this chart is to demonstrate that regardless of changes to allowable fees, the disparities in personal spending among RSS recipients will remain the same. The hypothetical allowable fee is for example purposes only.

Appendix D: Applicable Rules & Statutes

Ohio Administrative Code Chapter 5122-36

OhioMHAS – RSS Program

<http://codes.ohio.gov/oac/5122-36>

Ohio Administrative Code Chapter 5101:3-3-06

Medicaid – Criteria for Protective Level of Care

<http://codes.ohio.gov/oac/5101:3-3-06>

Ohio Revised Code Sections 5119.41 and 5119.411

OhioMHAS – RSS Program

<http://codes.ohio.gov/orc/5119.41>

<http://codes.ohio.gov/orc/5119.411>

Ohio Administrative Code Chapter 5101:1-17

ODJFS/Medicaid – RSS Program

<http://codes.ohio.gov/oac/5101%3A1-17>

Ohio Administrative Code Chapter 5122-33 and 5122-35

OhioMHAS – Licensure of ACF's and Adult Foster Homes

<http://codes.ohio.gov/oac/5122-33>

<http://codes.ohio.gov/oac/5122-35>

Social Security Act, Sec. 1616. [42 U.S.C. 1382e]

SSA – Optional State Supplementation

http://www.ssa.gov/OP_Home/ssact/title16b/1616.htm

DRAFT