

## TO BE RESCINDED

5122-36-02            **Eligibility criteria.**

(A) Only an individual who meets all of the following criteria is eligible for the RSS program:

- (1) The individual resides in Ohio, pursuant to section 1616(b)(1) of the "Social Security Act," 49 Stat. 620 (1935), 42 USC 1382e, as amended;
- (2) Pursuant to division (D)(1) of section 5119.41 of the Revised Code, the individual shall agree to reside in one of the following living arrangements and the individual is not related to an owner of the living arrangement or a caregiver in the living arrangement:
  - (a) A residential care facility licensed by the department of health under Chapter 3721. of the Revised Code or an assisted living program as defined in section 5111.89 of the Revised Code;
  - (b) A residential facility as defined in division (A)(9)(b) of section 5119.34 of the Revised Code licensed by the department of mental health and addiction services; or,
  - (c) An apartment or room used to provide community mental health housing services certified by the department of mental health and addiction services under section 5119.36 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)(14) of section 340.03 of the Revised Code.

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 the effective date of this rule shall remain eligible so long as the individual remains in that living arrangement.

- (3) The individual shall cooperate in the enrollment process, including applying for medicaid and selecting a living arrangement that OhioMHAS' designee determines meets the individual's needs under rule 5122-36-03 of the Administrative Code;
- (4) A CDJFS determined that the individual is financially eligible for medicaid in accordance with rule 5101:1-17-02 of the Administrative Code. A CDFJS uses a "financial needs standard" ("FNS") to determine if the individual is eligible for the program;

- (5) 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;
  - (6) The individual does not require more than one hundred twenty days of skilled nursing care during any twelve-month period, unless he or she resides in a licensed residential care facility that is authorized to provide skilled nursing care under section 3721.011 of the Revised Code. "Skilled nursing care" has the same meaning as in section 3721.01 of the Revised Code;
  - (7) The individual does not have a cognitive impairment that requires the presence of another person on a twenty-four-hours-per-day basis for the purpose of supervision to prevent harm;
  - (8) The individual is not a consumer of any home and community-based waiver program;
  - (9) The individual is not a participant in the program of all-inclusive care for the elderly ("PACE");
  - (10) The individual is at least eighteen years of age; and
  - (11) The individual agrees to participate in the RSS program and has signed the RSS resident agreement/release of information form.
- (B) If, at any time, a resident no longer meets all the criteria under paragraph (A) of this rule, the resident is no longer eligible for the RSS program, unless, according to division (H) 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 under paragraph (A) of this rule solely by reason of his or her living arrangement, so long as he or she has continued to reside in the same living arrangement since November 15, 1990.

Effective: 01/01/2016

Five Year Review (FYR) Dates: 10/15/2015

CERTIFIED ELECTRONICALLY

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Certification

12/21/2015

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Date

Promulgated Under: 119.03  
Statutory Authority: 5119.41  
Rule Amplifies: 5119.41  
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9-29-2002, 1-1-2008, 3-7-2011, 04/15/2012,  
11/20/2014