

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)(1) A class two residential facility of the type defined in paragraph (B)(1)(b) of section 5119.34 of the Revised Code, that is licensed by and in good standing with the Ohio department of mental health and addiction services; or,~~
- (2) Either a "residential care facility" as defined in section 3721.01 of the Revised Code, that is licensed and in good standing with the Ohio department of health under either section 3721.02 of the Revised Code, or an assisted living program as defined in section 173.54 of the Revised Code, if either of the following conditions occur, the living arrangement:
- (a) Is in a county where there are no class two residential facilities licensed by the Ohio department of mental health and addiction services; or,
- (b) There are no open beds in licensed class two residential facilities within the county that provide housing to individuals with mental illness.

~~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.~~

Individuals enrolled in the RSS program on the effective date of this rule may continue to reside in the living arrangement they are in on that date without regard to the living arrangement's eligibility pursuant to this paragraph.

- (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, the living arrangement operator, 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.

Effective:

Five Year Review (FYR) Dates: 01/01/2021

---

Certification

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5119.41  
Rule Amplifies: 5119.41  
Prior Effective Dates: 10/2/1995 (Emer.), 12/30/1995, 1/2/1998, 7/1/2000,  
9/29/2002, 1/1/2008, 3/7/2011, 04/15/2012,  
11/20/2014, 1/1/16