

TO BE RESCINDED

5122-36-03 **Enrollment process.**

(A) Initial enrollment process:

- (1) To request consideration to enroll in the RSS program, an individual shall submit a request to ODMH's designee or a CDJFS shall refer the individual to ODMH's designee in accordance with Chapter 5101:1-17 of the Administrative Code.
- (2) Family enrollment option: If an individual and one or more members of the individual's immediate family apply for the RSS program, they may elect, at the date of request for consideration, to be considered as one individual in the enrollment process.
- (3) ODMH's designee shall record the following information about the individual:
 - (a) The date of the request made in paragraph (A)(1) of this rule, which is the date of request for consideration;
 - (b) The individual's name, address, telephone number, date of birth, and social security number;
 - (c) 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 5101:1-37-01 of the Administrative Code;
 - (d) 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,
 - (e) Whether the individual receives SSI benefits.
- (4) ODMH's designee shall assess the individual to determine if the individual meets all the non-financial program eligibility criteria in rule 5122-36-02 of the Administrative Code.

- (5) If the individual meets all the non-financial eligibility criteria for the RSS program, ODMH's designee shall add the individual to the waiting list.
- (6) ODMH's designee shall allow any individual to withdraw from the waiting list at any time.

(B) Removing individuals from the waiting list:

- (1) ODMH's designee shall offer enrollment to any individual on the waiting list who meets the requirements for enrollment described in paragraph (C) of this rule in the following order:
 - (a) First: An individual who currently resides in a nursing facility and is currently receiving SSI benefits.
 - (b) Second: An individual who currently resides in a nursing facility but is not currently receiving SSI benefits.
 - (c) Third: An individual who is currently receiving SSI benefits.
 - (d) Fourth: Any other individual on the waiting list.
- (2) If more than one individual is waiting in a category described in paragraphs (B)(1)(a) to (B)(1)(d) of this rule, ODMH's designee shall first remove the individual with the earliest date of request for consideration.
- (3) Pursuant to division (F) of section 5119.69 of the Revised Code, this rule shall not affect the place on the waiting list of any person who was on the list on July 1, 2006.
- (4) Family enrollment option:
 - (a) If the individual chooses the family enrollment option described in paragraph (A)(2) of this rule, when the first immediate family member is selected for RSS enrollment, the ODMH's designee shall consider the other immediate family members for enrollment in the RSS program. In such cases, when immediate family members are enrolled into the RSS program as a group, ODMH's designee shall consider each immediate family member individually for the purposes of counting the maximum number of residents assigned to ODMH's designee.

(b) In order to allow immediate family members to enroll in RSS at the same time, the maximum number authorized for that region may be temporarily exceeded if the immediate family members are otherwise eligible. The number of future residents shall be reduced by the number of residents by which the maximum was exceeded for this purpose.

(5) Nursing facility: If an individual on the waiting list has been admitted to a nursing facility, ODMH's designee shall ensure that a long-term care consultation is provided to the individual, pursuant to section 173.42 of the Revised Code.

(C) Completion of the enrollment process:

(1) Contact applicant: ODMH's designee shall contact the applicant. If ODMH's designee cannot make contact with the applicant selected under paragraph (B) of this rule over the course of ten working days, ODMH's designee shall no longer consider the applicant for the RSS program unless the applicant applies for the RSS program again. If ODMH's designee is no longer considering the applicant for the RSS program, in accordance with this paragraph, ODMH's designee shall select another applicant from the waiting list, in accordance with paragraph (B) of this rule.

(2) Non-financial eligibility criteria: ODMH's designee shall determine if the applicant continues to meet the eligibility criteria of rule 5122-36-02 of the Administrative Code. If the applicant no longer meets the eligibility criteria, ODMH's designee shall deny the applicant enrollment into the RSS program.

(3) Financial eligibility criteria: ODMH's designee shall complete form JFS 07120 ("Residential State Supplement") for the applicant and submit it to a CDJFS, in accordance with Chapter 5101:1-17 of the Administrative Code to verify if the CDJFS determined that the applicant meets the medicaid financial eligibility criteria. If the applicant does not meet the financial eligibility criteria, ODMH's designee shall deny the applicant enrollment into the RSS program.

(4) Appropriateness of living arrangement:

(a) ODMH's designee shall help the applicant to locate and choose an available living arrangement in any Ohio county, then determine if the living arrangement is appropriate for the applicant according to paragraph (C)(4)(b) of this rule.

- (b) A living arrangement is only appropriate for an applicant if:
- (i) The living arrangement is able to furnish the services according to the consumer's preferences and needs that ODMH's designee identified in its assessment of the consumer;
 - (ii) The applicant, ODMH's designee, and the living arrangement agree that the living arrangement is able to furnish the services the applicant requires and is able to reach an agreement on how to pay for those services;
 - (iii) The living arrangement one of the types of living arrangements listed under division (C)(1) of section 5119.69 of the Revised Code;
 - (iv) The living arrangement has a current, valid license or certification to operate according to its type. (e.g., If the living arrangement is an adult foster home, it has a current, valid certification from ODMH to operate.);
 - (v) No licensure or certification agency has sanctioned the living arrangement so that it shall not admit new applicants;
 - (vi) The living arrangement agrees in writing to comply with all applicable statutes and regulations governing the services that it shall furnish each resident, including the regulations in rule 5122-36-04 of the Administrative Code; and,
 - (vii) If ODMH's designee is required to consult with the mental health reviewing agency of the county in which the applicant's chosen living arrangement is located determines, the mental health reviewing agency recommends that that ODMH's designee determine that the living arrangement is appropriate.
 - (a) ODMH's designee shall consult with the mental health reviewing agency no later than ten days after the applicant selects the living arrangement if the applicant has a history or receiving mental health services; or is eligible for eligible for supplemental security income (SSI) or social security disability insurance (SSDI) because of a mental disability, but does not have a primary diagnosis of dementia, delirium, Alzheimer's disease, or any other cognitive

disorder defined in DSM-IV.

- (b) ODMH's designee shall supply the mental health reviewing agency with any written referral or recommendation form or any information about the applicant that it requires.
 - (c) If ODMH's designee determines that the living arrangement is not appropriate, it shall:
 - (i) Notify the applicant of the rationale;
 - (ii) Notify the mental health reviewing agency of the rationale if ODMH's designee consulted with a mental health reviewing agency under paragraph (C)(4)(b)(vii) of this rule; and,
 - (iii) Help the applicant locate and choose another living arrangement that is capable of meeting his or her needs.
 - (d) If ODMH's designee notifies an applicant that the living arrangement he or she selected is not appropriate, but the applicant is not interested in another living arrangement, ODMH's designee shall not complete the applicant's enrollment into the program and shall inform the applicant of his or her hearing rights according to paragraph (D) of this rule.
- (5) Failure to cooperate: ODMH's designee may deny an applicant's enrollment into the RSS program if the applicant fails to cooperate in the enrollment process because:
 - (a) The applicant did not apply for medicaid before the tenth working day after the date of the determination in paragraph (C)(2) of this rule; or,
 - (b) The applicant did not select a living arrangement for a determination of the living arrangement's appropriateness, in accordance with paragraph (C)(4) of this rule, before the thirtieth day after the date of the determination in paragraph (C)(2) of this rule.

(D) Hearing rights:

- (1) If ODMH's designee determines that an applicant is ineligible for the RSS program, the CDJFS shall notify the applicant of the right to a hearing, pursuant to division (H) of section 5119.69 of the Revised Code.

- (2) If ODMH's designee determines that a resident is no longer eligible for the RSS program in accordance with paragraph (B) of rule 5122-36-02 of the Administrative Code, the CDJFS shall notify the resident of the disenrollment and right to a hearing, pursuant to division (H) of section 5119.69 of the Revised Code.

(E) Definitions for this rule:

- (1) "Immediate family member" means the applicant's spouse, child, step-child, daughter-in-law, or son-in-law.
- (2) "Mental health reviewing agency" means a mental health agency under contract with a mental health board under section 340.091 of the Revised Code to recommend if ODMH's designee should determine that a specific living arrangement is appropriate to meet a specific applicant's needs.

Effective: 01/01/2016

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

CERTIFIED ELECTRONICALLY

Certification

12/21/2015

Date

Promulgated Under: 119.03
Statutory Authority: 5119.41
Rule Amplifies: 5119.41
Prior Effective Dates: 173-35-03: 11-1-1993 (Emer.), 1-30-1994, 5-1-1994 (Emer.), 7-24-1994, 7-1-1995 (Emer.), 10-2-1995 (Emer.), 12-30-1995, 1-2-1998, 7-1-2000, 9-29-2002, 1-1-2008. 173-35- 05.1: 7-1-2000, 9-29-2002, 3-7-2011, 2/17/2012