

5160:1-5-01

Medicaid: the residential state supplement (RSS) program.

(A) RSS provides cash assistance to aged, blind, or disabled adults who are eligible for medical assistance and 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 income to help prevent institutionalization and to deinstitutionalize those aged, blind, or disabled adults who have been placed in long-term care facilities and who can return to the community through an alternative living arrangement.

(B) Definitions.

- (1) "Countable income," for the purpose of this rule, means income remaining after exclusions.
- (2) "Income standard," for the purpose of this rule, means the aggregate of the allowable fee standard and the personal needs allowance as defined in rule 5122-36-05 of the Administrative Code.
- (3) "Individual," for the purpose of this rule, means a person who is applying for or receiving RSS benefits.
- (4) "Institutional placement," for the purpose of this rule, means placement, in a public medical institution, a hospital which has a provider agreement with the Ohio department of medicaid, or a Title XIX certified long-term care facility (LTCF).
- (5) "OhioMHAS" means the Ohio department of mental health and addiction services or the entity designated by OhioMHAS pursuant to division (A) of section 5119.41 of the Revised Code.
- (6) "RSS living arrangement" means an arrangement listed in paragraph (E) of rule 5122-36-02 of the Administrative Code.
- (7) "RSS" means the residential state supplement program described in section 5119.41 of the Revised Code.
- (8) "RSS protected date," for the purpose of this rule, means the signature date on a completed "Residential State Supplement" (ODM 07120 rev. 7/2014) referral form, electronic equivalent, or a "Residential State Supplement (RSS) Program Application" (DMHAS-7046 rev. 12/16).
- (9) "Temporary institutional placement," for the purpose of this rule, means placement, not to exceed ninety days, in a public medical institution, a hospital which has a provider agreement with the Ohio department of medicaid, or a Title XIX certified long-term care facility (LTCF).

(C) Eligibility criteria. To be eligible for the RSS program an individual must:

~~(1) To be eligible for the RSS program an individual must:~~

~~(a)~~(1) Be determined eligible for medical assistance in accordance with Chapter 5160:1-3 of the Administrative Code; and

~~(b)~~(2) Meet the financial requirements described in paragraph (E) of this rule; and

~~(c)~~(3) Meet the resource requirements ~~described~~ described in paragraph (F) of this rule; and

~~(d)~~(4) Have at least a protective level of care as defined in rule 5160-3-06 of the Administrative Code; and

~~(e)~~(5) Meet the non-financial requirements described in paragraph (I) of this rule; and

~~(f)~~(6) Not require more than one hundred twenty days of skilled nursing care within a twelve month period.

~~(2) When an individual no longer meets all the criteria of this rule, the individual is no longer eligible for the RSS program, unless, according to division (E) of section 5119.41 of the Revised Code, the individual no longer meets the criteria solely by reason of his or her living arrangement, as long as he or she has continued to reside in the same living arrangement since November 15, 1990.~~

(D) RSS registration and enrollment process. The RSS application process is initiated upon receipt of all of the following:

(1) An application for medical assistance, if the individual is not currently in receipt of medical assistance; and

(2) Non-financial verifications from OhioMHAS as described in paragraph (I) of this rule; and

(3) A completed ODM 07120 or electronic equivalent from OhioMHAS verifying that the individual has been selected for placement in the RSS program.

(a) If the individual submits a completed ODM 07120 either at the county department of job and family services (CDJFS) or by mail, a copy of the ODM 07120 will be forwarded to OhioMHAS to register the individual for the RSS program.

(b) If a completed ODM 07120 or electronic equivalent has been submitted to OhioMHAS, it shall be made available to the Ohio department of medicaid and the CDJFS for the determination of eligibility in accordance with paragraph (C) of this rule.

(c) The date the signed ODM 07120 or electronic equivalent is completed and submitted to OhioMHAS will be considered the date of application.

(E) Financial eligibility.

(1) The definitions of earned and unearned income in Chapter 5160:1-1 of the Administrative Code are applicable to the RSS program.

(2) When an individual and his or her spouse reside in the same RSS living arrangement and both have appropriate levels of care, the CDJFS shall determine their RSS financial and resource eligibility collectively, utilizing the appropriate couple income standard as defined in rule 5160:1-3-03.5 of the Administrative Code.

(3) When an individual and his or her spouse reside in the same RSS living arrangement and only one of them has an appropriate level of care, the CDJFS shall determine RSS financial and resource eligibility utilizing the appropriate individual income standard as defined in rule 5160:1-3-03.5 of the Administrative Code. The spouse who does not have the necessary level of care shall have eligibility for medical assistance determined as an individual, except that income cannot be deemed to or from the RSS eligible spouse.

(4) The treatment of income for RSS shall be the same as the treatment of income for medical assistance in accordance with rule 5160:1-3-03.1 of the Administrative Code, with the following exceptions:

(a) SSI income is countable income in the RSS program.

(b) When an individual has countable income equal to or in excess of the income standard identified in rule 5122-36-05 of the Administrative Code, the individual is ineligible for RSS.

(c) The RSS program has no deeming provision.

(5) When the RSS individual's countable income is less than the income standard, but the individual's RSS enrollment is not yet completed, the CDJFS shall pend the RSS application until the RSS enrollment determination is completed.

- (6) If the RSS individual's countable income is less than the income standard, the individual is eligible for an RSS payment.
- (F) Resource eligibility shall be determined in accordance with rule 5160:1-3-05.1 of the Administrative Code.
- (G) Determination of RSS payment.
- (1) The RSS payment to the individual shall be equal to the difference between the individual's income after all allowable deductions and disregards and the income standard.
 - (2) The approval date for the RSS payment cannot precede the date of placement in an appropriate RSS living arrangement or the date when all financial and non-financial eligibility requirements are met including appropriate level of care, whichever occurs last.
 - (3) When an individual leaves an RSS living arrangement after the monthly RSS payment has been made, and does not begin residence in another eligible RSS living arrangement, the individual shall be responsible for returning the RSS payment. The return amount shall be prorated from the date the individual leaves the RSS living arrangement.
 - (4) When an individual leaves an RSS living arrangement and moves to another RSS living arrangement and the monthly RSS payment has been made to the individual, a second monthly RSS payment will not be made for the new living arrangement.
 - (5) When an individual moves from a nursing facility or a personal residence into an RSS living arrangement on the first day of the month and is otherwise eligible for RSS, the individual is eligible for a full month's RSS payment.
 - (6) When an individual moves into an RSS living arrangement on a date other than the first day of the month and is otherwise eligible for RSS, the first month's payment is calculated according to the following formula:
 - (a) Determine the regular monthly RSS payment in accordance with paragraph (G)(1) of this rule.
 - (b) Divide the monthly RSS payment amount by the number of days in the month to arrive at the daily supplement amount. Round amounts up to the next whole cent.

(c) Multiply the daily supplement amount by the actual number of days of RSS placement in the month. The actual number of days of RSS placement in the month includes the day that the individual moves into the RSS living arrangement through the last day of the month. Round amounts up to the next whole cent.

(d) The resulting product is the prorated RSS payment.

(H) Temporary institutional placement.

(1) RSS benefits are intended to allow an individual to maintain and pay for the RSS living arrangement in which he or she intends to live when discharged from temporary institutional placement.

(2) Individuals in a temporary institutional placement are potentially eligible to receive full uninterrupted RSS benefits during the first ninety days of institutional placement.

(3) Individuals are eligible for continued RSS benefits provided the following criteria are met:

(a) The individual must be eligible for an RSS payment both the month prior to and the first month of temporary institutional placement; and

(b) The individual period of temporary institutional placement is not likely to exceed ninety consecutive days, beginning the day after the day of admission; and

(c) The individual must maintain residency in the RSS living arrangement during the temporary institutional placement.

(4) OhioMHAS shall submit written documentation to the CDJFS that the criteria listed in paragraph (H)(3) of this rule has been met by the earlier of:

(a) Ninety days after the date of admission to the temporary institutional placement; or

(b) The date of release from the temporary institutional placement.

(5) RSS payments and all of the individual's income are exempt from consideration as income in the long-term care post-eligibility treatment of income calculation for individuals temporarily entering a LTCF.

- (a) This income exemption continues through the last day of the month in which the temporary period of institutional placement ends.
 - (b) Effective the month following the month in which the temporary period of institutional placement ends, when the RSS individual remains in an institutional placement, the CDJFS must stop the RSS payment, ~~and count the individual's income in the post-eligibility treatment of income calculation.~~
- (6) The CDJFS shall continue RSS payments to all individuals meeting the criteria outlined in paragraph (H)(3) of this rule.
 - (7) Any RSS payments made under paragraph (H) of this rule are not overpayments if the individual's actual stay exceeds the expected stay of not more than ninety days.
 - (8) Prior notice in accordance with division 5101:6 of the Administrative Code is required to stop RSS payments.
 - ~~(9) Upon notification from OhioMHAS that the RSS living arrangement or provider's license or certification has expired or has been suspended or revoked, the CDJFS shall provide prior notice that the individual's RSS eligibility will be discontinued because the individual no longer resides in an RSS living arrangement. Hearing rights shall be provided in accordance with division 5101:6 of the Administrative Code.~~

(I) OhioMHAS responsibilities. OhioMHAS shall:

- (1) Determine the individual's non-financial eligibility for the RSS program, for the individual in accordance with rule 5122-36-02 of the Administrative Code.
- (2) Determine whether the individual is residing in an appropriate living arrangement in accordance with rule 5122-36-02 of the Administrative Code.
- (3) Document that the individual meets at least a protective level of care pursuant to rule 5122-36-02 of the Administrative Code.
- (4) Participate in state hearings resulting from non-financial RSS eligibility criteria decisions.
- (5) Provide non-financial verifications as described in paragraphs (H) and (I) of this rule to the CDJFS in order for the CDJFS to determine RSS financial eligibility for the individual.

- (6) Inform the CDJFS of any change in the individual's or couple's RSS non-financial eligibility criteria or RSS placement.
- (7) Maintain a census of all individuals who receive RSS payments and the RSS living arrangement in which each individual currently resides.
- (8) Confirm that the individuals who receive RSS payments are residing in the RSS living arrangement on record.

(J) CDJFS responsibilities. The CDJFS shall:

- (1) Inform OhioMHAS of the individual's eligibility for medical assistance and the amount of the calculated RSS payment.
- (2) Verify that the individual is not receiving services through a home and community-based services (HCBS) waiver.
- (3) Verify that the individual is not a participant in a program of all-inclusive care for the elderly (PACE).
- (4) Verify that the individual is not enrolled in a medicare- or medicaid-certified hospice program.
- (5) For an individual who is not already receiving medical assistance, determine eligibility for medical assistance and RSS financial eligibility upon receipt of the items described in paragraph (D) of this rule.
 - (a) The CDJFS shall determine retroactive eligibility for medical assistance in accordance with rule 5160:1-2-01 of the Administrative Code for coverage of non-RSS medical services.
 - (b) The CDJFS shall explore eligibility for the medicare premium assistance programs (MPAP) in accordance with rule 5160:1-3-02.1 of the Administrative Code.
- (6) For an individual who is receiving medical assistance, upon receipt of the ODM 07120 or electronic equivalent, determine if the individual meets the RSS financial eligibility criteria. The CDJFS must notify OhioMHAS of the results of the RSS determination.
- (7) Not delay the determination of eligibility for other assistance programs when RSS eligibility is still pending.

- (8) Not treat the level of care determination for RSS eligibility as evidence that the limiting physical factor requirement for medical assistance eligibility, as defined in rule 5160:1-3-02 of the Administrative Code, has been met.
- (9) When RSS income or resource eligibility is not met in accordance with Chapter 5160:1-3 of the Administrative Code, the CDJFS shall deny the RSS application. The denial notice shall be sent to the individual and authorized representative, or legal guardian, if one has been indicated on the application. A copy of the denial notice shall also be issued to OhioMHAS.
- (10) Inform OhioMHAS of any change in the individual's or couple's medical assistance and/or RSS financial eligibility.
- ~~(11) When an individual leaves an RSS living arrangement, and does not begin residence in another eligible RSS living arrangement, the CDJFS must determine the individual's continued eligibility for medical assistance.~~
- ~~(12) Discontinue the individual or couple from the RSS program when the CDJFS is notified by OhioMHAS that the individual or couple no longer meets the non-financial eligibility requirements or when the CDJFS determines that the individual or couple no longer meets the financial eligibility requirements for the RSS program.~~
- ~~(13)~~(11) Confirm in the case record that the individual has received a level of care determination for the RSS program that meets the criteria outlined in paragraph (C)~~(4)~~ of this rule, document that OhioMHAS has confirmed that the individual is residing in an appropriate RSS living arrangement, and document the approved RSS payment amount.

(K) Individual responsibilities.

- (1) The individual shall cooperate with the CDJFS in order to determine financial eligibility for RSS.
- (2) The individual shall cooperate with OhioMHAS in order to determine non-financial eligibility for RSS.
- (3) The individual is responsible for reporting changes within ten days to the CDJFS in accordance with rule 5160:1-2-08 of the Administrative Code.

(L) This rule is being filed as an emergency rule for the immediate preservation of the public health in order to provide greater flexibility to ensure medicaid eligible individuals are able to quickly and efficiently obtain and maintain medicaid services during the COVID-19 state of emergency.

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Certification

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