

## TO BE RESCINDED

5160:1-5-01      **Medicaid: The residential state supplement (RSS) program.**

(A) RSS provides 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 personal 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 alternative living arrangement.

## (B) Definitions.

- (1) "Countable income," for the purposes of this rule, means income remaining after exclusions.
- (2) "Financial need standard," for the purposes of this rule, means the aggregate of the allowable fee standard and the personal needs allowance.
- (3) "Individual," for the purposes of this rule, means a person who is applying for or receiving RSS benefits.
- (4) "Institutional placement," for the purposes of this rule, means placement, in a public medical institution, a public psychiatric 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 (C) of section 5119.41 of the Revised Code.
- (6) "RSS living arrangement," means an arrangement listed under division (D)(1) of section 5119.41 of the Revised Code.
- (7) "RSS," means the residential state supplement program described in section 5119.41 of the Revised Code.
- (8) "RSS protected date," for the purposes of this rule, means the signature date on the form of a completed "Residential State Supplement Referral" ODM 07120 (rev. 7/2014), electronic equivalent, or a "Residential State Supplement (RSS) Program Community Referral/Update Form."

- (9) "Temporary institutional placement," for the purposes of this rule, means placement, not likely to exceed ninety days, in a public medical institution, a public psychiatric 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:

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

- (a) Be determined eligible for medicaid in accordance with rule 5160:1-1-58 of the Administrative Code; and
- (b) Meet the financial and resource requirements described in paragraph (E) of this rule; and
- (c) Have at least a protective level of care as defined in rule 5160-3-06 of the Administrative Code; and
- (d) Meet the non-financial requirements described in paragraph (H) of this rule.
- (e) Not require more than one hundred twenty days of skilled nursing care within a twelve month period.

- (2) If at any time, 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 (G) of section 5119.41 of the Revised Code, the individual no longer meets the criteria 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.

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

- (1) 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 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 department of medicaid and the CDJFS for the determination of eligibility in accordance with paragraph (C) of this rule.

(c) The signature date on the ODM 07120 or electronic equivalent shall be the RSS application date.

(2) A medicaid application, if the individual is not currently in receipt of medicaid; and

(3) Non-financial verifications from OhioMHAS as described in paragraph (H) of this rule.

(E) Financial eligibility.

(1) The definitions of earned and unearned income in Chapter 5160:1-2 of the Administrative Code are applicable to the RSS program.

(2) When an individual and his/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 need standard as defined in rule 5160:1-3-03.5 of the Administrative Code.

(3) When an individual and his/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 need standard as defined in rule 5160:1-3-03.5 of the Administrative Code.

(4) The spouse who does not have the necessary level of care shall have medicaid eligibility determined in accordance with rule 5160:1-1-58 of the Administrative Code as an individual, except that income cannot be deemed to or from the RSS eligible spouse

(5) The financial eligibility methodologies for RSS shall be the same as the financial eligibility methodology for medicaid, with the following exceptions:

- (a) SSI income is countable income in the RSS program.
  - (b) The medicaid spenddown provision does not apply in the RSS program.
  - (c) If an individual has countable income equal to or in excess of the financial need standard for the appropriate RSS living arrangement, the individual is ineligible for RSS.
  - (d) The RSS program has no deeming provision.
- (6) Twenty dollars of any earned or unearned income, other than income from SSI, is disregarded. Only one twenty dollar disregard is applied per couple if both spouses are eligible for RSS and both reside in the same RSS living arrangement.
  - (7) The disregard allowed from an eligible individual's earned income is sixty-five dollars plus one-half of the remaining income.
  - (8) Earnings which are used to pay for blind work expenses and/or impairment-related work expenses may be deducted from the earned income in accordance with rule 5160:1-3-03.11 of the Administrative Code.
  - (9) If the RSS individual countable income is less than the financial need standard for the appropriate RSS living arrangement, but the individual RSS enrollment is not yet completed, the CDJFS shall pend the RSS application until the RSS enrollment determination is completed.
  - (10) If the RSS individual countable income is less than the financial need standard for the appropriate RSS living arrangement, the individual is eligible for an RSS payment.
  - (11) The CDJFS shall determine retroactive medicaid eligibility in accordance with rule 5160:1-2 of the Administrative Code for coverage of non-RSS medicaid services.
  - (12) The CDJFS shall explore eligibility for qualified medicare beneficiary (QMB), specified low-income medicare beneficiary (SLMB), and qualified individual (QI-1) in accordance with rule 5160:1-3-02 of the Administrative Code.
- (F) Determination of RSS payment.

- (1) The RSS payment to the assistance group shall be equal to the difference between the countable income and the financial need standard for the appropriate RSS living arrangement. This payment calculation includes all allowable deductions and disregards as described in paragraph (E) of this rule.
- (2) The approval date for the RSS payment cannot precede the signature date on the ODM 07120 or electronic equivalent, the date of placement in an appropriate RSS living arrangement, or the date when all financial and non-financial eligibility requirements are met, whichever occurs last.
- (3) When an individual leaves an RSS placement after the monthly RSS payment has been made, a refund of the payment will not be made to the individual.
- (4) If an individual leaves an RSS placement and moves to another RSS living arrangement and the monthly RSS payment has been made to the previous residence, a second monthly RSS payment will not be made for the new residence.
- (5) When an individual leaves an RSS placement the CDJFS must determine the individual's continued medicaid eligibility. If an adverse action is required the individual must be afforded hearing rights in accordance with division 5101:6 of the Administrative Code.
- (6) 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.
- (7) 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 (F)(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 nearest whole dollar.
  - (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.

(d) The resulting product is the pro-rated RSS payment.

(G) Temporary institutional placement.

- (1) RSS benefits are intended to allow an individual to maintain and pay for the RSS living arrangement in which he/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 three full months of institutional placement.
- (3) Individuals are eligible for continued RSS benefits thereafter provided the following criteria are met:
  - (a) The individual continues to reside in a temporary institution.
  - (b) The individual must be eligible for an RSS payment both the month prior to and the month of institutional placement.
  - (c) The individual period of institutional placement is not likely to exceed ninety consecutive days, beginning the day after the day of admission.
  - (d) The individual needs to continue to maintain the placement in the RSS living arrangement during the institutional placement.
  - (e) OhioMHAS shall submit written documentation to the CDJFS that the criteria listed in paragraphs (G)(3)(a), (G)(3)(c) and (G)(3)(d) of this rule has been met by the earlier of:
    - (i) Ninety days after the date of admission to the temporary institution;  
or
    - (ii) The date of release from the temporary institution.
- (4) RSS payments and personal income are exempt from consideration as income in the long term care patient liability 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, if the RSS individual remains in an institutional placement, the CDJFS must stop the RSS payment and count the individual income in the patient liability calculation.
  - (5) The CDJFS shall continue RSS payments to all individuals meeting the criteria in paragraph (G) of this rule.
  - (6) Any RSS payments made under paragraph (G) of this rule are not overpayments if the recipient's actual stay exceeds the expected stay of ninety days or less.
  - (7) Prior notice in accordance with division 5101:6 of the Administrative Code is required to stop RSS payments and start vendor payments to a long term care facility.
  - (8) 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 must provide prior notice that the individual RSS eligibility will be terminated because the individual no longer resides in an RSS living arrangement and hearing rights must be provided in accordance with Chapter 5101:6 of the Administrative Code.
  - (9) When the CDJFS receives notice from OhioMHAS that the RSS living arrangement or provider's license or certification has been renewed, the RSS payment may be made retroactive to the effective date of the RSS living arrangement's or provider's recertification, as long as all other RSS eligibility factors are met.
- (H) OhioMHAS responsibilities. OhioMHAS shall:
- (1) Determine the non-financial eligibility for the RSS program, for the individual in accordance with rule 5122-36-05 of the Administrative Code
  - (2) Determine the RSS placement and that the RSS living arrangement is appropriate for the individual needs. The appropriate living arrangements are:
    - (a) An "adult foster home" certified pursuant to Chapter 5122-35 of the Administrative Code;

- (b) An "adult family home" as defined in rule 5122-33-01 of the Administrative Code;
  - (c) An "adult group home" as defined in rule 5122-33-01 of the Administrative Code;
  - (d) A "residential care facility" that is licensed by the department of health under Chapter 3721. of the Revised Code;
  - (e) A "residential facility" as defined in section 5119.34 of the Revised Code;
  - (f) An apartment or room that is used to provide community mental health services, that is certified by the OhioMHAS under section 5119.36 of the Revised Code.
- (3) Provide documentation to the CDJFS that the individual meets at least a protective level of care pursuant to rule 5122-36-03 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 (G) and (H) 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 or couple's RSS non-financial eligibility criteria, or RSS placement.

(I) CDJFS responsibilities. The CDJFS shall:

- (1) Inform OhioMHAS of the individual eligibility for medicaid and the amount of the RSS payment that can be authorized.
- (2) Verify that the individual is not a consumer of any 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 medicaid, determine medicaid eligibility and RSS financial eligibility upon the receipt of the ODM 07120 or electronic equivalent.
  - (6) For an individual who is receiving medicaid, upon the receipt of 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 and medicaid eligibility 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 medicaid eligibility as defined in rule 5160:1-3-02 of the Administrative Code has been met.
  - (9) If RSS income or resource eligibility is not met in accordance with rules 5160:1-5-01.1 and 5160:1-2-01 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 or couple's medicaid and/or RSS financial eligibility.
  - (11) Terminate the individual and/or couple from the RSS program, if the CDJFS is notified by OhioMHAS that the individual no longer meets the non-financial eligibility requirements or if the CDJFS determines that the individual no longer meets the financial eligibility requirements for the RSS program.
  - (12) Document in the case record that the individual has received an appropriate level of care and placement determination from OhioMHAS, and identify the RSS placement and approved payment amount.
- (J) 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 5160:1-1-55 of the Administrative Code.

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**CERTIFIED ELECTRONICALLY**

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Certification

06/23/2016

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Date

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