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Hearing Date: 7/21/2022

Today's Date: 7/27/2022

Agency: Ohio Department of Mental Health and Addiction Services

Rule Number(s): 5122-36-01, 5122-36-02, 5122-36-03, 5122-36-04, and 5122-36-05

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If no comments at the hearing, please check the box. ☒

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List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Donna Sabo, DMS Compliance Consulting
2. Jacquelin Ann Fields, Kareema Darby Memorial Home
3. Erin Pettegrew, Ohio Department of Aging
4. Terry Russell, National Alliance on Mental Illness
5. Gregory Jones, Lawrence Adult Family Living Home
6. Jeffrey Cummings, co-owner of a residential facility regulated by OhioMHAS
7. BJ Brown, BJ Brown & Associates, LLC
8. Glennis Thrower, Thrower Manor Adult Care Facility
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## Hearing Summary Report

### **Consolidated Summary of Comments Received**

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

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5122-36-02:

1. (A) Donna Sabo asked that CDJFS be defined. (It already is in 5122-36-01.) She also asked that “appropriate CDJFS” be defined.
2. (A)(11) – Erin Pettegrew asked that the Office of the State Long-Term Care Ombudsman be added to the list of agencies able to receive information on RSS enrollees.

5122-36-03: Donna Sabo asked that a reference to an individual’s legal representative be added.

5122-36-04:

1. (A)(4) - BJ Brown commented that the 10-day discharge rule should not apply to an emergency discharge.
2. (A)(11) - Jacqueline Ann Fields, Gregory Jones, Jeffrey Cummings, and BJ Brown all asked that the extenuating circumstances requirement not be eliminated. Glennis Thrower expressed concerns about an RSS enrollee refusing to endorse the payment check to the facility operator.
3. (A)(12) - Donna Sabo asked for clarification regarding daily accessibility to an RSS enrollee’s personal funds.
4. (B) - Jacqueline Ann Fields, Gregory Jones, Jeffrey Cummings, BJ Brown, and Glennis Thrower believe that RSS checks should be made payable to the living arrangement and not the RSS enrollee. They described instances in which the RSS enrollee leaves the living arrangement before the end of the month without paying for the portion of the month the enrollee was there.

5122-36-05: Terry Russell asked that the allowable fee be increased from \$1100 to \$1400 per month.

## Hearing Summary Report

### **Incorporated Comments into Rule(s)**

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

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OhioMHAS has incorporated the legal representative change requested by Donna Sabo.

Explanations on why other comments were not incorporated:

“CDJFS” is already defined in 5122-36-01. “Appropriate CDJFS” or similar terminology for other offices is used throughout the Revised Code and Administrative Code.

The Office of the State Long-Term Care Ombudsman may already, at any time, enter any residential facility with RSS enrollees and access records on those enrollees (R.C. 5119.34(L)(4)). Also, Ellie Jazi, Community Transitions Administrator for OhioMHAS’s Bureau of Recovery Supports, reports that the Ohio Department of Aging and area agencies on aging are included on the RSS release of information form. Therefore, the request to add this office to the list of agencies able to receive information on RSS enrollees would be an unnecessary expansion.

Probable emergency situations would involve an RSS enrollee being transferred to a hospital for a temporary stay. In those circumstances, the enrollee likely intends to immediately come back to the living arrangement. Requiring that a living arrangement give OhioMHAS or its designee at least 10 days notice of a transfer or discharge is not unreasonable. A living arrangement could also apply for a waiver of the 10-day requirement in an emergency under the procedure specified in existing O.A.C. 5122-30-07 (“waiver” is defined in existing O.A.C. 5122-24-01(B)(60)).

RSS enrollees receive financial assistance and Medicaid benefits, so the RSS dollars are an individual benefit, not a housing voucher. If there are concerns about an enrollee being able to handle financial matters, then a third party representative payee should be utilized. The RSS application asks for representative payee information so that may be arranged prior to enrollment. Enrollees may also contact OhioMHAS or their local county department of job and family services anytime to provide new payee information.

If an RSS enrollee has not used RSS funds to pay the monthly allowable fee to the living arrangement, then the enrollee (or representative payee) is responsible for returning those funds to OhioMHAS. If the enrollee moves to another RSS eligible living arrangement within the month, then they should pay pro-rated amounts to each living arrangement based on the number of days they lived in each. RSS does not pay for security deposits, so the enrollee should follow what he/she agreed to do per the resident agreement signed before becoming a resident.

A change to the amount of the allowable fee must be done in the context of budget deliberations since increasing the amount would require additional funds if the state did not want to reduce the number of individuals able to participate in the RSS Program.

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