



Ohio Administrative Code Rule 5122-36-02 RSS non-financial eligibility.

Effective: September 3, 2022

RSS non-financial eligibility criteria are:

(A) An individual is to meet all criteria specified in paragraph (C) of rule 5160:1-5-01 to be eligible for RSS payments. OhioMHAS first determines whether the individual meets the non-financial eligibility criteria and then the appropriate CDJFS completes the financial eligibility determination. The RSS non-financial eligibility criteria are all of the following:

- (1) The individual is at least eighteen years of age.
- (2) The individual meets at least the criteria for a protective level of care as specified 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 section 5165.01 of the Revised Code meets this requirement without the need for an additional level of care assessment by the local area agency on aging.
- (3) The individual does 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.
- (4) The individual does 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.
- (5) The individual has been accepted for placement or is residing in one of the following living arrangements :
 - (a) A class two residential facility of the type described in division (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

(b) 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 section 3721.02 of the Revised Code, or an assisted living program, as defined in section 173.51 of the Revised Code, as long as either of the following applies:

(i) The facility or program is in a county where there are no class two residential facilities licensed by the Ohio department of mental health and addiction services; or

(ii) There are no open beds in licensed class two residential facilities within the county that provide housing to individuals with mental illness.

Individuals who were enrolled in the RSS program on November 20, 2014, may continue to reside in the living arrangement they were in on that date without regard to the living arrangement's eligibility pursuant to this paragraph.

(6) The individual is not related to the owner or caregiver of the living arrangement.

(7) The individual is not a participant in any federal waiver program.

(8) The individual is not a participant in the Ohio department of job and family services' program of all-inclusive care for the elderly (PACE).

(9) The individual is not enrolled in a medicare or medicaid-certified hospice program.

(10) The individual is not a consumer of any home and community-based waiver program.

(11) The individual or legal representative has executed a release of information form permitting exchange of information between OhioMHAS, the Ohio department of medicaid, the Ohio department of job and family services, the CDJFS, the local area agency on aging, the living arrangement operator, and other care providers and key contacts as needed for continuity of care and eligibility determination.



(B) 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.

(1) Except as provided in paragraph (B)(2) of this section, if the individual no longer meets all the criteria in paragraph (A) of this rule, the individual is ineligible for the RSS program.

(2) An individual who meets all of the criteria in paragraph (A) of this rule except for the criteria in paragraph (A)(5) maintains non-financial eligibility for the RSS program as long as the individual has continuously remained in the same living arrangement since November 15, 1990, and that living arrangement received state supplementation on that date under former section 5101.531 of the Revised Code (repealed July 1, 1993).

(C) OhioMHAS may determine that an individual is responsible for repaying an RSS payment the individual received on or after the date the individual became ineligible for RSS or moved from an eligible living arrangement described in rule 5122-36-04 of the Administrative Code. In such cases where the payment has already been deposited or redeemed by the individual or the individual's legal representative, but not yet submitted to the eligible living arrangement, the individual or legal representative is to return the funds by sending a check or money order, made payable to the "Ohio Treasurer of State," to: RSS Return Payments, c/o OhioMHAS, 30 East Broad Street, 36th Floor, Columbus, Ohio 43215. The full name of the individual to whom the payment relates, as well as the time period for which the returned payment covers, is to be applied on the memo line of the check or money order. If, however, the RSS payment has not been deposited or redeemed, the individual or legal representative is to return the original check to the address specified in this paragraph. If the individual or legal representative has already submitted the payment to the eligible living arrangement, the living arrangement is to return the payment to OhioMHAS in accordance with paragraph (B) of rule 5122-36-04 of the Administration Code.

All returns of funds described in this paragraph are to be made not later than thirty days after the individual became ineligible for RSS or the individual moved from an eligible living arrangement



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described in rule 5122-36-04 of the Administrative Code.