



Promoting wellness and recovery

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Residential State Supplement (RSS) Program Review Recommendations

Background

The Residential State Supplement (RSS) Program is Ohio's Optional State Supplementation (OSS) program as authorized by the Social Security Administration (SSA). States have discretion regarding how to administer their OSS programs within the parameters of federal requirements. Per Ohio Administrative Code Chapter 5101-17-01:

“The purpose of RSS is to provide 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's personal income to help prevent premature or unnecessary institutionalization, and to deinstitutionalize those aged, blind, or disabled adults who have been inappropriately placed in long term care facilities and who can return to the community through alternative living arrangements.”

Recently the Ohio Department of Mental Health and Addiction Services (OhioMHAS), in conjunction with stakeholders, reviewed an area of the mental health system that has not been closely examined for 25 years. The assessment was mandated by temporary language requested by OhioMHAS in the State Fiscal Year 2014/15 Budget Bill:

“The Department of Mental Health and Addiction Services shall, with the input of stakeholders and impacted state agencies, conduct a review of the state and federal rules and statutes governing the Residential State Supplement Program and report on potential improvements to be made in governing the program not later than January 1, 2014.”

To provide background on why this report and recommendations are so critical, it is important to understand the context in which needed resources must be made available to serve some of Ohio's most severely disabled citizens.

One of the biggest challenges to recovery is housing for individuals who are at risk of premature or unnecessary institutionalization. When the state shifted focus away from institutional care with the Mental Health Act of 1988, finding appropriate housing was a challenge. Many of the individuals who were released or diverted from state institutions were placed in private Adult Care Facilities (ACF's). Many of these placements were appropriate; others were inappropriate because some home operators did not have the knowledge or skills to address the unique challenges and needs of individuals who were unable to live independently. The vast majority of these individuals received Social Security,

Supplemental Security Income (SSI), or Social Security Disability Income (SSDI), and paid approximately 85% of their government subsidy to home operators for their care.

The federal Optional State Supplementation (OSS) Program, implemented in Ohio as RSS, was developed to assist individuals who needed more support to live in the community, with supplemental funds for housing. The program was originally for those who were aged, blind, or disabled. Due to the large numbers of individuals being discharged from state psychiatric hospitals, this program was predominantly used for Ohioans with mental health disabilities. Since its inception, several state agencies have been responsible for administering the program, including the former Ohio Department of Human Services, the Ohio Department of Job and Family Services (ODJFS), and the Ohio Department of Aging (ODA). Also, the Ohio Department of Health (ODH) was responsible for licensing ACF's, leading to the former Ohio Department of Mental Health (ODMH) and the community mental health system having little or no relationship with these homes.

Over time, the population served by the RSS program has shifted to where today, approximately 80% of recipients are individuals with severe and persistent mental illness. In SFY 2012, OhioMHAS assumed responsibility for the RSS program, as well as the licensure of ACF's. The transfer of responsibility has allowed OhioMHAS to advocate for citizens who have mental illness and reside in licensed homes. The Department has recognized that significant enhancements are needed to increase the quality of care received in these unique settings.

Purpose of Review

OhioMHAS requested, as part of the SFY 2014-15 biennium budget, the opportunity to review the RSS Program. As part of the review process, OhioMHAS also examined policies regarding allowable fees for Adult Care Facility (ACF) and Adult Foster Home (AFoH) operators. This report will outline the process utilized during the legislative review process and provide recommendations designed to address the challenges facing the RSS Program.

Current State of Ohio's RSS Program

The RSS Program provides financial assistance for adults with low incomes who have disabilities and/or are at least age 60, but do not require long term care at nursing homes. Enrolled consumers use RSS, which supplements their income, to pay a monthly rate as set by the General Assembly, for accommodations, supervision, and personal care services at eligible community residences. The program's stated goal is to prevent unnecessary institutionalization and help individuals live in community settings.

Current program guidelines restrict RSS enrollment to those who are in nursing homes. Current eligibility criteria for RSS applicants include the following:

- 1) Age 18 or older;
- 2) Enrolled in Medicaid (not a waiver program);
- 3) Receiving Social Security, SSI and/or SSDI; and
- 4) Meet a Protective Level of Care (currently presumed for applicants receiving treatment in a nursing home and planning for discharge).

Current Operations

The Ohio RSS Program is funded by the state’s General Revenue Funds (GRF) and the current annual budget is \$7.5 million. Ohio program guidelines limit new RSS enrollments to those who are in nursing homes and planning for discharge. Applications submitted by individuals interested in RSS go through two eligibility determinations. The first determination is conducted by OhioMHAS, which reviews applications for non-financial eligibility. If eligibility criteria are met, the application is then forwarded to the local County Department of Job & Family Services (CDJFS) which conducts the second review for the financial eligibility determination.

Once approved, consumers choose a program-eligible community residence. Eligible residences are facilities licensed by OhioMHAS, including Adult Foster Homes (licensed for 1 – 2 Residents); and Adult Care Facilities, which include Adult Family Homes (3 – 5 Residents), Adult Group Homes (6 – 16 Residents), and Residential Care Facilities (RCF’s) or Assisted Living licensed by the Ohio Department of Health for 17 or more residents. Please see Appendix B for information regarding RSS consumers’ types of residences as of the end of SFY 2013.

Once a consumer is enrolled, the payment is forwarded by the local CDJFS to the individual, legal guardian, and/or representative payee, who then combines the RSS benefit with the individual’s income to pay a monthly allowable fee to the home operator. Per Ohio Administrative Code (O.A.C.) Section 5122-36-05, current allowable fees (or “rent”) for residents who receive RSS are as follows:

Living Arrangement Type	Monthly Allowable Fee
Adult Family Home	\$774
Adult Foster Home	\$774
Adult Group Home	\$877
Residential Care Facility	\$877

The allowable fee is to be accepted by the residence as payment in full for required accommodations, supervision, and personal care services. However, operators may charge ancillary fees for additional services, providing they are listed in the Resident Agreement and agreed to by the resident and/or legal guardian.

Prior to OhioMHAS (then the Ohio Department of Mental Health) assuming responsibility for the program, ODA closed enrollment due to budget reductions to RSS. Although OhioMHAS began accepting applications and enrolling new consumers at the beginning of SFY 2012, overall enrollment has decreased from approximately 1,450 to 1,240 individuals as of the end of SFY 2013. In addition to opening enrollment to eligible individuals receiving treatment in nursing homes, OhioMHAS has increased consumer choice by eliminating previous restrictions of which regions enrollees could live, thus allowing individuals to move to eligible community residences statewide.

Limitations of the Current State

OhioMHAS has become increasingly aware of several concerns and disparities within the program which prompted the request for review. Our goal is to make recommendations for improving the program and quality of life for RSS recipients. The following disparities were identified and discussed throughout the review process:

1. Current operations do not sufficiently address one of the program's goals as stated in rule, which is to prevent premature or unnecessary institutionalization.
2. The allowable fee rates have not changed in several years (including any cost-of-living increases), making it difficult for Adult Care Facility (ACF) and Adult Foster Home (AFoH) operators to pay increased costs necessary to maintain quality standards in their homes.
3. The allowable fee rates and varied program eligibility criteria between administrative agencies has contributed to the disparities experienced by RSS consumers and residents of ACF/AFoH's as a whole. At the end of SFY 2013, RSS consumers lived in approximately 20% of the total licensed ACF/AFoH beds in Ohio. There are reported financial disparities between residents of ACF's who receive RSS and those who do not, although they live in the same homes and frequently have the same service needs. Additionally, while these individuals have similar needs and circumstances, they may or may not have been able to enroll in RSS, depending on the eligibility criteria of the administrative agency at the time they entered the ACF/AFoH. For example, OhioMHAS currently requires that RSS applicants be receiving treatment in a nursing home, which excludes current residents of ACF's from participating in the RSS program. However, current residents of ACF/AFoH's would have been eligible under ODA's administration if the program had sufficient funding available. Residents who are not enrolled in RSS often have lower incomes, are able to pay less for the same services provided by homes, and have fewer funds available each month for personal needs.
4. Another significant disparity created by current federal and state statutes governing RSS affects all enrolled consumers, regardless of their living arrangement. Those receiving RSS may have Social Security, SSI, and/or SSDI as their income source (note that the RSS benefit is not considered part of the individual's income), but they have different cost-of-living allowances (COLA's) according to their income type. According to the federal "pass-along provision", SSI recipients who are enrolled in RSS receive a COLA dating back to 1983, which increases annually and to date is \$417/month. The federally mandated "income disregard" for Social Security and SSDI recipients is \$20/month (Ohio disregards \$50/month), which is significantly less than the disregard for RSS consumers who receive SSI. This discrepancy in personal needs allowances among RSS consumers creates disparities in quality of life for those who have similar service and support needs, but widely varying financial resources to pay for monthly expenses. [Please see Appendix C for detailed information regarding the financial disparities among ACF/AFoH residents with RSS according to income type.]

The Review Process

The scope of the review addressed the program's identified issues, including eligibility criteria, current operations, and rules and statutes governing RSS. In addition, OhioMHAS wanted to examine ongoing concerns for ACF/AFoH's, including allowable fees, disparities between residents enrolled in RSS and those who were not, and disparities among residents with RSS depending upon their type of income. Stakeholder participation was integral throughout the legislative review process and the department provided multiple opportunities for feedback, including workgroup sessions, regional community forums, and telephone surveys for RSS consumers and ACF/AFoH residents. OhioMHAS requested that stakeholders consider the following principles during the review:

- Sustaining housing that supports community living in integrated settings;
- Supporting quality care to increase positive consumer outcomes;
- Reducing disparities among ACF residents;
- Planning within scarcity of state resources; and
- Facilitating systemic collaboration.

OhioMHAS identified the following objectives in facilitating a time-limited collaborative study of the rules and statutes governing the RSS Program, with the goal of providing recommendations to the state legislature:

- Identifying the current state of RSS, including structure, governance, funding, and current operations;
- Identifying rules, statutes, and policies that may impact future program administration;
- Identifying stakeholder interests and concerns regarding RSS and allowable fees for home operators;
- Educating stakeholders regarding the need to preserve current housing stock for individuals with behavioral health issues and other disabilities; and
- Fostering consensus among stakeholders to prioritize potential recommendations.

Stakeholder Considerations

The legislative review process was developed to ensure feedback from key stakeholders and impacted local and state organizations. Due to the time-limited nature of the review, OhioMHAS provided simultaneous opportunities for participation in different geographic regions in order to receive maximum input from the community. The Department facilitated consensus through the development of a stakeholder workgroup, community forums, and phone surveys of ACF/AFoH residents.

Workgroup

The RSS Legislative Review Workgroup membership was comprised of state agency representatives, advocacy organizations, and home operators, due to their expertise and knowledge of the RSS program and/or ACFs. This workgroup served as the gatekeeper of the overall review process and subsequent recommendations. Members were informed that the review process was focused on deliverables and that their contributions would have direct impact on rules and policies regarding RSS and ACF/AFoH's. Detailed information regarding the workgroup's agenda, meeting minutes, and list of attendees is available at <http://mha.ohio.gov/Default.aspx?tabid=569>. The workgroup held five meetings, which

were utilized to review the relevant rules, statutes, and policies; vet the concerns and feedback from the community forums and phone surveys; and prioritize recommendations.

Community Forums

In order to engage a broader group of stakeholders, OhioMHAS hosted three community forums in multiple regions across the state. Invitees included all licensed home operators, local Mental Health and Alcohol or Other Drug (AOD) boards and providers, state representatives, and other members of the community. Some RSS and non-RSS residents of ACF's attended and were active participants in the forums. During each meeting, OhioMHAS provided background information regarding RSS, including the program's current state. Community attendees were asked to provide recommendations related to program eligibility criteria, allowable fees, quality improvement for ACF/AFoH residents, and disparities among RSS and non-RSS residents.

Regional Phone Surveys of ACF residents

OhioMHAS also wanted to provide an opportunity for RSS consumers and residents of ACF/AFoH's to have input during the review process, as they would be most impacted by any changes to policy, rule and/or statute. The Department also recognized that the other formats for stakeholder input might not be as accommodating for participants' disabilities, and determined that phone surveys could reach consumers in their own homes. OhioMHAS staff at the Consumer & Family Toll-Free Bridge Hotline (telephone response service provided by consumers to the community) administered the phone surveys, but received limited feedback. The majority of respondents reported satisfaction with their current community residence and with the RSS Program (for those respondents enrolled). Both RSS and non-RSS residents of ACF/AFoH's reported that enrollment (or lack thereof) in RSS changed their quality of life.

Rationale for the Recommendations

OhioMHAS initiated the request for the legislative review of RSS because the Department recognized the ongoing challenges within the program, and that improvement would result in better outcomes for consumers pursuing recovery in community settings. Consensus was built among workgroup members in terms of degrees of control and impact that OhioMHAS had over possible recommendations. The recommendations address the opportunity to improve a program which supports housing stock for adults with disabilities, by providing financial assistance to individuals who are at risk of institutionalization:

- The RSS Program is more cost-effective and allows individuals to live in the community with supportive services, as opposed to receiving treatment in institutional settings. As individual RSS benefit amounts depend upon the amount of their income, consumers currently receive a maximum of \$635 per month (or approximately \$20 per day) while enrolled in RSS. The costs for those individuals if they were institutionalized would be \$4,030 per month (or approximately \$130 per day) for a nursing home admission and \$17,763 per month (\$573 per day) if they were receiving treatment in a state psychiatric hospital.
- Quality of care for individuals living in ACF/AFoH's is linked to the home operators' financial resources and ability to have adequate staff and training opportunities. Depending on the type of home, operators receive approximately \$16 – \$28 per day to provide accommodations,

supervision, and personal care services in housing that is in accordance with licensure standards. ACF's require reimbursement to allow for current and increasing operating costs and to provide safe and stable housing with quality services for residents.

Recommendations:

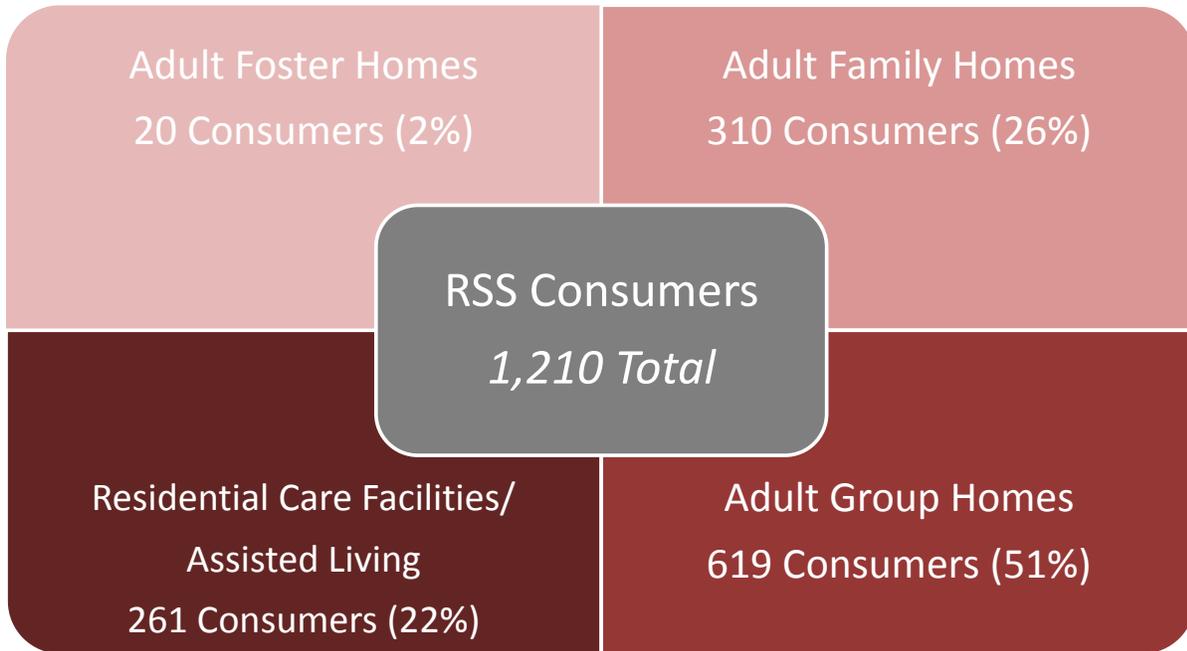
- 1) Open program enrollment to current residents of Adult Care Facilities (includes Adult Family and Group Homes) and Adult Foster Homes in order to prevent premature or unnecessary institutionalization of individuals who would otherwise meet present RSS eligibility criteria.
- 2) Pursue the COLA issue with state and federal agencies in order to address disparities among RSS consumers per type of income.
 - a. Determine whether the federal "pass-along provision" for SSI recipients is being correctly applied in Ohio and, if so, pursue communications at the federal level regarding possible changes.
 - b. Determine whether the income disregard for Social Security and SSDI recipients should be increased.
- 3) Open future enrollment to individuals living in residences with no more than 16 licensed beds in order to facilitate integration in community settings. Individuals currently living in Residential Care Facilities (RCF's) or Assisted Living licensed for 17 beds or more would not be impacted by this change and could choose to remain in those settings. Individuals who are already living in RCF's will continue to receive RSS while remaining in those settings.
- 4) Increase allowable fees so all eligible residences receive the same rates for similar services provided (i.e., increase the allowable fees for Adult Family and Foster Homes (\$774 per month) to the same rates as Adult Group Homes and Residential Care Facilities (\$877 per month).
- 5) Clarify the current rule regarding ancillary fees for additional services that home operators are permitted to include as an addendum to current Resident Agreements, (e.g., transportation provided by home operators).

Appendix A: Acknowledgement

The department would like to thank the following individuals for their participation in the RSS Legislative Review Workgroup:

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Mary Turocy	Disability Rights Ohio
Karla Warren	Ohio Department of Aging
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Appendix B: RSS Consumers' Residence Types



**All figures as of June 30, 2013*

Appendix C: Disparity Among Residents with RSS

Comparison of RSS Residents' Personal Spending & Operators' Allowable Fee by Income Type

Example for Adult Group Home Resident (Current Allowable Fee is \$877)			Example for Adult Group Home Resident (Hypothetical Allowable Fee is \$1,000)		
	Unearned Income Type			Unearned Income Type	
	Social Security and/or SSDI	SSI		Social Security and/or SSDI	SSI
Financial Need Standard (Allowable Fee + \$50 Personal Needs Allowance)	\$927			\$1,050	
Actual Income Amount	\$600	\$710		\$600	\$710
COLA Disregard	\$20	\$417		\$20	\$417
Income Amount per CRISE	\$580	\$293		\$580	\$293
RSS Benefit Amount	\$347	\$634		\$470	\$757
Actual Total Monthly Benefit Amount (Unearned Income + RSS)	\$927	\$1,344		\$1,050	\$1,467
Resident's Personal Spending Amount	\$50	\$467		\$50	\$467
Allowable Fee Received by Operator	\$877			\$1,000	

**The purpose of this chart is to demonstrate that regardless of changes to allowable fees, the disparities in personal spending among RSS recipients will remain the same due to the current application of the federal "pass-along provision". The hypothetical allowable fee is for example purposes only.*

Appendix D: Applicable Rules & Statutes

Ohio Administrative Code Chapter 5122-36

OhioMHAS – RSS Program

<http://codes.ohio.gov/oac/5122-36>

Ohio Administrative Code Chapter 5101:3-3-06

Medicaid – Criteria for Protective Level of Care

<http://codes.ohio.gov/oac/5101:3-3-06>

Ohio Revised Code Sections 5119.41 and 5119.411

OhioMHAS – RSS Program

<http://codes.ohio.gov/orc/5119.41>

<http://codes.ohio.gov/orc/5119.411>

Ohio Administrative Code Chapter 5122-33 and 5122-35

OhioMHAS – Licensure of ACF's and Adult Foster Homes

<http://codes.ohio.gov/oac/5122-33>

<http://codes.ohio.gov/oac/5122-35>

Social Security Act, Sec. 1616. [42 U.S.C. 1382e]

SSA – Optional State Supplementation

http://www.ssa.gov/OP_Home/ssact/title16b/161

[6.htm](http://www.ssa.gov/OP_Home/ssact/title16b/1616.htm)

Ohio Administrative Code Chapter 5101:1-17

ODJFS/Medicaid – RSS Program

<http://codes.ohio.gov/oac/5101%3A1-17>