



The Who, What, When, Where and How of Ombudsman Services for Home Care Consumers

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Brief History of LTC Ombudsman Program

- Congress:
 - Created as demonstration projects for services to nursing home residents (1972)
 - Required every State accepting OAA funds to operate a Nursing Home Ombudsman Program (1978)
 - Changed name to “Long-Term Care Ombudsman” and expanded population served to residents of “board and care” and “any other adult care home” (1981)
 - Clarified that the definition of “any other adult care home” includes “assisted living” (2006)
- As of 2013, Congress has NOT authorized services through the OAA to individuals receiving LTSS in their own private homes

Population served by LTCO under OAA

Residents of:

- nursing facilities
 - board and care homes
 - assisted living facilities and
 - any other adult care facility.
-
- But NOT in-home services



LTC Ombudsman Functions: OAA Section 712

Identify, investigate, and **resolve complaints** that—

- are made by, or on behalf of, residents; and
- relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents . . . of—
 - (I) providers, or representatives of providers, of long-term care services;
 - (II) public agencies; or
 - (III) health and social service agencies

Inform the residents about means of obtaining services

Ensure that the residents have **regular and timely access** to the services . . . and that the residents and complainants receive timely responses . . . to complaints

LTC Ombudsman Functions (continued)

Represent the interests of the residents before governmental agencies and **seek administrative, legal, and other remedies** to protect the health, safety, welfare, and rights of the residents

Analyze, comment on, and **monitor the development and implementation of** Federal, State, and local laws, regulations, and other **governmental policies and actions**, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care

Recommend . . . changes in such laws, regulations, policies, and actions



LTC Ombudsman Functions (continued)

Facilitate public comment on laws, regulations, policies, and actions

Promote the development of **citizen organizations** to participate in the program

Provide technical support for the development of **resident and family councils**



The essential characteristics of an ombuds:

- independence,
- impartiality in conducting inquiries and investigations, and
- confidentiality.

Adopted by the American Bar Association (2004)



State expansion of LTC Ombudsman Program

- Some states have expanded the scope to in-home settings with State or other funding
- See strengths of LTC Ombudsman model:
 - Focus is on resident/consumer
 - Flexibility in working towards resolution
 - Residents' individual complaints and interests are translated into systems advocacy



LTC Ombudsman Programs which provide services to individuals in their homes

14 programs are authorized under state/district law to expand ombudsman services to in-home settings:

- Alaska
- District of Columbia
- Idaho
- Indiana
- Illinois
- Maine
- Minnesota
- Ohio
- Pennsylvania
- Rhode Island
- Vermont
- Virginia
- Wisconsin
- Wyoming



Source: “Home Care Ombudsman Programs,” National Ombudsman Resource Center/NASUA (2007); Administration on Aging updates (2013)

Federal (CMS) initiatives: expansion of ombudsman services to home care recipients – and beyond

1. Nursing Home Transition:

- Money Follows the Person
- MDS 3.0, Section Q

2. Medicaid Managed LTSS

3. Financial Alignment Initiatives (i.e. Duals Demonstration Projects (beyond LTSS))



Money Follows the Person

- Authorized by Congress in the Deficit Reduction Act of 2005
- Assists States to balance their long-term care systems and help Medicaid enrollees transition from institutions to the community
- Available to residents who have lived in a nursing home with Medicaid benefits for at least 90 days
- Up to one year of funding for transition needs
- At least 2 states (GA, DE) provide ombudsman services to individuals in their own homes for year after transition
- NOTE: Other states (e.g., TX, OK, MI) use MFP funds for LTCO services for residents who indicate their desire to transition through MDS 3.0, Section Q.

Managed LTSS

- What is it?

Managed Long Term Services and Supports (MLTSS) – the delivery of long term services and supports through capitated Medicaid managed care program
- Growing rapidly :
 - 8 States in 2004 to
 - 16 in 2012
 - Estimated that 26 states will have MLTSS program by 2014
- CMS requirements include support for beneficiaries , including:
 - Enrollment/disenrollment services, including choice counseling and education on additional opportunities for disenrollment, and
 - An advocate or ombudsman to help understand a beneficiary's rights, responsibilities and how to handle a dispute with the managed care plan or state.

Managed LTSS

- Some States have long experience with managed Medicaid LTSS (e.g., NM, WI, VT)
- Some States have expanded LTCO program to provide services to participants in their own homes (e.g. WI, VT)
- OR . . . they may create a new model for ombudsman services (e.g., KS)

Duals Demonstration Projects

- Federal Coordinated Health Care Office (Medicare-Medicaid Coordination Office) created by Affordable Care Act.
- Goal: to make sure Medicare-Medicaid enrollees have full access to seamless, high quality health care and to make the system as cost-effective as possible.
- Created “Financial Alignment Initiative” to test improved service delivery to individuals who are dually eligible for Medicare and Medicaid.
- Depending on State proposal, may include acute care, primary care, behavioral health care, and long-term services and supports

Duals Demos and Ombudsman Programs

- CMS: “Meaningful engagement with stakeholders and ensuring beneficiary protections will be a crucial part of developing and testing these models.”
 - Requires an independent ombudsman program in participating States.
- CMS providing funding opportunity for States to support Dual Demonstration Ombudsman Programs (announced June 2013).
- Some states propose expanding LTCO program (e.g., VA, OH) – will serve individuals regardless of setting (e.g., facility or home) or service (e.g., acute, primary, behavioral health, or LTSS)
- Some states propose using other entities (e.g., CA, NY, MA)

On the horizon . . . Older Americans Act Reauthorization

- S. 1562 introduced in October 2013 by HELP Committee Senators Harkin, Alexander, and Sanders
 - Contains revisions related to long-term care ombudsman program, including:
 - “when feasible, continue to carry out the functions . . . On behalf of residents transitioning from a long-term care facility to a home care setting “
 - (revises Section 712(a)(3) – Functions of the Ombudsman)
- No bill in House to date

Mechanisms for Providing In-Home Ombudsman Services

Mechanism	Population Served	Resources Available	Federal Share
State authorized	Depends on State law	State funds	0%
Money Follows the Person	Residents transitioning from nursing home (up to 1 year of service after transition)	Money Follows the Person <ul style="list-style-type: none"> • CMS grants to States • ends FFY 16 • Nov 2010 CMS/AoA letter to States 	100%
Medicaid Managed LTSS	Medicaid Managed LTSS recipients, regardless of location	Medicaid administrative claiming <ul style="list-style-type: none"> • Through State Medicaid Plan or Waiver • June 2013 CMS Information Memo 	50%
Dual Demonstration Ombudsman Programs	Participants in Financial Alignment Initiative (not limited to location or to LTSS)	CMS grants to participating states <ul style="list-style-type: none"> • June 2013 Funding Opportunity Announcement 	100%

On the horizon . . .

Mechanism	Population Served	Resources Available
Older Americans Act Reauthorization (proposed)	Residents transitioning from any long-term care facility	<ul style="list-style-type: none">• TBD -- No new funds unless Congress appropriates• Would clarify access to OAA funds (Title III and Title VII) for

Considerations for States/LTCO Programs

Population served -- do you have experience/credibility with this population and their needs?

- Clearly define service population, including:
 - funding source (e.g., Medicaid waiver, all sources, OAA funded)
 - types of services (e.g., home health, adult day services)
- Are you easily accessible to them (including to people with varying disabilities)?
- Is your program culturally competent (e.g., language, tribal/ethnic customs, sensitive to LGBT needs)?

Considerations

Expertise – do you have the needed expertise on the anticipated issues?

- nursing home transition (MFP)
- knowledge of and relationships with:
 - service providers (e.g., home health, private home care providers)
 - regulators
 - managed care entities (MLTSS, Duals Demos)
 - other stakeholders (e.g., consumer advocacy groups)
- managed care insurance contracts (MLTSS, Duals Demos)

Considerations

Adequate resources – do you have access to needed resources?

- sufficient funds to provide this service
- without compromising services to long-term care facility residents
- would you use volunteers in these settings/issues?
- adequate legal counsel (e.g., to assist with managed care contracting issues, policy advocacy, etc.)
- do you use current staff/volunteers or designate experts?
 - need for training for staff and/or volunteers

Considerations

Information technology capacity -- Do you have the ability to:

- collect data on complaints and activities?
- analyze data to capture trends?
- report trends to relevant policymakers and stakeholders?
- utilize information to make systemic improvements?

Considerations

Legal Authority -- Do you have legal authority to:

- access to individuals in their own home?
- access individuals' medical and personal records?
- access the needed records of the provider, managed care company, regulatory agency?
- protect the confidentiality of identity and information received from individuals and complainants?
- provide independent ombudsman services, including systems advocacy?

Considerations

Conflicts of interest – Are you able to represent the interests of the individual and population without conflict?

- challenges within agencies with various roles:
 - in-home service provider,
 - abuse investigator,
 - regulator,
 - public guardian,
 - care coordinator,
 - consumer advocate

The reason that LTC Ombudsman is being stretched – or replicated:



The Long-Term Care Ombudsman Program

“serves a vital public purpose. Every year the Long-Term Care Ombudsman Program helps many thousands of individual residents ...[and] the program can justly claim to have improved the system of long-term care services.”

- *Institute of Medicine, 1995*

Resource Links

National Ombudsman Resource Center

(including “Home Care Ombudsman Programs Status Report: 2007;” federal letters, memos regarding use of resources):

<http://www.ltombudsman.org/>

Administration for Community Living LTCO Page:

http://aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Ombudsman/index.aspx

American Bar Association Report on Ombuds Standards:

http://www.americanbar.org/content/dam/aba/directories/policy/2004_my_11_5.authcheckdam.pdf

CMS guidance on Managed LTSS:

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Delivery-Systems/Medicaid-Managed-Long-Term-Services-and-Supports-MLTSS.html>

Older Americans Act S. 1562 (113th Congress):

www.thomas.gov