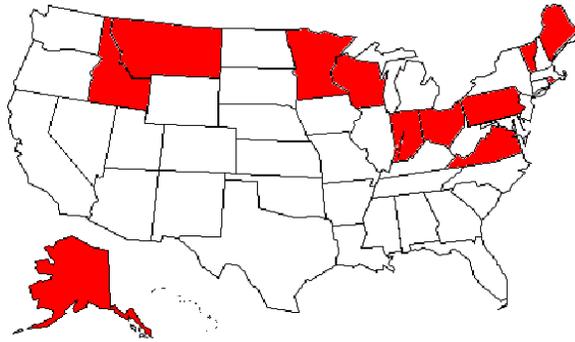


## Home Care Ombudsman Programs Status Report: 2007



Prepared by the National Association of State Units on Aging

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# Home Care Ombudsman Programs Status Report: 2007

## Introduction

Ombudsman programs in twelve states are authorized or mandated under state law to provide advocacy on behalf of consumers who receive home and community based care. Over the last seven years the Long-Term Care Ombudsman Program's involvement in home care advocacy has changed little; the numbers of complaints, types of individual and systems issues, and the level of support have remained relatively stable. The most notable change is the addition of Vermont (in January 2006) to the list of states with home care advocacy responsibility.

State Long-Term Care Ombudsman Programs  
with Home Care Responsibility

**Alaska**  
**Idaho**  
**Indiana**  
**Maine**  
**Minnesota**  
**Ohio**  
**Pennsylvania**  
**Rhode Island**  
**Vermont**  
**Virginia**  
**Wisconsin**  
**Wyoming**

This paper updates and expands information previously collected on home care ombudsman programs in 2000. New information reported here was gathered in April / May 2007 through a web-based questionnaire and a teleconference. Eleven of the 12 ombudsman programs with home care responsibility responded to the questionnaire. Individual discussions and correspondence added to and clarified information about each program's home care advocacy activities. A comparative matrix of key operational elements of home care ombudsman programs is provided in Appendix A. The teleconference, convened on May 15, 2007, included both long term-care ombudsman programs with state authorization to investigate home care complaints and ombudsman programs that have received home care quality complaints even though they do not have state authority to investigate such issues. A separate section is devoted to describing the home care advocacy activities of the latter ombudsman programs. Appendix B contains brief descriptions of the program scope for each of the 12 ombudsman programs with state authority for investigating home care complaints.

The questionnaire gathered information about the operational elements of home care ombudsman programs, including:

- program scope
- program funding
- staffing
- training
- policies and procedures
- home care consumers access to ombudsman programs
- complaints
- formal and informal coordination with other agencies
- systems advocacy on home care quality.

The Appendices include:

- Home Care Ombudsman Program Quick Reference - a comparative matrix of key operational elements (Appendix A)
- Brief descriptions of the 12 long-term care ombudsman programs with home care responsibility (Appendix B)
- Selected Resources for Ombudsman Work in Home Care (Appendix C).

## **Program Scope**

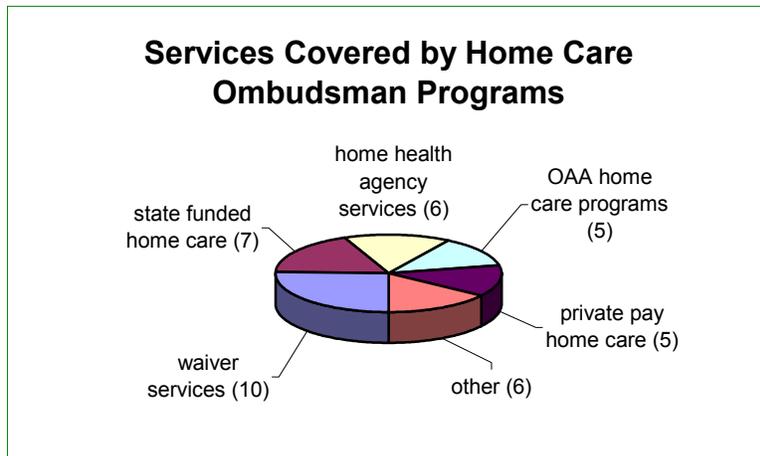
The majority of home care ombudsman programs have responsibility for handling complaints concerning home & community based waiver services.

Ten of the eleven ombudsman programs (all except Indiana) that responded to the questionnaire have responsibility for investigating complaints concerning home and community based services funded under Medicaid waivers. This is significant, given the increased emphasis on the use of waiver services in states' long-term care rebalancing efforts, including nursing facility diversion and transition initiatives. Other services covered by home care ombudsman programs include:

- state funded home care (AK, ME, MN, OH, RI, VA, WI);
- home health agency services (AK, ME, MN, OH, RI, VA);
- Older Americans Act (OAA) home care programs (AK, ME, MN, VA);
- private pay home care (AK, ME, MN, OH, VA).
- other: adult foster care (IN, MN), adult day services (MN, OH), Hospice and public housing (AK), relocation follow up (PA).

The pie chart on page 3 illustrates the types of services that come under the jurisdiction of home care ombudsman programs in eleven of the 12 states with home care responsibility. Appendix B contains brief descriptions of the program scope for each of the 12 ombudsman programs with state authority for investigating home care complaints.

The enabling statutes or regulations of 5 states -- Alaska, Idaho, Minnesota, Pennsylvania, and Rhode Island – permit, but do not require, the ombudsman program to investigate home care complaints. This distinction is important relative to the priority the program gives to handling home care complaints, subject to the resources it may have available.



(Number of home care ombudsman programs that cover the service.)  
 Other includes: adult day care, adult foster care, hospice, public housing and relocation follow up.

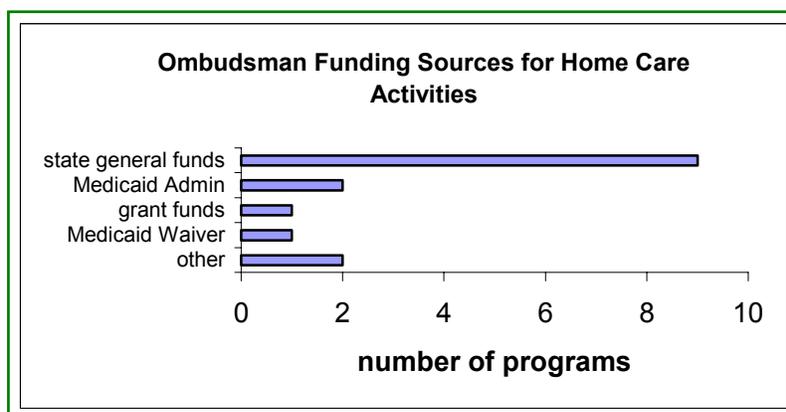
## Program Funding

Most ombudsman programs use state general funds to support their home care advocacy work.

Funding for ombudsman programs with responsibility for home care advocacy comes from a variety of sources.

- Nine of the eleven home care ombudsman programs (all except Indiana and Idaho) that responded to the questionnaire use state general funds to support home care advocacy.
- Five home care ombudsman programs use multiple sources of funding, including: Medicaid waiver funds (VT); Medicaid administrative funds (ME, WI); facility-based provider fees (OH); and grant funds and fund raising (RI).
- Three states, Rhode Island, Vermont and Wisconsin, receive funds dedicated to home care advocacy.

The chart below shows the types of funding sources that ombudsman programs use to fulfill their home care advocacy responsibilities.



Other includes: long-term care facility bed fees (Ohio), and fund raising (Rhode Island).

The federal Older Americans Act defines the scope of Ombudsman services to include nursing facilities, skilled nursing facilities, board and care and "similar" adult care homes. Thus, programs that provide home care advocacy rely on state general revenues or other sources of funding to support their work in this arena.<sup>1</sup> Typically, state funds supplement the Ombudsman Program's federal funding and are not earmarked specifically for home care.

Eight states reported that the level of resource commitment remained stable during the past five years. Maine reported an increase and Ohio reported that the level of resource commitment for home care advocacy has decreased during the past five years.

The amount of funding that supports ombudsman programs' home care advocacy work, and the percentage of the overall ombudsman program budget that this represents, varies by state and cannot always be calculated in exact amounts, since many programs use non-federal funds to support ombudsman work across all settings. The following examples illustrate the range of funding that support home care advocacy.

- In **Maine**, the ombudsman program receives \$434,265 in Title XIX (Medicaid) and state general funds, which it uses for advocacy in both home care and institutional settings.
- **Minnesota's** Long-Term Care Ombudsman Program will expend about \$223,475 in state general funds in FY 2007 to handle complaints in settings other than nursing facilities, including assisted living and community settings. This represents approximately 20% of the program's overall budget.

<sup>1</sup> Funds authorized and/or appropriated under the Older Americans Act for the Long-Term Care Ombudsman Program may not be used for ombudsman services in settings other than those included in the program as defined in the Act: nursing homes, board and care homes and similar adult care facilities (Section 102(a)(32)). This includes Title III funds taken "off the top" by the state under Section 304(d)(1)(B); Title VII, Chapter 2 ombudsman funds and the state and other funds included in the required minimum funding levels under Sections 307(a)(9) and 306(a)(9) of the Act. (See AoA PI-94-02, issued April 5, 1994.)

- The **Vermont** Ombudsman Program currently receives \$150,000 in Medicaid funds to handle complaints about Medicaid waiver services. This represents about 24% of the ombudsman program's total budget.
- The **Wisconsin** Ombudsman Program receives annual funding of \$100,000 for home care activities. This represents less than 10% of the program's overall budget.
- The **Rhode Island** Ombudsman Program receives \$50,000 each year for home care advocacy work.
- In **Ohio**, state general revenue funds and monies collected from long-term care bed fees support the long-term care ombudsman program's advocacy in nursing and residential settings as well as in home care. The state ombudsman estimates that based on the percentage of time the program devotes to home care advocacy, about \$19,000 (3% of state general funds) supports home care advocacy.

## Staffing

In nine states, any ombudsman program staff may investigate home care complaints.

Nine of eleven states reported that any ombudsman program staff may investigate home care complaints.<sup>2</sup> The **Maine** Ombudsman Program previously employed two "Home Care Specialists" who were Registered Nurses, to investigate most of the home care complaints reported to the program. However, due to budget cuts, the program no longer uses staff dedicated to only handling home care complaints. Currently, **Rhode Island** is the only ombudsman program which uses specifically designated staff to conduct home care advocacy work. The **Vermont** Ombudsman Program received additional funds to hire two new staff positions to handle home care advocacy work.

It is difficult to quantify the amount of staff time that ombudsman programs devote exclusively to home care advocacy. Generally, ombudsman programs reported that only a small percentage of staff time is spent on home care advocacy activities. **Minnesota** however, reported that 20 percent of ombudsman staff time is spent on home care advocacy.

**Minnesota** and **Pennsylvania** are the only programs that use volunteers to do home care advocacy. Volunteers in Minnesota visit clients only in assisted living settings, while volunteers in Pennsylvania are trained to visit home and community based services clients, investigate complaints and provide consumers with information about home and community care options. The **Ohio** and **Rhode**

Home care complaints tend to be "time consuming", so the number of home care complaints alone does not adequately reflect the program's activities on behalf of individual home care consumers.

Brenda Gallant  
Maine State Long-Term Care  
Ombudsman

<sup>2</sup> Indiana does not devote any staff to handling home care complaints.

**Island** Ombudsman Programs previously used volunteers to investigate home care complaints. However, because of the increasingly complex nature of home care issues, these programs no longer use volunteers for home care advocacy work.

## Training

Seven states with home care ombudsman programs require ombudsman program staff to receive training on home care advocacy before they investigate complaints.

Seven of eleven states with home care ombudsman programs provide specific training on home care advocacy to ombudsman staff. Six states (Maine, Minnesota, Ohio, Pennsylvania, Vermont and Wisconsin) reported that all ombudsman program staff are provided training on home care advocacy. The **Rhode Island** Ombudsman Program trains only designated home care ombudsman staff. All seven of these programs require training before ombudsmen can handle home care complaints.

Training varies by state, however typical topics related to home care include: home care regulations; waiver requirements; and eligibility and appeal rights.

- The **Maine** Ombudsman Program has developed a training program on home care advocacy for staff and attorneys to assist with gathering information and representing consumers at administrative hearings.
- **Minnesota**'s ombudsman orientation consists of 4 hours of classroom training and a 2-4 hour internship in home care advocacy. The Office of the State Ombudsman devotes at least four hours during each quarter's in-person training for statewide ombudsman staff to home care topics. To meet the requirement for 60 continuing education hours per year for all staff, ombudsmen may attend video conferences sponsored by the Department of Human Services regarding publicly funded home care services and other related home care topics.
- The 120-hour curriculum for new ombudsmen mandated by the **Ohio** Ombudsman Program addresses a study of home care regulations. New ombudsmen in Ohio also have the option of completing the twenty-hour provider orientation required by the program with a home care provider instead of in a nursing home or residential care facility. The orientation includes observations of general operations, an admission, a home health aide visit and a supervisory visit.

## Policies and Procedures

The **Maine** Ombudsman Program has policies and procedures specifically related to its home care advocacy responsibilities, including issues such as handling complaints, referral protocols, and conflict of interest. The **Minnesota** Ombudsman Program is in the process of updating its home care policies and procedures (which were first written in 1989) and the **Virginia** Ombudsman Program currently has policies and procedures in development. The eight

other ombudsman programs that responded to the questionnaire reported that they do not have specific policies and procedures covering their home care activities.

## Home Care Consumers' Access to Ombudsman Programs

Eight states have a statute, regulation or policy requiring that information about the ombudsman program be given to home and community based services clients.

Unlike long-term care facilities where information about the ombudsman program is posted or an ombudsman can drop by unannounced, the home care setting does not afford easy access. In the past, several states attributed the low number of home care complaints to the ombudsman program's lack of access to home care consumers. To address that concern, eight states (Indiana, Maine, Minnesota, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin) have put in place, through statute, regulation or program policy, a requirement that home and community based services consumers receive information about the ombudsman program.

While access to home care clients appears to be improving, issues still exist. For instance, in **Ohio** the requirement that home care consumers be made aware of the ombudsman program only applies to persons receiving services under the Medicaid waiver program. Alaska, Idaho and Virginia do not have statutes or regulations requiring that information about the ombudsman program be given to home care consumers.

The following examples illustrate how some states have promoted awareness of, and access to the long-term care ombudsman program by consumers of home care services.

- In **Maine**, the agencies that determine eligibility for home and community based services and provide care coordination are required to give consumers information about the ombudsman program as a condition of their contracts with the state. Information is provided to consumers upon entry into the program and when there is a decrease or termination of services. This policy greatly added to the visibility of Maine's Ombudsman Program and has contributed to the large number of home care complaints the program receives. The ombudsman program also developed a home care ombudsman brochure to provide information to consumers.
- In **Minnesota**, the home care licensing law requires home care agencies to inform their clients about the ombudsman program as a resource for resolving complaints, specifically when services are being terminated or when their service fees are being increased.
- In **Ohio**, "PASSPORT", which is the Medicaid waiver home care program for adults age 60 and over, is required to distribute information about the ombudsman program to clients upon admission to the waiver program. Under the

Fear that you'll end up in a nursing home if you complain is very real for home care clients.

Hilary Stai  
State Ombudsman Program,  
Ohio

waiver program's confidentiality requirements, case managers may refer home care issues to the ombudsman program, with the consent of the client. For non-waiver clients, regional ombudsmen contact local home care providers directly to make them aware of the program and the benefits of the ombudsman program.

According to the state ombudsman, fear of retaliation remains a barrier to connecting home care clients with the ombudsman program. Home care clients may fear retaliation, in part, because they are alone and fear termination of services, that the problem will get worse, or that they may end up in a nursing home.

- In **Vermont**, every person who enrolls in the waiver program receives a brochure that provides information about how to contact the ombudsman program. They are also provided this information if their services are reduced or terminated. The ombudsman program receives a significant number of referrals from waiver case managers. The ombudsman meets with the case managers on a regular basis, at both the state and regional levels, to encourage such referrals.
- The **Rhode Island** Long-Term Care Ombudsman Program developed a *Client Bill of Rights* brochure (including the ombudsman program's telephone number) which is given to all home care providers for dissemination to their clients.

## Complaints: Numbers and Types

The number of complaints received by home care ombudsman programs has remained relatively stable.

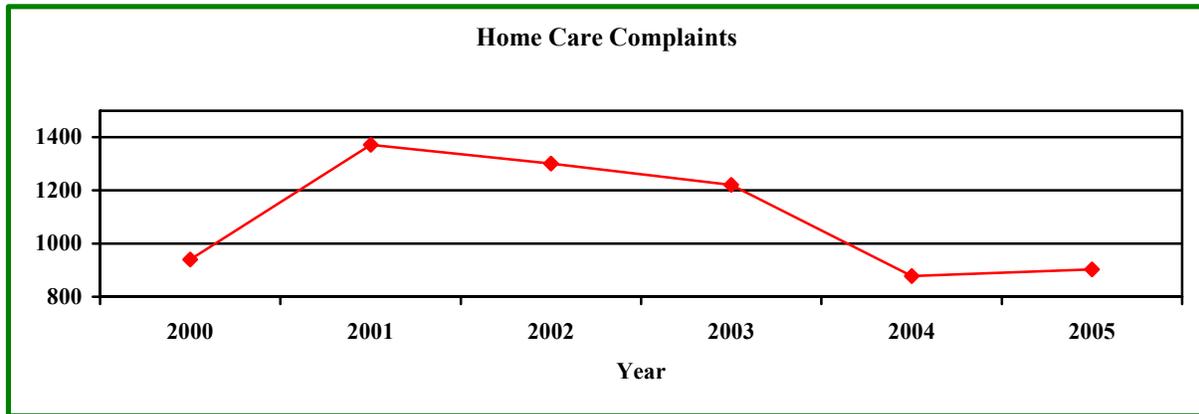
### Numbers of complaints

In FFY 2005, home care complaints represented 12.5% or less of the total number of complaints received by ombudsman programs with responsibility for home care.<sup>3</sup> In **Ohio**, for instance, home care complaints represent about two percent of the total number of complaints received each year.

Based on data from the National Ombudsman Reporting System (NORS), the number of home care complaints has fluctuated from 940 complaints in FFY 2000 to a high of 1,372 in FFY 2001, and back to 903 in FFY 2005, the most recent year for which data is available. The number of home care complaints received by all ombudsman programs from FFY 2003 through FFY 2005 is presented in Table 1 on page 10.

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<sup>3</sup> Administration on Aging, NORS data, Table B-10: Complaints for Non-Institutional Categories by Setting, 2000 – 2005.



The number of complaints received by home care ombudsman programs has remained relatively stable from 2000 - 2005. Two exceptions are Rhode Island and Idaho.

- **Rhode Island's** program experienced a peak in home care complaints in 2002 and 2003, after the program's telephone number was listed on the *Client Bill of Rights* given to all home care recipients. Since then the number of complaints has decreased by about 50 %. According to the state ombudsman some home care providers may not be giving consumers information about the ombudsman program.
- The number of home care complaints received by the **Idaho** Long-Term Care Ombudsman Program peaked at 350 in 2001, and then began to gradually decline. In 2005 it dramatically dropped by more than 75%, from 202 complaints in 2004 to 52 complaints in 2005. According to the state ombudsman, the decrease was primarily due to an extended vacancy in the local ombudsman position in the state's largest service area. Home care complaints normally handled by the ombudsman program were referred to other agencies.

**Table 1.**  
**Number of Home Care Complaints Received by Ombudsman Programs**  
**2003 – 2005**

	State	Number of Home Care Complaints Received by Long-Term Care Ombudsman Programs*		
		2003	2004	2005
Ombudsman Programs with Home Care Responsibility	Alaska	39	10	13
	Idaho	234	202	52
	Indiana	0	0	0
	Maine	310	181	208
	Minnesota	92	94	152
	Ohio	164	133	174
	Pennsylvania	3	0	0
	Rhode Island	161	25	74
	Virginia	27	6	16
	Wisconsin	2	0	2
	Wyoming	72	76	88
	<b>Total</b>	<b>1,104</b>	<b>727</b>	<b>779</b>
Ombudsman Programs without Home Care Responsibility	Arkansas	0	0	2
	Arizona	2	0	4
	California	9	64	24
	Colorado	24	6	8
	Florida	0	1	0
	Georgia	3	1	1
	Illinois	3	0	1
	Kentucky	4	46	0
	Maryland	4	0	0
	Missouri	1	0	0
	Mississippi	5	3	2
	North Dakota	1	1	0
	Nebraska	3	0	1
	New Mexico	1	0	0
	Nevada	0	0	31
	New York	28	6	26
	Oklahoma	0	0	1
	Oregon	6	0	0
	South Dakota	15	18	8
	Tennessee	4	0	13
	Texas	2	2	0
Utah	0	2	2	
Vermont	2	0	0	
Washington	0	1	0	
<b>Total</b>	<b>117</b>	<b>151</b>	<b>124</b>	
<b>Grand Total</b>	<b>1,221</b>	<b>878</b>	<b>903</b>	

\* Data taken from the Administration on Aging, National Ombudsman Reporting System data, Table B-10, FFY 2003 – 2005.

## Types of complaints

The National Ombudsman Reporting System (NORS) does not capture home care complaints by specific category. However, based on responses to NASUA's questionnaire, the types of issues received by long-term care ombudsman programs with home care responsibility can be categorized into three broad areas:

- Denial, reduction, termination and lack of needed services.
- Quality and reliability of home care workers, including language barriers.
- Abuse, exploitation and personal property being lost or stolen.

## **Formal and Informal Coordination**

Responses to the questionnaire revealed that home care ombudsman programs coordinate both formally, through agreements, and informally with other agencies regarding home care issues. Coordination most commonly occurs with Adult Protective Services, agencies responsible for the licensure and certification of home care providers and Medicaid waiver programs. Information presented in this section illustrates some of the formal, informal and developing agreements between ombudsman programs and other agencies to address issues on behalf of home care consumers.

Five ombudsman programs have developed formal agreements with other agencies related to home care advocacy. In some instances, these agreements are extensions of memoranda of understanding (MOU) that the ombudsman program already had in place concerning referral of long-term care facility complaints. These formal agreements include:

- Ombudsman programs in **Idaho, Rhode Island, Virginia** and **Wisconsin** have memoranda of understanding (MOU) with Adult Protective Services agencies for referral of home care complaints.
- In **Maine, Virginia** and **Wisconsin** ombudsman programs have MOUs with the state agency that licenses and/or certifies home care providers.

Ohio and Vermont present two examples of how ombudsman programs are working to coordinate more closely with state and local agencies responsible for administering and ensuring quality home care services to consumers under the states' waiver programs.

- The **Ohio** Ombudsman Program is developing a memorandum of understanding (MOU) between the regional ombudsman programs and the regional PASSPORT (waiver programs) administrative agencies to address communication and joint training. At the state level, the state ombudsman meets regularly with Waiver Program Division staff at the Department of Aging and is developing an MOU at the state level as well.
- The **Vermont** Long-Term Care Ombudsman Program is located in a legal assistance organization, Vermont Legal Aid, Inc. The state ombudsman meets quarterly with the Department of Disabilities, Aging & Independent Living (DDAIL), which administers the

Home Care Ombudsman Programs  
Status Report: 2007

waiver programs. Recently they reached an agreement that will provide the ombudsman program with advance notice of annual quality assurance reviews (similar to nursing home surveys) of providers of waiver services. This will give the ombudsman program an opportunity to provide information on quality issues reported to the program about home health agencies and waiver services providers.

Regional ombudsmen in Vermont attend waiver team meetings where providers come together to discuss difficult cases. The ombudsman participates when a client needs advocacy assistance and accepts referrals from any of the team members. This type of informal coordination provides home care consumers with seamless access to the advocacy assistance they need.

## Systems Advocacy on Home Care Quality

Ombudsman programs are actively involved in systems advocacy to promote quality home care and access to home and community based services.

Ombudsman programs identified a range of issues impacting home care consumers that they have included in their systems advocacy agendas, most notably:

- Increased funding for additional home care services.
- Improved notice of grievance and appeals processes for home care recipients when services are denied, reduced or terminated.
- Promotion of policies that will ensure adequate numbers of trained and qualified home care workers.

Other systems advocacy activities the ombudsman programs have undertaken to improve home care quality and availability include the following:

- **Indiana's** State Ombudsman participates in a number of home care task forces.
- In **Maine**, the ombudsman program drafted legislation to improve the delivery of home care coordination services, under which a statewide Quality Assurance Committee was created to review the quality of care received by home care clients.<sup>4</sup> The Committee, which includes home and community based care assessment and care coordination agencies, home health agencies, a representative of the Office of Elder Services and the state ombudsman, submits an annual report to the Joint Standing Committee on Health and Human Services of the Maine legislature. Through participation in the Committee, the ombudsman program is able to discuss and problem-solve home care trends and issues with others in the field.

Other home care advocacy activities of the Maine Long-Term Care Ombudsman Program include:

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<sup>4</sup> *Strategy Brief: Ombudsman Program Connections to Home and Community Based Services*, July 2004, National Association of State Units on Aging.

- Helped secure additional state funds for home care coordination services, home delivered meals and the volunteer medical rides program.
  - Held a public forum on home care in June 2007 to hear from consumers, family members and caregivers about their concerns with home care services.
  - Successfully advocated for home care consumers' right to appeal when the plan of care for home care services was not adequate.
  - Ensure that home care consumers are represented at informal conferences and administrative hearings in cases where publicly funded home care services are either reduced or terminated.
- The **Minnesota** Ombudsman Program attempts to influence public policy changes by supporting state legislation and participating in work groups that promote improvement of consumer services. The program:
    - Meets regularly with the state agency responsible for licensure of home care services.
    - Serves on numerous home care policy task forces and work groups concerned with home care licensing and standards for assisted living home care providers.
  - The **Rhode Island** Ombudsman Program participates in a task force concerned with home care issues; provides training to staff of home care agencies concerning client rights; conducts seminars on home care quality; and produced a home care consumers' rights brochure.
  - The **Virginia** Ombudsman Program works to increase the availability of home and community based services so people can remain in their homes and avoid or delay institutionalization. The program focuses on increasing waiver services programs and working with the Money Follows the Person initiative.

## Advocacy Activities of Ombudsman Programs without Home Care Responsibility

A significant number of long-term care ombudsman programs without responsibility for home care advocacy receive home care complaints.

According to NORS data, in 2005, 23 state ombudsman programs handled home care complaints and in 2003, 28 state ombudsman programs reported home care complaints. From 2003 – 2005, long-term care ombudsman programs without home care responsibility handled 392 (13%) of the 3,002 total home care complaints received by ombudsman programs nationwide.<sup>5</sup> Table 1 on page 10 illustrates the number of home care complaints received by all long-term care ombudsman programs from FFY 2003 through FFY 2005.

<sup>5</sup> Administration on Aging, NORS data, Table B-10: Complaints for Non-Institutional Categories by Setting, 2000 – 2005.

Ombudsman programs without home care responsibility were not asked to respond to the questionnaire. However, discussions with state ombudsmen from some of these states revealed how home care complaints are handled.

- The **Oklahoma** and **Texas** Long-Term Care Ombudsman Programs both receive and investigate complaints about home care services provided to residents of assisted living and other residential care facilities. In these cases facilities have arranged for home care services to be provided to residents in the facility in order to supplement their care needs.
- Any home care complaints received by the ombudsman program in **Arkansas** are referred to the case manager at the area agency on aging (AAA) which serves the jurisdiction where the client lives. Since local ombudsman programs are also housed in the AAAs, coordination works well. Depending on the circumstances (e.g., the client was recently transitioned back to the community from a nursing facility), the case manager may request the local ombudsman to visit the client. In such instances, the ombudsman's role is not to investigate, but to be a resource and objective observer, and provide the consumer with information about his/her options and rights.

## Summary

Currently, 12 long-term care ombudsman programs --- Alaska, Idaho, Indiana, Maine, Minnesota, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, Wisconsin, Wyoming --- have state authority to investigate home care complaints. One state, Vermont, expanded the role of the long-term care ombudsman program into the home care arena since data was last collected in 2000.

NASUA collected data from long-term care ombudsman programs about their home care advocacy work using a web-based questionnaire, teleconference and one-to-one communication with state ombudsmen. Eleven of the twelve home care ombudsman programs responded to the questionnaire about program operation and systems advocacy.

Adequate funding continues to be a challenge to home care ombudsman programs. Funding to support home care advocacy has remained relatively unchanged since 2000. The majority of programs continue to rely on state general funds, though five programs reported multiple funding sources.

Knowledge of, and access to, the ombudsman program by home care consumers seems to be improving. This may be due, in part, to the fact that eight states with home care ombudsman programs now have statutes, regulations or policies that require information about the ombudsman program be given to home and community based services consumers.

Seven states require ombudsman program staff to receive specific training on home care advocacy prior to investigating home care complaints. Maine is the only state with ombudsman program policies and procedures specific to home care. Two additional ombudsman programs are developing policies and procedures to guide home care advocacy activities in this arena.

Currently, only Rhode Island has ombudsman program staff dedicated to handling home care complaints. The Minnesota and Pennsylvania ombudsman programs use volunteers in home care advocacy work.

Home care complaints represent a small percentage of the total number of complaints handled by the ombudsman programs with responsibility for investigating home care issues. The number of home care complaints has fluctuated somewhat, from 940 in FFY 2000, peaking at 1,372 in FFY 2001, and declining to 903 in FFY 2005 (the last year for which data is available). A table illustrating the number of home care complaints received by all long-term care ombudsman programs from FFY 2003 through FFY 2005 is found on page 10.

A review of the National Ombudsman Reporting System (NORS) data on home care complaints revealed that each year since 2003 a significant number of long-term care ombudsman programs that do not have state authority for investigating home care complaints report such issues.

The types of complaints received by home care ombudsman programs center around issues of access to service (e.g., availability, denial, reduction and termination), staffing problems and residents' rights (e.g., abuse and exploitation).

Home care ombudsman programs advocate on a range of issues, including funding for additional home care services and policies that ensure adequate numbers of trained home care workers. Ombudsman programs with home care responsibility believe they need to be "at the table" when home care regulations and policies are developed. These programs actively participate in work groups and coalitions that address consumer concerns regarding home care services.

Based on information collected and presented in this document, there are several aspects of home care ombudsman program operations which deserve further discussion and analysis:

- How to improve home care consumers' access to ombudsman services. While access has improved since 2000, ombudsmen identified barriers which still exist.
- An analysis of home care complaint data, such as frequency of issues received and resolution rates.
- Development of training resources, manuals and policies and procedures for home care advocacy. Because of the unique nature of home care advocacy most ombudsman programs require special training for ombudsmen prior investigating home care complaints, yet most do not have set curriculums or policies and procedures to guide their home care advocacy work.

A **Home Care Ombudsman Program Quick Reference**, a matrix of the program's key operational elements, is included in the appendices along with **Selected Resources for Ombudsman Work in Home Care** that ombudsman programs may find helpful in home care

advocacy work. Ombudsman programs considering a future role in home care advocacy should also review the technical assistance paper from 2000, *The Role of the Long Term Care Ombudsman Program in Home Care Advocacy* which includes a “Checklist for Ombudsman Expansion into Home Care”.

## **APPENDIX A**

### **Home Care Ombudsman Program Quick Reference**

### Home Care Ombudsman Program Quick Reference

State	Types of home and community based services covered by the Home Care Ombudsman Program	Home Care Ombudsman Program uses volunteers	Home care training provided	Home care policy & procedures	Formal agreements specific to home care advocacy	Most significant complaints / issues handled by Home Care Ombudsman Programs
AK	State funded home care HCBS waiver programs OAA home care programs Home health agency services Private pay home care services Hospice; Public housing	No	No	No	No	Language barriers
IN	Adult Foster Care	No	No	No	No	N/A
ID	HCBS waiver programs	No	No	No	Adult Protective Services	Providers not showing up / no backup staff
ME	State funded home care HCBS waiver programs OAA home care programs Home health agency services Private pay home care services	No	<b>Yes</b>	<b>Yes</b>	Licensing/Certification Agency	Reduction in service hours Denials of services Service termination
MN	State funded home care HCBS waiver programs OAA home care programs Home health agency services Private pay home care services Adult foster care and day care	<b>Yes</b>	<b>Yes</b>	No	No	Eviction from assisted living Unclear/incomplete service agreements Termination of services Quality of Medicaid personal care attendants
OH	State funded home care HCBS waiver programs Home health agency services Private pay home care services Adult day services, etc.	No	<b>Yes</b>	No	No	Personal property (loss, theft, misuse) Staff unavailable or unresponsive

### Home Care Ombudsman Program Quick Reference

State	Types of home and community based services covered by the Home Care Ombudsman Program	Home Care Ombudsman Program uses volunteers	Home care training provided	Home care policy & procedures	Formal agreements specific to home care advocacy	Most significant complaints / issues handled by Home Care Ombudsman Programs
PA	HCBS waiver programs Relocation follow-up	<b>Yes</b>	<b>Yes</b>	No	No	Service plans Care management Satisfaction with services
RI	State funded home care HCBS waiver Programs Home health agency services	No	<b>Yes*</b>	No	Adult Protective Services	Abuse Exploitation Inappropriate level of care
VT	HCBS Waiver programs	No	<b>Yes</b>	No	No	Access to caregivers Reduction in service hours
VA	State funded home care HCBS waiver programs OAA home care services Home health agency services Private pay home care services Any community LTC services	No	No	No	Adult Protective Services Licensing/Certification Agency	Unreliability of staff Termination of services Unavailability of services
WI	State funded home care HCBS waiver programs	No	<b>Yes</b>	No	Adult Protective Services Licensing/Certification Agency	Inadequate services Denial of services Quality control of workers
WY						

\*Only for designated home care ombudsman staff.

## **APPENDIX B**

### **Descriptions of Home Care Ombudsman Programs**

## Descriptions of Home Care Ombudsman Programs

- **Alaska's** enabling legislation, enacted in 1988, states that the ombudsman program may, but is not required, to investigate complaints related to the long-term care or residential circumstances of older Alaskans. The ombudsman program has jurisdiction over a wide range of community based services including housing, public assistance programs and public utilities. Because of limited resources, the Alaska Long-Term Care Ombudsman Program triages home care complaints and limits the type of complaints ombudsmen investigate to those involving individual problems, rather than those that are systemic issues. Due to limited staff and the expense and challenge of travel in such a large state, the program handles most issues by phone rather than making in-person visits.
- The **Idaho** statute that requires the Office of the Ombudsman to investigate "community complaints" has not changed since its passage in 1988. Previously, community complaints handled by the ombudsman program involved not only home care services, but also issues such as access to transportation for medical appointments, public benefits eligibility problems, Medicare billing questions and housing availability, affordability and safety. In January 2001, the long-term care ombudsman program amended its guidelines to limit the complaints it will investigate to issues involving home and community based waiver services.
- **Indiana's** state statute mandates the ombudsman program to extend its advocacy services to persons receiving home care services, including adult foster care, funded by Office of Medicaid Policy and Planning, the Division of Aging, and any county office. However, since the state legislature has not funded that mandate, the ombudsman program only handles complaints in long-term care facilities.
- **Maine's** Ombudsman Program has had authority to handle home care complaints since 1986. In 1994, the state's Medicaid medical eligibility rules were changed, resulting in fewer admissions to nursing homes and an increase in consumers' use of community services. Since then, the program has experienced a substantial increase in the number of home care referrals it receives and in most years, handles more home care complaints than any other state ombudsman program.
- In **Minnesota**, the legislation that created the Home Care Ombudsman Program was enacted in 1989. The ombudsman program has authority to handle complaints regarding in-home services (including homemaker services, home health aide, nursing, therapies, social services and home-delivered meals); adult day care; elderly adult foster care; hospice (non-nursing home setting); and assisted living, which is licensed as a home care service under state statute.
- **Ohio's** Ombudsman Program, through its enabling legislation, has the authority to handle complaints about community based long-term care services provided to persons of any age via any funding source, including case management, personal care, home health, homemaker or chore services, respite care, adult day care, home-

delivered meals, and therapies (physical, occupational, speech). The program also handles complaints about unlicensed agencies that provide home care.

- In 1989, the state legislature expanded the scope of **Pennsylvania's** Ombudsman Program to include home and community based services provided under a Medicaid waiver. The program also follows up on residents who are transitioned from long-term care facilities to community settings. Ombudsmen are frequently requested to check on residents who are relocated to the community from unlicensed personal care homes.
- In 1999, the **Rhode Island** Ombudsman Program received legislative authority to provide advocacy services to home care consumers, including home and community based waiver programs, state funded home care and home health agency services.
- **Vermont** became the most recent long-term care ombudsman program to enter the home care advocacy arena, beginning in January 2006. The Vermont Long-Term Care Ombudsman Program handles complaints concerning home and community based waiver services, previously handled by other projects within Vermont Legal Aid, Inc. including the Office of Health Care Ombudsman. These projects continue to handle complaints from elders receiving home care services through Medicare and private insurance programs. Rather than amending the ombudsman program's enabling statute, the state amended the definition of "long-term care" to include people receiving services under the "Choices for Care" Medicaid waiver program, along with nursing homes and assisted living facilities, thus expanding the range of services for which the long-term care ombudsman program is responsible.
- In 1984, **Virginia** mandated that the long-term care ombudsman program handle complaints concerning home and community based services, funded by Medicare, Medicaid, state funding, other federal funds or private means. The legislature has not provided funding for the program's home care advocacy activities. On average, home care complaints represent less than 1% of the total number of complaints received by the ombudsman program each year.
- **Wisconsin's** enabling legislation gives the ombudsman program authority to handle complaints from long-term care consumers who receive state funded home care, hospice, adult day services, and other home and community based services provided under a Medicaid waiver. In 1999, the legislature gave the ombudsman program authority and funding to provide, under contract with the state's managed long-term care pilot program, ombudsman services to managed long-term care recipients.
- **Wyoming's** Ombudsman Program has had a legislative mandate to investigate home care complaints since 1985. Because of limited resources, the program has not advertised its home care advocacy services.

## **APPENDIX C**

### **Selected Resources for Ombudsman Work in Home Care**

## Selected Resources for Ombudsman Work in Home Care

Ombudsmen may find the resources listed below helpful in their home care advocacy work. The printed materials were developed by NASUA for the National Ombudsman Resource Center, under a grant from the Administration on Aging.

### Printed materials:

***Ombudsman Program Connections to Home and Community Based Services: A Strategy Brief*** (July 2004). [www.nasua.org/elderrights/ombudsman.cfm](http://www.nasua.org/elderrights/ombudsman.cfm).

Discussion highlights from a National Dialogue Forum convened by NASUA on the topic. The primary issues include: the ombudsman program's role in providing information about home care to consumers; consumer access to home care services; advocacy for quality about home care options; and relationships with the home and community based services system.

***Ombudsman Program Involvement in Nursing Home Transition Activities : A Strategy Brief*** (December 2004). [www.nasua.org/elderrights/ombudsman.cfm](http://www.nasua.org/elderrights/ombudsman.cfm).

Identifies challenges involved in helping nursing home residents return to their homes and communities and presents examples of ombudsman program involvement and coordination with community agencies to assist in nursing home transition efforts.

***The Role of the Long Term Care Ombudsman Program in Home Care Advocacy*** (June 2001). [www.nasua.org/elderrights/ombudsman.cfm](http://www.nasua.org/elderrights/ombudsman.cfm).

This technical assistance paper provides information gathered in 2000 about home care ombudsman programs. States considering a future role for the ombudsman program in home care advocacy will want to reference the "Checklist for Ombudsman Expansion into Home Care" included in the document.

### Website:

The Clearinghouse for the Community Living Exchange Collaborative. [www.HCBS.org](http://www.HCBS.org).

This site provides hundreds of resources on home and community based care. The information is extensive and includes everything from access issues to housing to nursing facility diversion and transition.