

Grievance Process

Question

Are there examples of LTCO policies and procedures regarding how to respond complaints against the LTCO program?

Response

The [final rule](#) includes the following requirements for policies and procedures for SLTCOPs regarding the grievance process [§1324.11(e)(7)]:

****Note: Effective July 1, 2016 the Administration for Community Living (ACL) consolidated their regulations into one subchapter resulting in the LTCOP rule number changing from 45 CFR 1327 to 45 CFR 1324. We are in the process of revising our resources to reflect that change. Information about the consolidation is available [here](#).***

(7) Grievance process.

Policies and procedures related to grievances must establish a grievance process for the receipt and review of grievances regarding the determinations or actions of the Ombudsman and representatives of the Office.

(i) Such process shall include an opportunity for reconsideration of the Ombudsman decision to refuse, suspend, or remove designation of a local Ombudsman entity or representative of the Office. Notwithstanding the grievance process, the Ombudsman shall make the final determination to designate or to refuse, suspend, or remove designation of a local Ombudsman entity or representative of the Office.

(ii) [Reserved]

State Policies and Procedures

Here are some examples of Grievance Processes from SLTCOP Policies and Procedures. Complete policies and procedures manuals/documents are available on the NORC [website](#).

Michigan

Program Policy - **Grievance**

- A. Grievances against Regional Ombudsman Programs
 1. Each Provider Agency is required to establish a procedure to address grievances concerning the type of service provided, delivery of services, and compliance with applicable laws and regulations.
 2. Written grievances shall be accepted from any person or entity. The Provider Agency shall abide by relevant federal and state confidentiality requirements when responding to written grievances.
 - a. Grievances regarding complaint investigations:

- i. If the resident is capable of giving informed consent and agrees by providing written consent, the result of the investigation may be disclosed to the individual filing the grievance. If the resident is unable to provide written consent, the Provider Agency shall contemporaneously document the consent given.
 - ii. If the resident is not capable of giving informed consent, the resident's agency pursuant to a durable power of attorney or the resident's legally appointed guardian may consent to disclosure of the grievance investigation results.
 - iii. If such consent is not provided, the Provider Agency may not report back to the individual filing the grievance except to confirm an investigation was conducted.
 - b. For all other grievances, the Provider Agency will respond in accordance with their established procedures.
3. An individual who filed a grievance and is dissatisfied with the decision of the Provider Agency may file a written request for review with the State Ombudsman within 30 days of the decision. The State Ombudsman shall respond to the written request for review within 60 days of receipt of the request.

B. Complaints against State Ombudsman Staff

1. A complaint about the state ombudsman staff shall be forwarded to the State Ombudsman.
2. The State Ombudsman shall promptly investigate the complaint within fourteen working days.
3. The nature of the complaint and the investigation shall be promptly documented.
4. A response back to the complainant shall be given within fourteen working days.
5. An individual who filed a grievance and is dissatisfied with the decision of the State Ombudsman may file a written request for review with the Director. The Director shall respond to the written request for review within 60 days of receipt of the request.

C. Complaints against the State Ombudsman:

1. A complaint about the State Ombudsman shall be forwarded to the Director of the Department.

2. The Director shall promptly investigate the complaint within fourteen working days.
3. The nature of the complaint and the investigation shall be promptly documented.
4. A response back to the complainant shall be given.

Utah

The Ombudsman Program shall establish a grievance procedure to accept and hear complaints regarding an Ombudsman's actions. (Ombudsman and others should also use this process to handle interference or disagreement with actions taken in the LTCO program.) The procedure shall allow for a final appeal to the Utah State Department of Human Services Office of Administrative Hearings.

References:

**OAA Sec - 712 (j)(3);
Rule 510-E(2)**

15. Grievance Procedure

To be responsive to concerns that individuals may have regarding the performance of a specific Ombudsman, or the Ombudsman Program, policy and/or procedure, all grievances shall be documented, with outcomes and any relevant actions.

15.1 Timeliness

All grievances shall be submitted in writing to the provider agency administering the LTCOP within 5 working days from the event or from knowledge of the event-giving rise to the grievance.

A. Volunteer or Staff Ombudsman:

- i. Complaints about volunteer/staff Ombudsman will be directed to the Local Ombudsman Program supervisor.
- ii. The program supervisor shall investigate the complaint within five working days.
- iii. The nature of complaint and the investigation shall be promptly documented.
- iv. A response back to the complainant shall be given and will include the number of the State Ombudsman's office if the complainant wishes to take the grievance to the next level. The response shall be mailed within seven working days. A copy of the LTCOP grievance process shall be included.
- v. The outcome shall be documented in a timely manner.

B. Local LTCOP Supervisor:

- i. A complaint about the Local Ombudsman Program Supervisor shall be directed to the State Ombudsman's office. The SLTCO shall inform the immediate supervisor of the Ombudsman the nature of the complaint.
 - ii. The State Ombudsman's office shall investigate the complaint within 14 working days.
 - iii. The nature of complaint and the investigation shall be promptly documented.
 - iv. A response back to the complainant shall be given within 14 working days and will include the contact information of the Utah State Department of Human Services Office of Administrative Hearings if the complainant wishes to take the grievance to the next level.
 - v. The outcome shall be documented in a timely manner.
- C. State Ombudsman Staff:
- i. A complaint about the State Ombudsman staff shall be forwarded to the State Ombudsman.
 - ii. The State Ombudsman shall promptly investigate the complaint and within 14 working days.
 - iii. A response back to the complainant shall be given and will include the contact information of the Utah State Department of Human Services Office of Administrative Hearings if the complainant wishes to take the grievance up to the next level.
 - iv. The outcome shall be documented in a timely manner.
- D. State Ombudsman:
- i. A complaint about the State Ombudsman shall be forwarded to the Director of DAAS.
 - ii. The Director shall promptly investigate the complaint within 14 working days.
 - iii. The nature of complaint and the investigation shall be promptly documented.
 - iv. A response to the complainant shall be given and will include the contact information of the Utah State Department of Human Services Office of Administrative Hearings if the complainant wishes to take the grievance up to the next level. A request for a hearing before the Utah State Department of Human Services Office of Administrative Hearings must be made in writing within five (5) working days of the decision.
 - v. The outcome shall be documented in a timely manner.

15.2 Department of Human Services, Office of Administrative Hearings

The highest level of appeal shall be to the Utah State Department of Human Services Office of Administrative Hearings. The Utah State Department of Human Services Office of Administrative Hearings shall consider the grievance within 14 calendar days following written receipt of the request for a hearing. The Office may request additional meetings to consider the matter and may convene witnesses as required in evaluating the relevant circumstance involved in the grievance pursuant to their policy and procedure.

15.3 Grievance Standards

The Ombudsman Program adheres to the statewide grievance procedure. All grievances

shall be investigated, documented, and have appropriate follow-up. (See Appendix E.)

APPENDIX E (Utah)

RESIDENTS' RIGHTS

Residents have the right to:

- Be treated with respect, dignity and consideration.
- Exercise their rights and civil liberties as a resident of Utah and citizen of the United States and observe their religious beliefs.
- Confidentiality of personal and clinical records.
- Be informed of their medical condition and participate in treatment planning.
- Plan activities in the facility.
- Choose their own attending physician and the source of pharmacy service.
- Be free from mental, physical, or verbal abuse and chemical and physical restraints.
- Associate and communicate in privacy, including visits with anyone of their choice in or outside of the facility, mail and telephone services, participation in resident council activities, access to their records and access to state inspection reports.
- Be told of services provided by Medicaid or Medicare and informed of other items or services and their respective costs for which they may be charged.
- Not be transferred or discharged without cause or notice.
- Be treated without discrimination regardless of source of payment.
- Make complaints and express grievances without fear of discrimination or reprisal.
- Manage personal and financial affairs and make choices and independent decisions.
- Issue advance directive including directive to physician, medical power of attorney, and out-of-hospital do-not-resuscitate.

California

The California Grievance Process for Complaints against the State Long-Term Care Ombudsman Program may be viewed [here](#).