

Navigating Challenging Situations with Family Members

Working with Families: Technical Assistance Brief 3

This resource includes communication strategies for Ombudsman representatives and program management approaches for supervisors and/or State Ombudsmen.

STRESSORS EXPERIENCED BY FAMILIES

As noted earlier, by the time many families connect with an Ombudsman representative, they may be extremely frustrated.

They may have experienced something like the following before contacting you:

- They have taken the same problem to staff repeatedly and were told it would be fixed, but it hasn't been; when asking about the status, staff say they have an "attitude."
- They feel every time they walk into the facility, there will be some problem they will have to address instead of simply visiting with their loved one.
- They have found their loved one wet with urine, soiled with feces, unkempt, drooling and slumped over in a wheelchair, in pain, or all the above, on multiple occasions.
- They have determined that they must visit the nursing home all the time or else their loved one won't get even the most basic care and attention she needs.
- They feel their complaints have been discounted, ignored, and minimized so often by the staff that they must get evidence, like hanging onto and showing staff soiled clothing; to prove there's a problem.

Keep in mind that family members you work with may be experiencing considerable stress.

When the safety and well-being of a loved one are in question, intense emotions often arise, and those emotions can occasionally lead to difficult situations.

TIPS FOR ADDRESSING CHALLENGING SITUATIONS

Families may need you to provide information, guidance and support, or to intervene once or occasionally to help resolve concerns. However, there may be times when you encounter some unique situations. Each situation, family, and resident are different, so there is not one singular answer or approach. The following are tips from experienced Ombudsmen and Ombudsman program representatives that may be helpful in certain situations.

NOTE: *We understand program structure and management varies. Make sure to consult your supervisor and/or State Ombudsman and follow your state Ombudsman program policies and procedures, as applicable.*



A family member is unhappy with your advocacy and insists that a different Ombudsman program representative be assigned to work with her.

As a representative, what should you do?

- Do not argue but give the family your supervisor's name, phone and email address.
- Contact your supervisor to give them a heads-up.
- Ensure that your complaint and activity documentation is up to date.

Program Management Approaches

Try to determine the reason for the resistance as that will influence how to respond.

For example:

- If a family is resistant because they believe the representative is on the "facility's side," see if you can determine what led to that belief and address the concerns of the family. As noted earlier, this impression sometimes arises when family members observe the representative speaking with the administrator or staff. For example, your response may be to reassure the family that the representative is the resident advocate, and that part of the investigation and problem-solving process involves the representative speaking with the facility staff.
- If a family member does not want to work with a representative because they feel the representative is not handling the case well or appropriately, ask the family to explain from their perspective what the representative has done with the case so far.
- Review the representative's case documentation and ask for their perspective. If you determine that the representative has handled the complaint well, provide that feedback to the family member.
- If you believe that the representative did not take the appropriate steps in the case or did not communicate effectively with the family, use this situation as a training opportunity to enhance their advocacy skills. You could tell the family member that you will provide technical assistance and consultation to the representative for the remainder of the complaint investigation process.

Find a way to help the representative and family work together.

For example:

- If possible, it may be helpful to invite another representative to accompany the first representative when meeting with the family. Programs that have used this approach found that having the second representative listen and respond to the family can make a difference. The second representative may respond the same way as the first

representative, but the family may receive the information differently since it is from someone else. This approach may emphasize to the family member that changing the representative does not change the way a complaint is handled by the program and may increase the family's confidence in the initial representative.



A representative insists she can't work with a family or individual family member.

Program Management Approaches

Assess the situation to determine the core issue.

- In some cases, providing additional training or guidance and an opportunity for the representative to be heard about what is causing stress may be what the representative needs.

Ask another representative to handle the case.

- For example, in one state a family member misspoke about what a representative said to the nursing home. This negatively impacted the representative's credibility and ability to advocate in the nursing home. Therefore, the representative did not want to work with the family again. To address this issue, the supervisor took over the case.

Create a process for helping the representative and family to work together.

- Such a process might involve requesting assistance from another representative to intervene and try to move the case forward.
- Team up. Another representative could partner with the first representative and share responsibilities. For example, the second representative could handle correspondence with the family member, and the first representative could address other aspects of the case.
- Another option might call for the representative to consult with their supervisor regarding the case. Consultation might reassure the representative since her supervisor has reviewed her actions regarding the case (e.g., a volunteer representative consults the staff representative).



A family member has a concern about care, but the resident either does not share the concern or does not want anything done about it.

As resident advocates, the Ombudsman program is guided by what residents want. If the resident can communicate what she wants and she does not want the complaint to be pursued, you must honor her request.

However, if the resident is concerned about the issue, but does not want Ombudsman program assistance, you should explore the reasons for her reluctance. Perhaps the resident wants to handle the issue herself, and you can provide information to assist her self-advocacy. In situations where reluctance is due to fear of retaliation, share information about residents' rights and facility responsibilities regarding resident concerns, assure the resident you will support them through the process and will not take any steps without their permission. If the resident still does not want your assistance with the issue, follow the resident's wishes and remind them how to reach you if they want help in the future.

In cases where the resident does not want anything to be done, explain to the family that you are obligated to follow the resident's direction. Explaining this to family members is easier if you effectively communicate that Ombudsman program actions are resident-led during your initial conversation with the families.

Try to help family members understand in general why residents sometimes don't want to take action and why it is important to honor residents' wishes. The points identified in the **"Helping families understand why residents may not want to take action"** section of the *Ombudsman Program Communication with Family Members* [brief](#) may help you in providing this explanation. With the resident's permission, you can also share the specific reasons why the resident does not want to proceed.

If you don't have the resident's permission to share specific reasons for not wanting assistance with the issue, the following approaches may be helpful when following up with the family:

- Share positive observations about the resident with the family member. For example:
 - After hearing a daughter's concern that her mother was poorly groomed and learning from the resident that she didn't want your assistance, you let the daughter know the resident doesn't want your help. However, you also share with the daughter that you noticed her mother looked neat and well-groomed and that staff appeared very attentive. You could also add that you can tell the daughter cares deeply about her mother and her care, and that you will continue to check in with her mother when you visit in the future.
- Inform the family member that you will check back with the resident again in a few weeks to see if she has changed her mind.
- See if there are other residents with the same issue who are willing to pursue it to resolution. By resolving the issue for others, you might be able to resolve it for the resident who does not want you to proceed on her behalf.

- Encourage the family to take their concern to the family council. If there is not an existing family council, encourage them to form one and provide them with resources and information about family councils.
- Pursue an ombudsman-generated complaint if you observe the problem yourself and can do so without identifying the resident that didn't want your assistance.
- Facilitate a conversation between the resident and the family member. Encourage the family member to speak with the resident and explain their concern and why they feel it is important to act. Speak with the resident too and support her in communicating with her family member and discuss residents' rights.
- With the resident's consent, you may inform the family member that her mother declined the initial option but has agreed to an alternative.



A family member is still upset about an incident regarding the care of his mother that occurred in the past and was discussed with the staff at the time of the incident. He brings up the past incident every time he speaks with facility staff. It upsets the staff – many of whom were not working at the facility at the time of the prior incident. He requests your assistance in addressing his current concerns about his mother's care.

If you are working with a family member for the first time:

- Start by validating what the family member is saying. An example of this might be: "It sounds like you went through a terrible experience. I'm so sorry that happened."
- Ask the family member to tell you the complete story. While you may feel that you don't have time to listen to a problem from the past, families need to tell their story because it has clearly affected them significantly. It's best to provide them with the opportunity to do so early on. Hearing the story also helps you better understand the dynamics between the family member and staff and can provide insight into how to move forward with the current problem.

If the family member continues to bring up the past issue after having shared the story with you:

- Acknowledge what the family member says they have experienced in the past and help to re-establish trust between the family member and the facility staff. For example, you could say:

"I understand the issues you've had and why you don't have much trust in what staff tells you right now. We need to work to build that trust from today on."

Then ask the family member for a list of their concerns that, if resolved, would rebuild their faith in the nursing home. To help set priorities, it may help to ask the family to select their top two concerns and help to resolve those issues. After resolving the issues with the facility staff and establishing a point of contact at the facility for the family, you could tell the family to notify you immediately if they reach out to the contact person and don't receive a response. This approach may boost the family member's confidence and improve communication between the family and staff.

- Ask them to document every detail about the experience and give a copy to you. Thank them and say that you now have everything you need to know about the incident and will refer to it if you ever need that information. Assure them that if the issue comes up as you are working on the current problem you will address it.
- Explain that referring to the previous incident pulls focus from the current issue and interferes with attempts to solve their present concern.
- Inform the family member that to best assist them with their concern, you will redirect the conversation back to the current situation if the past incident is mentioned. For example, if a family member brings up the previous incident again, you could say, "I'm so sorry that happened. Now let's go back to your present concern." It may be necessary to repeat this throughout your work with the family.
- Encourage the family to take their concern to the family council. If there is not an existing family council, encourage them to form one, provide them with resources and information about family councils, and offer to meet with the council.

If a family member has lost trust in the facility staff and has unresolved concerns about their loved one's care, can you propose relocation as an option?

To avoid the appearance of conflict of interest or that you are not supportive of the residents' right to advocate for their highest practicable quality of care and life in their current home, it should be a rare occasion that you mention the option of relocation.

Prior to discussing the possibility of relocation all other means of complaint resolution and problem-solving strategies should be exhausted.

If you are in an area with a variety of options, including home and community-based options, you could share that there are other options besides nursing homes, or other facilities in the area, and let them know how to find more information about options. However, the Ombudsman program cannot make recommendations.

If facility staff suggest the option to move to another facility when responding to a complaint, in addition to not working with the family member and resident to resolve their concerns, this approach could be, or appear to be, retaliation or intimidation. Therefore, if a representative were to mention relocation as an option due to the family member's lack of trust in the current facility, the family member may think the representative is dismissing their concerns and is "on the facility's side."

If the family member suggests the possibility of moving their loved one to another facility, share the possible positive and negative outcomes of relocation for the resident (e.g., the relocation process may be difficult for their loved one, relocation options may be limited).



A family member calls and emails frequently. The calls and emails take a lot of time, often pulling you away from your other responsibilities.

In this situation, the key is to set boundaries. Possible approaches include the following:

- Screen your calls, if possible. Let the family member leave a voice mail and return the call within your program's response timelines.
- Set a regular time to speak with the family by phone. This approach provides the family member an opportunity to communicate new information or concerns and the family feels heard. This strategy also allows you to better control and plan your time. For example, the scheduled call could be from 4:00 – 4:30 pm every other Tuesday. Make sure to end at exactly the time you set. To end the conversation, you can say, "Thank you for sharing this information with me. I need to move on to my next appointment, so I'll speak with you again in two weeks."
- Request that the family member submit information in writing. Therefore, the family member can provide you with detailed information in a manner that is time efficient. You can respond by email or schedule a time to talk with the family. Make sure any scheduled time includes an ending time and hold firmly to that time.
- Encourage the family to take their concerns to the family council. If there is not an existing family council, encourage them to form one, provide them with resources and information about family councils, and offer to meet with the council.



Occasionally, family members may disagree among themselves. They may not agree about what should be done for their loved one or may even take action against each other (e.g., one family member attempting to block visitation by other family members).

Unfortunately, there are times when contention within a family is so great that the resident's interests get lost. One of the most common scenarios you may encounter is when one family member bans another family member from visiting the resident.

To address this situation, the first step is to talk with the resident and determine her wishes. If she does not object to the ban and does not want action to be taken, you should not proceed further. Sometimes, the resident does want to see this relative. In that case, if the resident lives in a nursing home advocate that under federal nursing home regulations, the resident has the right to visit with any family member she wishes and that only the resident can restrict who visits her.

If the resident can communicate and wants to visit with the family member whom the guardian or power of attorney wants to ban, advocate for the resident's wishes even if she has limited decision-making capacity.

If the resident cannot express what she would like, work with others to try to determine what the resident's wishes would have been regarding visits from this family member. Advocate for her wishes to be respected.

If the reason given for visit restriction is suspected abuse of the resident, you would proceed differently. Under these circumstances, urge the family member pursuing the visitation ban to share their concerns with the facility and report the alleged abuse to the appropriate agency. Pending resolution of this situation, ask the resident if she wants to have staff nearby during visits with the family member.

The family member who seeks to ban a sibling or other relative from visiting may argue that they hold power of attorney or are the resident's guardian and therefore have the authority to impose such restrictions. Let's consider each of these scenarios separately.

Agent Under Power of Attorney

- **Ask for proof and verify the accuracy and details of decision-making authority.** In this scenario, if it is only a financial power of attorney, the agent would have no authority in personal and medical decision-making.
- If it is a health care power of attorney, remember that **even though the resident has appointed an agent to make decisions when she cannot, the resident directs her own care** until she is no longer able to do so. The power of attorney may only spring into effect when a doctor has documented that the resident does not have capacity.
- **The resident may have capacity to revoke the document.** It is important to understand that the authority in an advance directive or power of attorney is "given" not "taken." It is to be used to voice the resident's wishes when he or she cannot. If the resident has capacity to make decisions and their agent continues to make decisions the resident does not agree with, the resident could revoke the document.
- Finally, **make sure the agent is aware of federal and state residents' rights, and that the appointment of an agent does not remove such rights.** You may need to remind

the facility of their responsibility to uphold the resident's right to visitors if the facility hasn't been supportive of ensuring the resident can exercise her rights.

- Ultimately, if the agent still insists on restricting certain visitors, **mediation may be useful, or the family member who is banned from visitation may need to consider other options**, such as to file a complaint with state licensing regarding facility restriction of visitors, contact Adult Protective Services regarding potential psychological abuse of a vulnerable adult because of denying visitors, or challenge the ban in court.

If the family member is a guardian, the situation is more complicated because a court is involved.

- Verify the person really is a court-appointed guardian, and not merely a caregiver using the term "guardian" informally.
- Not all guardians have authority over personal decisions. Find out if the guardian has authority over property, person or both, or if there are any limitations in the court order.
- Review state law regarding a guardian's authority to restrict visitation.
- Ensure the guardian is aware of federal and state residents' rights, and that the appointment of a guardian does not remove such rights unless harm to the resident is involved.
- Make sure the guardian is aware of the National Guardianship Association [*Standards of Practice*](#) language that says the guardian "shall encourage and support the person in maintaining contact with family and friends, unless such contact will substantially harm the person." If the guardian still insists on the restriction, the banned family member may need to file a complaint with the court that has jurisdiction in the guardianship.



A family member who is the resident's agent per a health care power of attorney document contacts the Ombudsman program with concerns about care. The Ombudsman program representative starts by speaking with the resident to see if she shares this concern and if she would like assistance from the program. However, after this conversation with the resident, the representative is uncertain about the resident's decision-making capacity and her wishes. The representative is unclear about following the wishes of the resident or the agent.

Below are some steps you can take in this situation:

- Ask the family member if there is a time of day when the resident can communicate best. Visit the resident at that time and talk with her again about her relative's concern and whether she would like anything to be done. In addition, visit and talk with the resident

several times on different days, varying the time of your visit. Compare the responses you receive. This kind of support may enhance the resident's ability to make decisions.

- If the resident gives a consistent response over time, accept that as an indication of the resident's wishes and advocate for what the resident wants. Even though the family member may be the agent under the health care power of attorney, the resident still has the authority to direct her own care until she is no longer capable of decision-making.
- If the resident's wishes are contrary to what the family member wants, remind them of your earlier conversation with them about your serving as an advocate for the resident.
- If the resident cannot provide consent or express her wishes, review the power of attorney document to verify the type of authority the family member has and at what point the powers go into effect. After determining that the family member is the legal decision maker for the resident, handle the complaint about care and follow the direction of the family member regarding complaint resolution.
- If you believe the family member is not working in the best interest of the resident, follow your state program's policies and procedures.



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