

Policy and Procedure Manual

Policy No.: OMB -2

Effective Date: Immediately

TITLE: Intake and Triage of Complaints

Statute References: § 16.009(2)(b); (2)(p) & (4)(b)
42 USC 3058g(a)(3)

STATEMENT of POLICY: Any consumer of residential or community-based long term care services aged sixty or older is eligible to be a client of the Long Term Care Ombudsman Program. This includes persons age 60 and over who are receiving services via the Family Care, Family Care Partnership, PACE and Community Options Programs. Regional Ombudsmen will respond to complaints related to conditions or treatment of persons receiving long term care services as mandated generally by §16.009, Stats. and 42 USC 3058g, while maintaining a consumer-directed focus. Within the capabilities of the agency's available resources, intake and disposition of complaints shall be accomplished in a way designed to facilitate the consistent, timely and orderly response, investigation, resolution and documentation of complaints.

Ombudsmen will approach these functions with an emphasis on long term care consumers' rights and a continuing concern for individual client and family empowerment and self-advocacy. Services may be delivered through direct advocacy by the Ombudsman, through client self-advocacy with assistance and direction of the Ombudsman, or through a blend of methods.

The Ombudsman Program is not an emergency response organization. Calls placed to the Ombudsman Program's toll-free line or complaints received on the BOALTC website are received and triaged Monday – Friday between the hours of 8:00 am and 4:30 pm.

Policy Elements

I. Intake and response to complainant and/or client

- A. Define issue and determine type of response that is warranted
 1. collect sufficient information (Initial phone or voice-mail may require follow-up contact.
 2. analyze issue(s) and develop options (which may include):
 - a. address complaint by direct communication with facility/provider/other
 - b. provide information and/or assistance allowing client to resolve complaint
 - c. open a case file
 - d. referral
 - e. no real issue / no action needed
 3. formulate recommendations for next steps
- B. Document the nature of the call and the action taken

II. Timeliness of Response to Intake

A. Prioritize complaints according to triage guidelines established by the Agency.

See Attachment A to this policy . . . Triage Guidelines

B. In issues suggesting a direct potential for significant harm, an Ombudsman shall attempt to contact the complainant within 1 working day of the time when he or she becomes aware of the complaint. If the complaint is received via the 800 line, the Intake Specialist or other staff answering the line will immediately attempt to speak with the caller to ascertain the level of seriousness or dangerousness to the client. If it is determined that the concern requires immediate attention, the Intake Specialist will put the caller in contact with the first available ombudsman or the Ombudsman Services Supervisor, if the ombudsman from the caller's area is unavailable. As may be appropriate, the Intake Specialist may also offer the caller the regional contact information for the Division of Quality Assurance, law enforcement and/or the local Adult Protective Services unit. The Ombudsman ordinarily addresses such issues initially by telephone communication with the complainant. This type of complaint includes issues relating to allegations of abuse or neglect coupled with a potential for a significant risk of immediate harm to the client. Abuse situations reflecting an immediate, severe threat to life or bodily security should be addressed in accordance with Attachment B to this policy . . . Management of abuse investigations

C. Serious issues of non-physical abuse or neglect which do not pose a risk of immediate harm should be initially addressed within 3 working days after the Ombudsman becomes aware of the complaint.

D. Actual or threatened involuntary discharge complaints shall be addressed in a manner which preserves the right of the client to object to the discharge through the use of the appeal process.

E. All other complaints should be initially addressed in accordance with the Triage Guidelines appearing in Attachment A.

F. Where timely investigation of a serious complaint is not possible, the regional ombudsman shall communicate with the Ombudsman Services Supervisor for guidance.

III. Referrals

A. A client or complainant is encouraged to make a referral directly to the proper protective services or regulatory agency or entity depending on the nature of the concern.

B. Ombudsmen may refer a complaint to another agency with the consent of the resident or client and in accordance with BOALTC Policy OMB 3.

C. Referrals may be made to

1. regulatory or protective services agencies
2. providers of legal services
3. other human service and/or advocacy agencies after consideration of the needs of the client.

APPROVED:

Date: ___ Dec 2014 _____

Heather A. Bruemmer
Executive Director

Long Term Care Ombudsman Program

Complaint Priority Guidelines

Each incoming complaint is assessed, or “triaged” individually by the Intake Specialist, if initially received via the toll-free telephone line or the BOALTC website, then routed to the covering Regional Ombudsman. Dominant factors considered are: severity and scope of a complaint when it is received, complaints outside the scope of the Program, and a newly received complaint in relation to other complaints the Ombudsman is working on at that time. As a result of a callback, the Ombudsman will determine whether the concern may be dealt with as a consult or requires being opened as a case. The Ombudsman may refer the complaint to another agency/party or assist the caller in resolving her/his own problem. The Ombudsman is advised to contact the Ombudsman Supervisor if the application of this policy to a specific situation is unclear. If the Ombudsman determines that it is necessary to open a case, the immediacy of investigation and resolution activities are guided according to the following:

I. Primary Priority

Complaints or concerns in this category relate to allegations of potential or actual harm to a client. It should be noted that Ombudsmen do not provide “emergency” services. While many of these complaints are referred to DQA or another agency for investigation, the Ombudsman may do an onsite visit to determine the adequacy of care for other residents, if the complaint arises from a licensed or certified long term care facility.

1. Physical abuse/neglect allegations:

While the Long Term Care Ombudsman Program provides no investigative function for these referrals, the Ombudsman is often the first person contacted. Long term care facilities are required to self-investigate and report abuse allegations to DQA, police and/or the county APS unit, depending on the nature of the allegation. These agencies, in turn conduct their investigations. The role of the Ombudsman, once he or she identifies potential abuse and has received consent of the client for a referral, is to advocate on behalf of the client to ensure that all necessary parties are actively involved and that the client receives proper treatment, is protected from further harm or retaliation, and remedies are in place to prevent abuse from reoccurring. Where consent is initially refused, it is the role of the ombudsman to educate the client regarding the benefits and protections of reporting the situation in full, providing all assurances of protection against retaliation of any sort.

2. Deterioration of Condition:

Reported changes such as recent rapid weight loss, alleged malnutrition, reported new or increased decubiti, and other changes in condition can signal a lack of or inadequate nursing attention or care. Persons reporting these conditions are encouraged to report immediately and directly to DQA. If they are unwilling or unable to do so, permission is sought for the complaint to be made by the Ombudsman on behalf of the reporter.

3. Potential Physical Harm to Resident:

Examples of these types of complaints are: resident is being restrained, either physically or by medication; facility not administering prescribed medication or other involved persons refusing to allow the administration of prescribed medication; failure to adequately assess and address acute or chronic pain; residents or the residential environment not being kept clean; other situations in which no actual, or minimum harm has occurred but could if circumstances are not corrected.

4. Involuntary Discharge

Under state and federal law and regulation, a facility may discharge a resident involuntarily with a 30 day notice to the resident responsible party with certain specific limitations and in accordance with the type of facility licensure.

5. Family Care, PACE, Partnership, Community Options Program Grievances, Appeals and State Fair Hearings

Managed care members who receive Notices of Action (NOA's) indicating a reduction, cessation or denial of services have an inflexible timeline by which to appeal through the Managed Care Organization's informal and formal systems as well as through the State Fair Hearing system. It is often the role of the ombudsman to insure that the member knows her or his rights to appeal, and is prepared to exercise those rights in a timely manner.

II. Other Important Complaints:

These sorts of complaints are taken up once the Ombudsman has addressed any major issues covered in Section I: [NB: This list is not exhaustive.]

1. Guardianship/DPOA-HC issues; including issues related to disputatious family members or other acquaintances
2. Appropriate facility placement for care needed
3. Unexplained or unreported accidents
4. Unsafe environment
5. Not enough staff or staff not properly trained to meet needs
6. Resident wants to go back home or to another setting
7. Problems with admissions agreements, house rules or other facility-specific documentation requiring resident/tenant compliance
8. Complaints against an MCO, an MCO team or its contractors, not related to a time-sensitive Notice of Action

III. Potentially Less Critical Concerns:

A. The Ombudsman will provide guidance to the caller as to how he or she might resolve these difficulties potentially without the Ombudsman going to the facility, though that decision is always based on the Ombudsman's impression after speaking with the client or complainant:

[NB: This list is not exhaustive.]

1. Lost Laundry
2. Dining room issues
3. Broken furniture, etc.
4. Food quality or quantity
5. Room temperatures
6. Lack of activity
7. Issues from callers who may be current or former facility staff

B. The Ombudsman will suggest alternative help to the caller for these problems:

1. Billing, payment issues
2. Medicare/Medicaid eligibility
3. Resident or tenant is under age 60
4. Person of concern does not live in a licensed or certified long term care facility and is not a Family Care/ PACE/Partnership or Community Options Program member
5. Resident is chronically mentally ill, developmentally disabled or in another demographic group better served by a different advocacy organization
6. There is no "resident or tenant" for whom to advocate due to resident's passing or no longer living in facility or receiving services. This includes persons presently hospitalized or under treatment in a psychiatric treatment setting.

C. Very often, cases have multiple complaints/issues. In these instances, the Ombudsman will address all issues needing to be resolved for that resident, even though some of them are not "primary priority" concerns.

BOALTC Policy Ombudsman 2 Attachment II

ELDER ABUSE

The Role of the Regional Ombudsman of the Board on Aging and Long Term Care

Statute References:

§ 16.009 Wis Stats. (Department of Administration-BOALTC)
Ch. 46 Wis Stats. (Social Services-Elder Abuse Reporting System)
Ch. 50 Wis Stats. (Uniform Licensure)
Ch. 51 Wis Stats. (Mental Health Act)
Ch. 54 Wis Stats. (Guardians and Wards)
Ch. 55 Wis Stats. (Protective Service System)
Ch. 155 Wis Stats. (DPOA – HC)
Ch. 244 Wis Stats. (Financial DPOA)
Ch. 940 Wis Stats. (Crimes-Life and Bodily Security)

STATEMENT of POLICY:

Regional Ombudsmen have a responsibility, under state and federal statutes, to mediate and advocate to resolve complaints regarding most kinds of providers of long term care services and to work to protect the rights of Wisconsin's older adult long term care recipients. The Wisconsin Long Term Care Ombudsmen do not investigate allegations of elder abuse, and are not mandatory reporters. However, a regional Ombudsman has a role in serving as a liaison between the individual of concern, long term health care providers, county adult protective service units, local law enforcement and state regulatory agencies.

Ultimately, it is within the scope of the role of the Ombudsman to monitor certain situations in an attempt to assure that the individual is safe from repeated harm or retaliation, and that her or his rights are protected. Whenever possible, the Ombudsman is to make herself or himself available for consulting with and educating the individual and/or her or his authorized decision-maker about options for how to address abusive situations. The Ombudsman's focus should be on the protection of the elder's rights.

PROCEDURES:

When first contacted, the Ombudsman shall attempt to speak directly with the individual of concern to explain his/her role as an advocate, the role of various other entities available in an investigation and to obtain consent for advocacy. As part of that discussion, the Ombudsman should attempt to reassure the individual of the prohibitions around retaliation, ascertain what the individual desires with regards to, and consent for reporting as well as whether there is any need for further advocacy services for this individual or others. The Ombudsman should link the individual with available protections and service providers.

As an advocate, the Ombudsman must respect the wishes of the individual of concern and those of the complainant when not in conflict with the desires of the individual. An individual of concern who calls to report abuse to herself or himself may be reluctant to alienate the alleged perpetrator by allowing the Ombudsman to refer the matter elsewhere. The Ombudsman may encourage the individual to reconsider and may advise the individual of risks of continued abuse and provide information about of where to report, in case the individual should choose to report in the future.

- 1.) When an Ombudsman is first notified of an allegation or observes a situation of abuse or mistreatment, he or she will need to determine the urgency of the situation and the existence of any continued threat to the safety of the individual of concern and/or others. The ombudsman will report to the investigating entity in what kind of setting the alleged abuse occurred and the details of the allegation, as told, with consent, by the client, or as observed by the ombudsman.

- 2.) The Ombudsman may need to attempt to secure the safety of the individual by advising the caller to immediately notify the responsible agency (law enforcement, and/or county protective services agency when abuse is believed to have occurred in an unlicensed community setting. In the event an anonymous complaint is received by recorded message, those calls should be directly forwarded verbatim to the appropriate investigative entity.
- 3) Additionally, the Ombudsman will need to document information about the nature of the alleged abuse, the victim and reporter. The Ombudsman will need to obtain basic information in sufficient detail for possible future reporting.
- 4) The Ombudsman shall attempt to maintain contact with the individual of concern, and may, as authorized by the individual, contact other involved entities in an attempt to monitor the investigation to advocate for the rights and wishes of the individual.
- 5.) When indicated, and upon completion of an investigation of allegations of physical or emotional abuse, the Ombudsman should, regardless of outcome, attempt to contact the individual of concern so as to ascertain whether that person is free from fear of any retaliation or is in need of any additional assistance.
- 6.) The Ombudsman shall remain available for consultation with the individual, decision-maker and any of the involved entities so long as the authorized decision-maker gives consent.
- 7.) Other options for consideration by an Ombudsman include;
 - increasing her or his direct monitoring of any facility or provider whose staff has been accused of committing abuses
 - Suggesting additional training for staff on avoiding and reporting abuse and neglect
 - approaching the president of any resident council to present a program and make known her or his availability to hear and address concerns
 - approaching families to organize a Family Council.
- 8) The Ombudsman may attempt to educate the individual and/or other interested parties (with consent) regarding their rights and options in reporting and shall provide names and numbers of entities to whom this or future allegations can be reported. The Ombudsman may serve as a confidant and an informational resource.
- 9.) The Ombudsman should approach the management of any service provider to advise them in their responsibilities in preventing, investigating and addressing abuses and may offer to provide training to staff on the rights guaranteed to long term care consumers to be free from abuses. The Ombudsman may increase her or his direct monitoring of any facility about which allegations of abuses are heard.