

CHAPTER 100: INTRODUCTION

- 101: General Authority and Mission**
- 102: Structure of the Illinois Long-Term Care Ombudsman Program**
- 103: Organization of this Policies and Procedures Manual**
- 104: Definitions**
- 105: Policy Clarifications, Revisions, and Waivers to this Manual**

101: General Authority and Mission

- A. The Illinois Long-Term Care Ombudsman Program (Program) is authorized by and in accord with the section 712 of the Older Americans Act, and the Illinois Act on the Aging, (20 ILCS 105/4.04).
- B. The Program protects and improves the quality of care and quality of life for residents of long-term care facilities in Illinois through individual and systemic advocacy for and on behalf of residents, including representing the interests of residents before governmental agencies, reviewing and commenting on existing and proposed laws, seeking out and responding to media requests, the promotion and cultivation of best practices within long-term care services, and through the promotion of family and community involvement in long-term care facilities.
- C. The Program was expanded and given authority in 2013 to provide advocacy services to participants of Home and Community-Based Services waiver programs administered by the State, and managed care organizations providing care coordination and other services to seniors and persons with disabilities.
- D. The Program is a resident and participant centered advocacy program. The resident or participant is the program's client, regardless of the source of the complaint or request for service. The Ombudsman will make every reasonable effort to assist, empower, represent, and advocate on behalf of the resident or participant.
- E. The service components of the Program include identifying, investigating, and resolving complaints; conducting routine visits in long-term care facilities; providing information and assistance and community education; assuring issue advocacy; and supporting the development of resident and family councils.
- F. Processing complaints made by or on behalf of residents or participants and resolving the concerns of residents or participants are the highest priority service of the Program. Principles and techniques of empowerment are to be used whenever possible when addressing resident or participant complaints and problems.
- G. These policies and procedures govern the operations of the Program and establish the relationship and responsibilities of Provider Agencies, Area Agencies on Aging, and the Illinois Department on Aging, in relation to the Program.

102: Structure of the Illinois Long-Term Care Ombudsman Program

- A. The Department shall establish an Office of the State Long-Term Care Ombudsman (“Office”) which will operate a statewide Long-Term Care Ombudsman Program (“Program”) in accordance with the Older Americans Act, the Illinois Act on the Aging, and applicable federal and state regulations.
- B. The Office shall assure that all residents of Illinois long-term care facilities and participants of Home and Community-Based Services waiver programs and managed care organizations have access to the services of the Program and that every area of the State has a designated Regional Program.
- C. Regional Program services shall be delivered through provider agencies and individuals designated by the Office and shall be operated through a grant or contract with the Department or an Area Agency on Aging (AAA).

103: Organization of this Policies and Procedures Manual

The general organization of this Manual is as follows:

Chapter 100: Introduction/Definitions

Describes the mission, responsibilities and authority of the Illinois Long-Term Care Ombudsman Program, the organization of this Manual, the procedures to revise any portion of this manual, and lists and defines the terms used throughout this Manual.

Chapter 200: Organizational Standards and Responsibilities

Describes the organizational standards and responsibilities of the Department, the Office, the State Ombudsman, the Area Agencies on Aging, Provider Agencies, and the Regional Ombudsmen in relation to the Program.

Chapter 300: Designation and Certification

Describes the process for certification, de-certification, designation and de-designation of Ombudsmen and Provider Agencies and grievances.

Chapter 400: Long-Term Care Ombudsman Program Service Delivery

Describes the five service delivery components to be provided by the Program, the Annual Services Plan, and monitoring and evaluation of the Program.

Chapter 500: Investigative Services

Provides the minimum guidelines for investigating, verifying, and resolving complaints received by or on behalf of residents and participants.

Chapter 600: Access

Explains how to gain access to residents and facilities, to resident, participant, state, and facility records and the process to follow when access is denied.

Chapter 700: Legal Issues

Describes the process to follow in seeking legal advice or consultation from the Office by Ombudsmen and Provider Agencies, representation and indemnification from the Attorney General or others, procedures to follow when interference, retaliation, and/or reprisals exists, and procedures to follow when dealing with guardianship.

Chapter 800: Confidentiality, Monitoring, Disclosure, and Maintenance

Outlines the requirements to be followed by the Program and Ombudsmen to assure confidentiality of residents, participants, complainants, witnesses, or others assisting in the report, complaint, or investigation. It also explains how long records should be kept and in what manner.

Chapter 900: Conflict of Interest

Defines conflict of interest for entities and individuals involved in the Program and procedures for the disclosure, review and remedying of a conflict of interest along with the penalties for failure to identify or remedy a conflict of interest.

Chapter 1000: Volunteer Management

Defines the qualifications and role of volunteers in the Program.

Chapter 1100: Emergency Preparedness

Outlines the requirements to be followed by the Program and Ombudsmen to prepare for and respond to emergency situations.

Chapter 1200: Facility Closures

Explains the Ombudsman roles and responsibilities during a facility closure whether it is a facility-initiated closure or a state-initiated closure.

104: Definitions

For the purposes of this Policies and Procedures Manual, the following definitions will apply:

Abuse

Willful infliction of injury, unreasonable confinement, intimidation, cruel punishment with resulting physical harm, pain, or mental anguish; or willful deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness. Abuse may also include exploitation.

Access

The authority of an Ombudsman to enter a long-term care facility, to conduct unimpeded visits with residents, and to examine and acquire resident records in a timely manner pursuant to the Older Americans Act.

Annual Services Plan

A written plan, prepared by the Regional Ombudsman for submission to the Office and the Area Agency on Aging, setting goals and objectives for the Regional Ombudsman Program for the following federal fiscal year.

Area Agency on Aging or AAA

A public or private nonprofit agency designated by the Department in a planning and service area which is responsible for developing and administering an area plan for a comprehensive and coordinated system of services for caregivers and persons over the age of 60.

Area Plan

A plan developed by an Area Agency on Aging for its relevant planning and service area as set forth in the Older Americans Act.

Authorized Representative

A guardian; an agent under a valid power of attorney, provided that the agent or attorney-in-fact is acting within the scope of his or her agency; a surrogate decision maker; or an executor or administrator of the estate of a deceased resident.

Background Check

A fingerprint-based criminal history records check as defined by Section 15 of the Health Care Worker Background Check Act (225 ILCS 46/15).

Benchmarks

Minimum mandatory standards set forth by the State Ombudsman for Regional Ombudsman Programs to ensure compliance with State and Federal requirements.

Case for Long-Term Care Residents

Each request for assistance or allegation brought to, or initiated by, the Ombudsman Program on behalf of a resident or group of residents of long-term care facilities involving one or more complaints or problems which requires opening a case file and which includes Ombudsman investigation, fact gathering, development and implementation of a resolution strategy in keeping with Chapter 500 of this Manual.

Case for Participants

Each request for assistance brought to the Ombudsman Program by or on behalf of a participant involving one or more complaints or problems which require opening a case file for advocacy and resolution strategies.

Certification

The process by which an individual who meets minimum qualifications, is free of conflicts of interests, has successfully completed training and other criteria stipulated in Section 303 of this Manual becomes registered on the Ombudsman Registry by approval of the State Ombudsman. Certification authorizes such individual to act as a representative of the Office or in keeping with this Manual.

Community Education

Presentations made to the community or other meetings where an Ombudsman represents the Ombudsman Program with community groups, students, churches, etc. This includes attendance at community and health fairs and similar gatherings where an Ombudsman has a display and staff available to provide information to attendees.

Complaint or Complaint for Long-Term Care Residents

A concern or allegation regarding action, inaction, or decisions that may or have adversely affected the health, safety, welfare, or rights of one or more residents that is brought to the attention of, or initiated by, the Ombudsman for action.

Complaint for Participants

A concern or allegation regarding action, inaction, or decisions relating to a Home and Community-Based Services waiver program or services through a MMAI Managed Care Organization that may or have adversely affected the health, safety, welfare, or rights of one or more participants that is brought to the attention of, or initiated by, the Ombudsman for action.

Conflict of Interest

A competing interest, obligation, or duty which compromises, influences, interferes with (or gives the appearance of compromising, influencing or interfering with) the integrity, activities, or conduct of all Ombudsmen, the Department, Office, AAAs or Provider Agencies in faithfully and effectively fulfilling official duties.

Date of First Action

The date of contact with the resident or resident’s authorized representative or participant which results in a preliminary plan for either an investigation or steps to be taken toward resolution.

Department or IDoA

The Illinois Department on Aging.

Designation

The authorization by the State Ombudsman of an entity to host a Regional Ombudsman Program in a specified geographic area.

Director

The Director of the Illinois Department on Aging.

Exploitation

The illegal or improper act or process of an individual, including a caregiver, using the resources of an older adult or adult with a disability for monetary or personal benefit, profit, or gain.

Family Council Activities

Provision of technical assistance, information, training or support to the family members of residents and/or facility staff about the development, education, work, or maintenance of a family council.

Good Faith

Evidence of performing duties in “good faith” includes, but is not limited to:

- A. making reasonable efforts to follow procedures set forth in applicable laws and this Manual;
- B. seeking and making reasonable efforts to follow direction from the Office of the State Long-Term Care Ombudsman; and
- C. seeking and making reasonable efforts to follow direction from the relevant Regional Ombudsman.

Guardian

Person or entity appointed by a court to exercise the legal rights and powers of another individual as specified in the court order.

Home and Community-Based Services Waiver or HCBS Waiver

A waiver approved by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services, and administered by the state of Illinois.

Home Care Ombudsman

An Ombudsman who serves participants.

Home Care Ombudsman Program

A subdivision of the Office and any Ombudsmen housed within that subdivision that provide advocacy services to participants.

Immediate family

A member of the household or a relative with whom there is a close personal or significant financial relationship.

Information and Assistance

Providing information to an individual or facility staff about issues impacting residents (e.g., resident rights, care issues, services) and/or sharing information about accessing services which does not involve investigating and working to resolve complaints (i.e., providing information and assistance is not a case). Information and assistance may include when the Ombudsman refers someone with a concern to another agency and is not actively involved in investigating and working to resolve the problem.

Inquiries

A term used for the Home Care Ombudsman Program meaning the provision of information and assistance to individuals regarding home and community-based services waivers and MMAI managed care organization services which does not involve investigating and working to resolve complaints (i.e., an inquiry is not a case). An inquiry may include when the Home Care Ombudsman refers someone with a concern to another agency and is not actively involved in investigating and working to resolve the problem.

Intake Date

The date of receipt of the information or message received by the Ombudsman.

Interagency Coordination

Activities that involve meeting or coordinating with other agencies to learn about and to improve conditions for one or more residents or participants.

Issue Advocacy

Activities supporting and promoting issues that benefit or advance the health, safety, welfare or rights of residents and participants.

Long-Term Care Facility or Facility

Long-Term Care Facility means any facility as defined in (20 ILCS 105/4.04 (a)(2)) of the Illinois Act on the Aging and by Section 1-113 of the Nursing Home Care Act, as now or hereafter amended; and any skilled nursing facility or a nursing facility which meets the requirements of Section 1819 (a), (b), (c), and (d) or Section 1919 (a), (b), (c), and (d) of the Social Security Act, as now and hereafter amended [42 U.S.C. 1395i-3(a), (b), (c), and (d)] and [42 U.S.C. 1396r(a), (b), (c),

and (d)]; any facility as defined by Section 1-113 of the ID/DD Community Care Act, as now or hereafter amended; and any facility as defined by Section 1-102 of the Specialized Mental Health Rehabilitation Act of 2013, as now or hereafter amended; (210 ILCS 46/) MC/DD Act as now or hereafter amended; facilities that meet the requirements of Section 10 of the Assisted Living and Shared Housing Act as well as facilities established under Section 5-5.01a of the Illinois Public Aid Code. Facilities or establishments with the following types of licensed beds or certified units are included in the definition:

- A. skilled nursing;
- B. intermediate care;
- C. specialized mental health rehabilitation facilities;
- D. Illinois Department of Veterans' Affairs facilities;
- E. intermediate care facilities for persons with developmental disabilities;
- F. sheltered care;
- G. assisted living;
- H. shared housing;
- I. supportive living – a facility established under Section 5-5.01a of the Illinois Public Aid Code and;
- J. medically complex for the developmentally disabled.

Long-Term Care Ombudsman

An Ombudsman who serves residents.

Managed Care Organization (MCO)

An organization licensed and approved by the Illinois Department of Healthcare and Family Services to provide care coordination and other services to seniors and people with disabilities in the state of Illinois.

Medicare-Medicaid Alignment Initiative (MMAI)

A managed care program for individuals who are eligible for both Medicaid and Medicare (referred to as “dual eligibles”). MMAI combines both Medicaid and Medicare services into a single program.

Multidisciplinary Team

A group of individuals selected by the Regional Ombudsman which acts in an advisory role for the purpose of providing professional knowledge and expertise in handling complex abuse, neglect, and advocacy issues.

Neglect

The failure to provide the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caregiver to provide the goods and services.

Office

The Office of the State Long-Term Care Ombudsman Program is a distinct entity, separately identifiable, as established by the Department. The Office is the organizational unit headed by the State Ombudsman and comprised of any other State Ombudsman staff.

Official Duties

Those duties of an Ombudsman as set forth in applicable federal and state law and this Manual.

Ombudsman

An employee or volunteer certified by the State Ombudsman as a representative of the Office to fulfill the duties of the Office, whether the personnel supervision is provided by the State Ombudsman or by an agency hosting a Regional Long-Term Care Ombudsman Program or Home Care Ombudsman Program.

Ombudsman Representative Registry

The official listing of Ombudsmen, maintained by the Office, who have been certified as representatives of the Office of State Ombudsman.

Participant

A person aged 60 or over or an adult with a disability aged 18 through 59 who is eligible for services under a HCBS waiver administered by the state of Illinois or a person receiving care coordination and other services by a MMAI managed care organization.

Planning and Service Area or PSA

A geographic area of the State, as defined in the Illinois Act on the Aging, that is designated by the Department for the purposes of planning, development, delivery, and overall administration of services under an area plan.

Policies and Procedures Manual

The written manual governing the operations of the Long-Term Care Ombudsman Program and establishing the relationship and responsibilities of Provider Agencies, AAAs, and the Department in relation to the Long-Term Care Ombudsman Program.

Policy Clarification Request Committee

A committee created by the Office to advise on policies and procedures.

Program

The State Long-Term Care Ombudsman Program through which the functions and duties of the Office are carried out, consisting of the State Ombudsman, the Office headed by the State Ombudsman, and Ombudsmen.

Program Records

All files, records, correspondence, documentation, case notes and communications related to a specific case or client.

Provider Agency

The entity designated by the State Ombudsman to operate a Regional Ombudsman Program in a planning and service area or a specified geographic area.

Record

Any medical, social, personal and financial information maintained by any long-term care facility, any State or local agency, any HCBS waiver program or any managed care organization pertaining to a resident or participant.

Regional Long-Term Care Ombudsman Program

An agency designated by the State Ombudsman as a sub-division of the Office and any Ombudsmen housed within that agency that provide advocacy services to residents of long-term care facilities.

Regional Ombudsman

A certified Ombudsman who works full-time (35-40 hours/week) to perform Ombudsman functions exclusively and who shall have no duties in the Provider Agency outside the scope of the Ombudsman Program as defined in state and federal law and this Manual. The Regional Ombudsman has the overall responsibility for the activities of the Regional Ombudsman Program as defined in this Manual.

Regional Ombudsman Program

A Regional Long-Term Care Ombudsman Program or a Home Care Ombudsman Program.

Representative**1. Resident's Representative**

An authorized representative or any person who is knowledgeable about a resident's circumstances and has been designated by that resident in writing to represent him or her.

2. Participant's Representative

A legal representative such as a guardian; an agent under a valid power of attorney, provided that the agent or attorney-in-fact is acting within the scope of his or her agency; or surrogate decision maker.

Resident

A person age 60 years or over or an adult with a disability between the ages 18 and 59 years who is a current resident of a long-term care facility, a former resident, or a deceased resident.

Resident Council Activities

Provision of technical assistance, information, training or support to the residents, family members and/or facility staff about the development, education, work or maintenance of a resident council.

Routine Visit

An unannounced visit to a long-term care facility by an Ombudsman for the purposes of observation, identifying concerns, informing residents about the program and their rights, and not specifically in response to a complaint.

State Ombudsman or State Long-Term Care Ombudsman

The individual who heads the Office and is responsible to personally, or through representatives of the Office (Ombudsmen), fulfill the functions, responsibilities and duties set forth in federal regulations. [45 CFR §1324.1] The State Ombudsman is employed by the Department to fulfil the requirements of the Office of State Long-Term Care Ombudsman as required under the Older Americans Act of 1965.

Training for Facility Staff

A presentation by an Ombudsman to long-term care facility staff on long-term care issues.

Volunteer Ombudsman

An Ombudsman who performs services without pay.

Willful Interference

Actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the Ombudsman from performing any of the functions, responsibilities, or duties of the Ombudsman.

105: Policy Clarifications, Revisions, and Waivers to this Manual

- A. When necessary, the Office shall issue clarifications of this Manual in response to Policy Clarification Requests (PCRs)
 - 1. PCRs may be submitted to the Office by an AAA, a Provider Agency, or Regional Program using the form developed by the Office. A response to a PCR will be made within thirty (30) business days by either responding directly to the clarification request or requesting further information from the requestor.
 - 2. The Office may create a PCR workgroup.
- B. Revisions to this Manual
 - 1. Revisions to this Manual will be made by the Office, after consultation with the Department.
 - 2. When appropriate, the Office will seek input from the AAAs, Provider Agencies, and Regional Programs.
 - 3. Revisions to this Manual will be distributed electronically to the AAAs, Regional Programs, and Provider Agencies.
 - 4. A Provider Agency on the date of issuance of the Manual, or any revisions thereto, shall continue to be designated for the duration of the previously established designation period unless de-designated by the State Ombudsman.
- C. Waivers
 - 1. The State Ombudsman may grant a waiver to a policy of this Manual when a written request is received from an AAA, Provider Agency or Regional Ombudsman which contains justification to support the approval. The AAA, Provider Agency and Regional Ombudsman will be notified in writing if a waiver has been approved.
 - 2. A request for waiver must be made in writing to the Office and approved by the State Ombudsman prior to:
 - a) hiring or promotion of the employee in question; or
 - b) implementing the reduced minimum standard.