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Long-Term Care Ombudsman Program Offers Trust and Solutions

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Long-Term Care Ombudsman Program Offers **TRUST AND SOLUTIONS**

Residents in long-term care facilities who have concerns and problems can turn to these professionals for person-centered help. **BY BECKY A. KURTZ, JD**

“**W**hat if you had to go to the hospital, and when it came time to return home, your landlord said you couldn’t move back in? Across the country, thousands of nursing home residents face that situation every year.” That was the lead in a recent National Public Radio story of a California man who stayed in a hospital for many months because his nursing home refused to readmit him (Jaffe 2016).

Eviction from one’s residence can create displacement from a resident’s community, family, and friends; a risk of homelessness; or unnecessary and costly hospitalizations. In 2015, Long-Term Care (LTC) Ombudsman programs worked to resolve nearly twelve thousand complaints of residents facing inappropriate discharge or eviction.

Who Can Access LTC Ombudsman Services?

Despite efforts to stay healthy and prevent disease, many of us will eventually develop some degree of limitations and need additional paid or unpaid help with basic daily living activities. Long-term services and supports, sometimes called *long-term care*, may include personal care services, homemaker services, meal assistance, transportation assistance, case management, skilled care, respite care, and many others. These services help older adults and those with disabilities accomplish everyday tasks that may be needed to maximize their independence and well-being.

People of all ages may have functional limitations, but these limitations are most prevalent among those aged sixty-five and older. Most receive services or supports from family, friends, or professional workers in their homes and communities, but many others receive

long-term services and supports in a nursing home, assisted living, or other residential care community.

It is this latter group — those living in long-term care facilities — for whom Congress designed LTC Ombudsman programs. Begun in 1972 as a demonstration program initially focused on nursing home residents, LTC Ombudsman programs are authorized under the Older Americans Act, which is administered by the Administration on Aging (AoA, a part of the Administration for Community Living (ACL), an operating division of the federal Department of Health and Human Services).

Each Office of the State Long-Term Care Ombudsman is headed by a full-time State LTC Ombudsman who directs the program statewide. In addition, staff and volunteers, designated by the Ombudsman as “representatives of the Office,” assist residents and their families by resolving complaints and serving as a resource related to long-term care services and supports.

Resolving Problems of Individual Residents

LTC Ombudsman programs respond to a wide variety of resident problems — in addition to the discharge and eviction issues previously discussed — including inadequate care, violation of rights, quality of life, and access to benefits.

The programs provide residents with a confidential, trusted person to assist with resolving their concerns. They approach issues with a person-centered focus, resolving complaints with resident consent and input, and determining whether problems have been resolved to the satisfaction of the resident.

Last year (2015), LTC Ombudsman programs:

- Completed work on 129,559 cases, consisting of 199,238 complaints (or specific issues)
- Resolved (or at least partially resolved) 74 percent of these complaints to the satisfaction of the resident
- Of these cases, 72 percent were associated with nursing facility settings, 26 percent with board and care and other similar facilities (including assisted living); and 3 percent with non-facility settings or services to facility residents by an outside provider
- Most cases were initiated by residents or friends and relatives of residents, with the residents themselves initiating 39 percent and their relatives or friends initiating another 19 percent of LTC Ombudsman cases

LTC Ombudsman programs most frequently worked on nursing-home related complaints of:

- Improper eviction or inadequate discharge planning
- Failure to respond to requests for assistance
- Lack of dignity or respect for residents, poor staff attitudes
- Medications
- Resident-to-resident conflicts

In assisted living, board and care, and other residential care communities, they most frequently worked on complaints of:

- Medications
- Food quality, quantity, variation and/or choice.
- Improper eviction or inadequate discharge planning
- Lack of dignity or respect for residents, poor staff attitudes
- Building or equipment hazards or need for repair

An Ounce of Prevention...

In addition to working to resolve individual-level complaints, LTC Ombudsman programs work to prevent problems from occurring. Their approaches include unannounced visits to facilities by staff and volunteers to monitor conditions and provide residents with regular access to the LTC Ombudsman program. They support the work of resident councils and family councils. They serve as a credible source of information related to long-term services and supports for residents, their families and other representatives, as well as for facility staff.

A Systems-Level Approach to Problem Solving

A vital LTC Ombudsman program function is systems advocacy — working to resolve problems that impact many residents. Coordination with other agencies to solve problems on individual as well as systemic levels is one approach. They also analyze and recommend changes in laws, regulations, and government and/or facility-wide policies.

For example, in response to the high number of discharge and eviction complaints, LTC Ombudsman programs have developed a number of system-wide advocacy strategies:

- The “Let Me Return Home” campaign in one state is designed to address the problem of residents being sent to the hospital from the nursing home and then not readmitted by the long-term care facility once the medical issue has resolved. In response, the State LTC Ombudsman collaborated with the department of health and provider organizations to develop a training program, provided by local representatives of the Office, for hospital discharge planners and nursing facility staff.
- To address non-payment when a fiduciary (for example, a conservator, agent under a financial power of attorney, or representative payee) has been appointed, one State LTC Ombudsman, together with other stakeholders, submitted a report to their state’s governor and legislature outlining safeguards from financial exploitation and recommending changes to state laws regarding guardianship and abuse, neglect, and exploitation.

Examples of other LTC Ombudsman systems advocacy approaches include:

- Seeking state legislative changes to strengthen protections against illegal or improper evictions

- Developing and distributing consumer education materials on resident rights
- Participating in multi-disciplinary task forces to develop strategies to prevent and respond to abuse, neglect and exploitation
- Recommending government actions to provide facility information to assist consumers searching for and comparing LTC facilities
- Providing information to state regulatory agencies to support the effectiveness of long-term care facility surveys conducted by regulatory agencies (participating in 24,614 survey-related activities last year)
- Training facility staff on topics such as abuse and neglect prevention, resident rights, and chemical and physical restraint reduction practices (providing 5,463 training sessions last year)

Finding LTC Ombudsman Services in Your Area

There are fifty-three Offices of the State LTC Ombudsman, found in all fifty states, plus the District of Columbia, Puerto Rico, and Guam. In most states, the Office of the State LTC Ombudsman is housed within the state unit on aging or another state agency. In others, the Office is housed in a private non-profit agency.

Most states have contracts with or through area agencies on aging to provide direct ombudsman services to residents locally. There are 552 of these local Ombudsman entities across the nation. Other states use more centralized models. The National Ombudsman Resource Center website provides contact information for LTC Ombudsman programs across the nation.

Last year, LTC Ombudsman services to residents were provided by 1,309 full-time equivalent staff and 7,716 volunteers, trained and certified to investigate and resolve complaints, and contributing more than 708,000 volunteer hours. An additional 3,751 volunteers also served residents or assisted in program operations in ways other than complaint resolution.

Volunteers designated to act on behalf of the State LTC Ombudsman add an invaluable service, which benefits residents, their families and facility staff. Volunteers across the county donate their time, talents and energy to visit residents, listen to their concerns and take action. For some residents, the ombudsman

may be their only visitor. Volunteer ombudsmen frequently provide the routine ombudsman presence in many facilities and provide cost-effective complaint resolution. The Independent Sector places the value of the volunteer time at \$22.55 per hour, placing the value of designated volunteers at nearly \$16 million last year.

The federal government is the primary entity funding the LTC Ombudsman Program, providing 54 percent of total funding in FY 2015. States provided 39 percent of funds, and other non-federal sources funded the remaining seven percent.

The Changing Landscape of Long-Term Services and Supports

Increasingly, individuals who need long-term services and supports live in residential settings other than nursing homes. These include board and care homes, assisted living, and other types of residential care communities (known by various names under state laws). While the number of beds and facilities in nursing homes is relatively stagnant, the growth of capacity in these other settings is steadily increasing. LTC Ombudsman programs report that there are 58,777 of these facilities, with capacity for nearly 1.3 million residents.

One important factor: Federal policy continues to accelerate the growth of home and community-based long-term services and supports. In many states, Medicaid funding provides services in these non-nursing home residential settings as part of the “home and community-based services” array.

While the Older Americans Act authorizes LTC Ombudsman programs to serve individuals in board and care, assisted living and similar residential care communities, it does not authorize services in non-residential settings. However, a number of states have used other authorities to expand the service populations. Currently, thirteen states have passed laws to provide for LTC Ombudsman services to individuals receiving in-home care. Others have expanded to provide LTC Ombudsman services to individuals participating in adult day centers or enrolled in Medicaid managed care plans.

Supporting Effective Long-Term Care Ombudsman Program Operations

The AoA is undertaking historic activities to improve the quality and evaluate the effectiveness of LTC Ombudsman program services to residents.

State Long-Term Care Ombudsman Programs Regulations. In 2015, AoA published regulations to guide states in their implementation of the LTC

Ombudsman program and provide clarity on a number of provisions of the Older Americans Act (these regulations can be found at 45 CFR Part 1324). Since the program's creation in the 1970s, states have been required to develop and operate LTC Ombudsman programs but, in the absence of regulations, there has been significant variation in the effectiveness of these programs among states. The development of more formal guidance to improve consistency and quality of program implementation had been called for by members of Congress, a wide variety of stakeholders, reports by the Institute of Medicine, and media reports.

While these regulations were published in February 2015, they became effective on July 1, 2016, providing states with time to evaluate their operations and make changes where necessary. Meanwhile, staff of ACL and the National Ombudsman Resource Center have been providing training and support to states and LTC Ombudsman programs to facilitate implementation of the rule. ACL anticipates that states' implementation of this rule will strengthen the ability of Ombudsman programs to be effective problem-solvers for older adults and people with disabilities who live in our nation's LTC facilities.

Evaluation of the Ombudsman Program. ACL is implementing its first-ever evaluation to better understand service delivery and, subsequently, plans to evaluate program impact and efficiency. Not since the Institute of Medicine's 1995 report, has there been a comprehensive, national evaluation of the LTC Ombudsman program. In preparing for this evaluation, ACL completed an evaluation design in 2013, which proposed an evidence-based approach for determining program efficiency and effectiveness and developed logic models to guide program evaluation.

LTC Ombudsman Program Results and Challenges

LTC Ombudsman programs solve resident problems. Residents themselves are the largest group who request assistance in resolving complaints, indicating that they depend on LTC Ombudsman programs to help them resolve their concerns. Resolving the vast majority of these complaints has resulted in improved quality of life and quality of care for many residents of our nation's long-term care facilities.

Home and community-based services are increasing demands for LTC Ombudsman services. Long-term services and supports continue to change over time. Services that were once available only in a nursing home can now be received in an individual's home or in a setting such as assisted living or similar

residential care communities. This changing landscape, including changes in delivery and payment systems, creates new challenges and opportunities for LTC Ombudsman programs.

The programs have successfully leveraged federal funds to generate resources from other sources. During FY 2015, nearly half (46 percent) of program funds came from non-federal sources. In addition, volunteers contribute millions of dollars' worth of their time to support the work of LTC Ombudsman programs.

Professionals who work with older clients who live in long-term care facilities, or who are seeking reliable information related to long-term services and supports, may now better understand the person-centered services of LTC Ombudsman programs and make appropriate referrals for their clients. •CSA



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National Ombudsman Resource Center. www.ltcombudsman.org.

For more information about the LTC Ombudsman regulations, go to: http://ltcombudsman.org/library/fed_laws/ltcop-final-rule.