



Working with Your State's Long-Term Care Ombudsman Program

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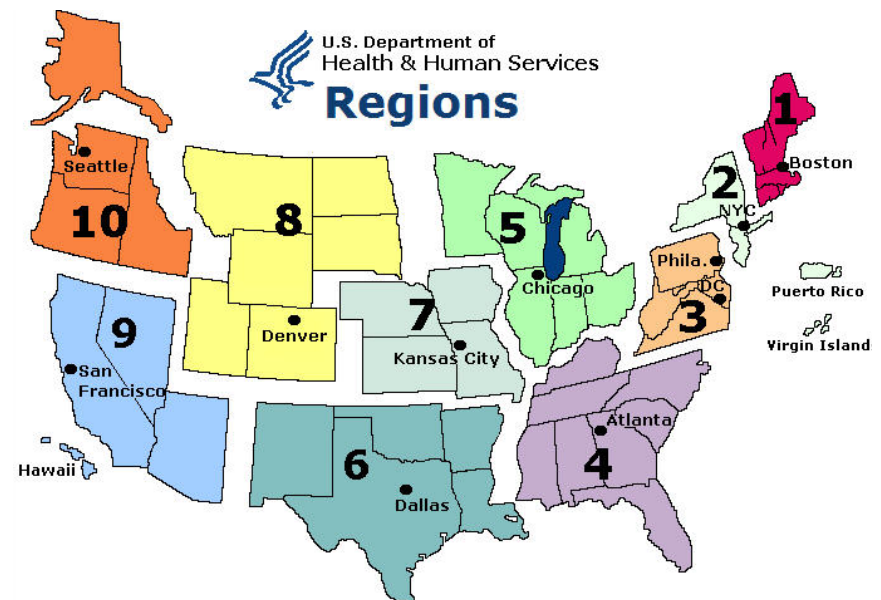
Objectives

- Introduce the Administration for Community Living (ACL) and how it relates to the work of MFCUs
 - Supporting MFCUs in meeting the new *Performance Standard 4: Maintaining Adequate Referrals*
 - Tips for Successful Coordination with your State's Long-Term Care Ombudsman Program
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Administration for Community Living

An operating division within the Department of Health and Human Services (created April 2012)

- Administration on Aging (administers Older Americans Act)
- Administration for Intellectual and Developmental Disabilities (administers the “DD Act”)
- Center for Disability and Aging Policy
- Center for Management and Budget
- Office of the Administrator
 - Includes 10 Regions



ACL Mission


Maximize the independence, well-being, and health of older adults, people with disabilities across the lifespan, and their families and caregivers.





How ACL relates to your work

ACL/AoA administers Older Americans Act:

- Created, authorizes and funds grants to states
 - State units on aging
 - Area agencies on aging
 - Aging services providers
 - “Aging network” leverages state, local, and other funds
 - In order to provide the services, including:
 - In-home services and supports
 - Nutrition services (congregate and home-delivered meals)
 - Senior centers
 - Caregiver support
 - Elder rights services, including the Long-Term Care Ombudsman Program
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Long-Term Care Ombudsman Program

- Each State has a State Long-Term Care Ombudsman and representatives (i.e. certified staff and/or volunteers) who serve long-term care facility residents by:
 - Resolving individual resident complaints, and
 - Recommending changes at the policy/systems level to improve resident life and care.
- Facilities include:
 - nursing homes,
 - board and care, and
 - assisted living.
 - Your State law may expand to additional settings.
- To contact your State Ombudsman: www.ltcombudsman.org





State LTC Ombudsman Location

In State Unit on Aging (36 states; 2 territories)

In Independent SUA:

Alabama, Florida, Idaho, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Ohio, Pennsylvania, Puerto Rico, South Dakota, Tennessee, New Mexico, West Virginia

In (or attached to) SUA inside umbrella agency:

Arizona, Arkansas, Connecticut, Guam, Hawaii, Indiana, Kentucky, Mississippi, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, North Dakota, Oklahoma, South Carolina, Texas, Utah

Quasi-independent office reporting to SUA director: California, Georgia, Iowa, Minnesota

Elsewhere in state government (7 states)

Alaska, Delaware, Kansas, New Hampshire, New Jersey, Oregon, Wisconsin

In non-profit advocacy agency (7 states; DC)

District of Columbia, Colorado, Maine, Rhode Island, Vermont, Virginia, Washington, Wyoming

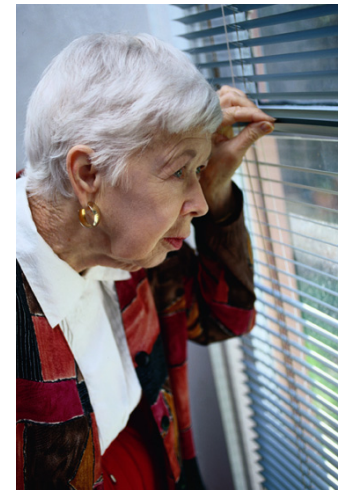
Strengths of the Ombudsman Model

- Focus is on resident
- Flexibility in working towards resolution
- Residents' individual complaints and interests are translated into systems advocacy




Adult Protective Services

- Social services program for seniors and adults with disabilities in need of assistance
- Provided by state and local governments
- Finders of fact in cases of abuse, neglect or exploitation
- States have designed unique systems with variation in:
 - ages of individuals served
 - settings/locations covered by the program
 - e.g., 100% in homes, 47% nursing homes, 60% assisted living
 - funding sources
- Nationwide, but no federal funding, oversight or administration
- ACL created the Adult Protective Services Resource Center (2011)
 - Grantee: National Adult Protective Services Association
 - Provide current, research-based information, technical assistance, and promising practices to meet the needs of APS professionals.






Senior Medicare Patrol (SMP) Program

- Administered by ACL
 - Purpose: Empower and assist Medicare beneficiaries, their families and caregivers, to prevent, detect and report healthcare fraud, errors and abuse.
 - National Coverage: 54 project grants (50 states, DC, Guam, PR and USVI)
 - SMP Program activities:
 - Recruit and train a cadre of SMP senior volunteer advocates
 - Volunteers educate their peers to review Medicare Summary Notices, prevent, identify and report potential fraud
 - Assist beneficiaries with complaints of potential fraud, error or abuse
 - Refer beneficiary complaints of potential fraud directly to CMS and OIG for further investigation
 - Important for SMPs to know how to also refer potential Medicaid fraud appropriately.
 - To find the SMP program in your State: www.smpresource.org
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MFCU Performance Standard 4: Maintaining Adequate Referrals

“A Unit takes steps to maintain an adequate volume and quality of referrals from the State Medicaid agency and other sources. To determine whether a Unit meets this standard, OIG will consider the following performance indicators: . . .

- D. For those States in which the Unit has original jurisdiction to investigate or prosecute patient abuse and neglect cases, the Unit takes steps, such as the development of operational protocols, to ensure that pertinent agencies refer such cases to the Unit, consistent with patient confidentiality and consent. Pertinent agencies vary by State but may include licensing and certification agencies, the State Long Term Care Ombudsman, and adult protective services offices.
 - E. The Unit provides timely information, when requested, to those agencies identified in (D) above regarding the status of referrals.
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LTC Ombudsman Referrals to MFCUs -- 2012

- Abuse and Neglect – 99
 - Most from CA, ME
 - Also: IL, IN, AK, FL, SD, MD, MO, NV, NH, NJ, OH, VA
- Fraud – 19
 - Most from OH
 - Also: CA, VA, NJ, NH, ME, IL, ID
- Patient Funds – 50
 - Most from CA, SC
 - Also: IL, NJ, KY, ME, OR






Operational Protocols

- States with existing protocols between State Long-Term Care Ombudsman Program and the Medicaid Fraud Control Unit:
 - Memorandum of understanding (e.g., CA, ME, SD, SC)
 - Agreed-upon referral process and form (e.g., GA)
 - Key elements:
 - Understand each others' mission, scope and limitations
 - Establish and maintain regular communication
 - 69% State LTCOs responding indicated that they “communicate regularly with MFCU” (2011)
 - Assign staff contact to serve as liaison to respond to requests for information about program policy and operations, training, etc.
 - Clarify what information can and cannot properly be shared between the entities
 - Clarify what information is relevant and helpful to each entity
 - Determine appropriate ways to coordinate in addition to referrals
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To Keep in Mind When Working with LTC Ombudsman Programs . . .

- Ombudsman is a safe, confidential place for the resident
 - not a regulator or official finder of fact
 - Resident provides direction regarding strategy and sharing of information;
 - resident consent needed in order for LTCO to share information or divulge resident identity
 - Method: negotiation and problem-solving
 - not enforcement or protective service
 - referrals to these entities as needed and desired by the resident
 - Goal: resolve the problem to the resident's satisfaction
 - not facility compliance or proving truth of an allegation
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Limitations on disclosure

(Older Americans Act)

42 USC 3058g (d) Disclosure

(1) In general

The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program....

(2) Identity of complainant or resident

The procedures described in paragraph (1) shall –

(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman...; and

(B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless –

(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

(ii)(I) the complainant or resident gives consent orally; and (II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or


(iii) the disclosure is required by court order.





LTC Ombudsman Programs Work with MFCUs

In addition to referrals, LTCO coordination with MFCUs:

- Case assistance:
 - Providing evidence as appropriate
 - Providing general background (e.g., facility history)
 - Sharing data regarding complaint trends
 - Jointly training law enforcement
 - Jointly serving on elder abuse or facility-focused workgroups
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Assistant Secretary for Aging Kathy Greenlee:

“I have one priority that rises above all others: address and end elder abuse. This is not solely a federal issue, this is a national crisis. I accept the challenge to commit myself professionally and personally to this cause. What about you?”



Activities to Bring National Attention to the Need to End Elder Abuse

- Elder Justice Coordinating Council
 - convened by HHS Secretary Kathleen Sebelius and Attorney General Eric Holder, October 2012;
 - Next meeting: May 2013
- Year of Elder Abuse Prevention (YEAP)
 - to encourage national, state, and local organizations to protect seniors and raise awareness about elder abuse, neglect, and exploitation.
- World Elder Abuse Awareness Day: June 15
- Elder Abuse Prevention Intervention Program Grants
 - 5 grants to States, 3 grants to Tribes
 - Test interventions to prevent elder abuse
 - Evaluation component to ensure data collection and evidence base development





Questions?



For more information:

National Ombudsman Resource Center: www.ltcombudsman.org

National APS Resource Center: <http://www.napsa-now.org/resource-center>

National Center on Elder Abuse: <http://ncea.aoa.gov/>

ACL/AoA Elder Rights Programs Information:

http://aoa.gov/AoARoot/AoA_Programs/Elder_Rights

Senior Medicare Patrol: www.smpresource.org

Year of Elder Abuse Prevention and World Elder Abuse Awareness Day:

http://aoa.gov/AoARoot/AoA_Programs/Elder_Rights/YEAP/index.aspx

