

**231.44 Utilization of resources — assistance and advocacy related to long-term services and supports under the Medicaid program.**

1. The office of long-term care ombudsman may utilize its available resources to provide assistance and advocacy services to eligible recipients, or the families or legal representatives of such eligible recipients, of long-term services and supports provided through the Medicaid program. Such assistance and advocacy shall include but is not limited to all of the following:

a. Assisting recipients in understanding the services, coverage, and access provisions and their rights under Medicaid managed care.

b. Developing procedures for the tracking and reporting of the outcomes of individual requests for assistance, the obtaining of necessary services and supports, and other aspects of the services provided to eligible recipients.

c. Providing advice and assistance relating to the preparation and filing of complaints, grievances, and appeals of complaints or grievances, including through processes available under managed care plans and the state appeals process, relating to long-term services and supports under the Medicaid program.

2. A representative of the office of long-term care ombudsman providing assistance and advocacy services authorized under [this section](#) for an individual, shall be provided access to the individual, and shall be provided access to the individual's medical and social records as authorized by the individual or the individual's legal representative, as necessary to carry out the duties specified in [this section](#).

3. A representative of the office of long-term care ombudsman providing assistance and advocacy services authorized under [this section](#) for an individual, shall be provided access to administrative records related to the provision of the long-term services and supports to the individual, as necessary to carry out the duties specified in [this section](#).

4. The office of long-term care ombudsman and representatives of the office, when providing assistance and advocacy services under [this section](#), shall be considered a health oversight agency as defined in [45 C.F.R. §164.501](#) for the purposes of health oversight activities as described in [45 C.F.R. §164.512\(d\)](#). Recipient information available to the office of long-term care ombudsman and representatives of the office under this subsection shall be limited to the recipient's protected health information as defined in [45 C.F.R. §160.103](#) for the purpose of recipient case resolution. When providing assistance and advocacy services under [this section](#), the office of long-term care ombudsman shall act as an independent agency, and the office of long-term care ombudsman and representatives of the office shall be free of any undue influence that restrains the ability of the office or the office's representatives from providing such services and assistance. The office of long-term care ombudsman shall adopt rules applicable to long-term care ombudsmen providing assistance and advocacy services under [this section](#) to authorize such ombudsmen to function in a manner consistent with long-term care ombudsmen under the federal Act.

5. For the purposes of [this section](#):

a. "Institutional setting" includes a long-term care facility, an elder group home, or an assisted living program.

b. "Long-term services and supports" means the broad range of health, health-related, and personal care assistance services and supports, provided in both institutional settings and home and community-based settings, necessary for older individuals and persons with disabilities who experience limitations in their capacity for self-care due to a physical, cognitive, or mental disability or condition.

[2015 Acts, ch 137, §65, 162, 163; 2016 Acts, ch 1139, §98](#)

NEW subsection 4 and former subsection 4 renumbered as 5