

ANNUAL REPORT

Federal Fiscal Year 2019
October 1, 2018 - September 30, 2019

Office of the State Long-Term Care
OMBUDSMAN
Established within the Iowa Department on Aging



LETTER OF SUBMISSION

June 26, 2020

The Honorable Kim Reynolds
Members of the General Assembly

Dear Governor Reynolds and Members of the General Assembly:

Pursuant to Iowa Code 231.42, please accept this annual report of the Office of the State Long-Term Care Ombudsman for Federal Fiscal year 2019. As required by State and Federal Regulations, this report contains information on the activities of this Office. In addition this report contains recommendations for improving the health, safety, welfare and rights of residents and tenants living in Iowa's nursing facilities, residential care facilities, assisted living programs and elder group homes.

Respectfully submitted,

Cynthia Pederson, J.D. State Long-Term Care Ombudsman

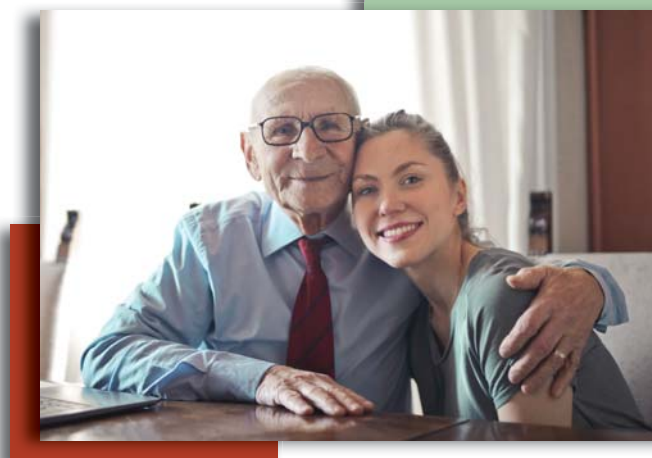




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EXECUTIVE SUMMARY

The Office of the State Long-Term Care Ombudsman (OSLTCO) is an autonomous entity as required by the federal Older Americans Act and the state Older Iowans Act. The OSLTCO is established within the Iowa Department on Aging. The OSLTCO works to advocate for the rights of residents and tenants in long-term care, and Medicaid managed care members in long-term care facilities or covered by one of the home and community based services (HCBS) waivers.

This report is for Federal Federal Year 2019 (FFY '19) and covers the time frame of October 1, 2018 through September 30, 2019 which is prior to the COVID-19 outbreak in Iowa. There will not be any COVID-19 related information reflected in this report.

During FFY '19, the OSLTCO had jurisdiction to advocate for the rights of the more than 56,000 Iowans residing in long-term care settings in Iowa, including those living in nursing facilities, residential care facilities, assisted living programs and elder group homes. In addition, the OSLTCO had jurisdiction to advocate for the rights of the approximately 40,000 Medicaid managed care members who are residents in a long-term care setting or are covered by one of the HCBS waivers. There may be some overlap in Iowans who are counted in the number of residents and tenants of long-term care facilities and the Iowans who are Medicaid Managed Care members receiving the HCBS waiver.

The OSLTCO is headed by the State Long-Term Care Ombudsman and is comprised of three programs: the Local Long-Term Care Ombudsman Program (LLTCOP), the Volunteer Ombudsman Program (VOP) and the Managed Care Ombudsman Program (MCOP).

Local Long-Term Care Ombudsman (LLTCO) provide direct advocacy services to residents and tenants of long-term care facilities, with resident or tenant permission. LLTCO advocate to protect the health, safety, welfare and rights of residents and tenants of long-term care. LLTCO do this by looking into complaints, seeking resolutions to problems and providing advocacy with the goal of enhancing the quality of life for those residing in long-term care.

The OSLTCO utilizes Volunteer Ombudsman (VO) through the VOP. Certified VO are trained to listen, empower, and advocate to serve as a voice for nursing facility residents. VO are responsible for making unannounced visits to their assigned facility each month to talk with residents and identify concerns.

The OSLTCO also utilizes office volunteers to assist the operations branch by performing office duties in the Des Moines office. The office volunteers complete filing, data entry and mailing tasks.

The OSLTCO MCOP advocates for the rights of nearly 40,000 Medicaid Managed Care members who are residents of long-term care facilities and/or are enrolled in one of Medicaid's HCBS waivers.

During FFY '19 the OSLTCO also participated in the Senior Community Service Employment Program (SCSEP), employing three SCSEP participants and providing them with work experience and skills building.

Table 1. LONG-TERM CARE FACILITIES IN IOWA

Long-Term Care Facility Type	Number of Facilities in Iowa	Number of Bed/Units in Iowa
Nursing Facilities	439	30,448
Residential Care Facilities	58	1,958
Assisted Living Programs	384	23,952
Elder Group Homes	0	0
TOTAL	881	56,358



STATE LONG-TERM CARE OMBUDSMAN

The OSLTCO is mandated by the Older Americans Act. Each state must establish and operate an OSLTCO. The OSLTCO is headed by the State Long-Term Care Ombudsman (SLTCO).

The OSLTCO in Iowa has an organizational structure defined as a centralized model of an OSLTCO. This means that the SLTCO and the local ombudsman representatives of the office are employees of a single entity, in this case the State of Iowa.

The OSLTCO does not perform regulatory or survey duties. The OSLTCO and its representatives are not mandatory reporters.

Per federal regulations the SLTCO establishes policies, procedures and standards for the administration of the OSLTCO. In addition, federal regulations define that the SLTCO shall determine the use of fiscal resources for the operation of the OSLTCO.

The SLTCO supervises all staff of the OSLTCO and is responsible for designating and de-designating LLTCO and VO.

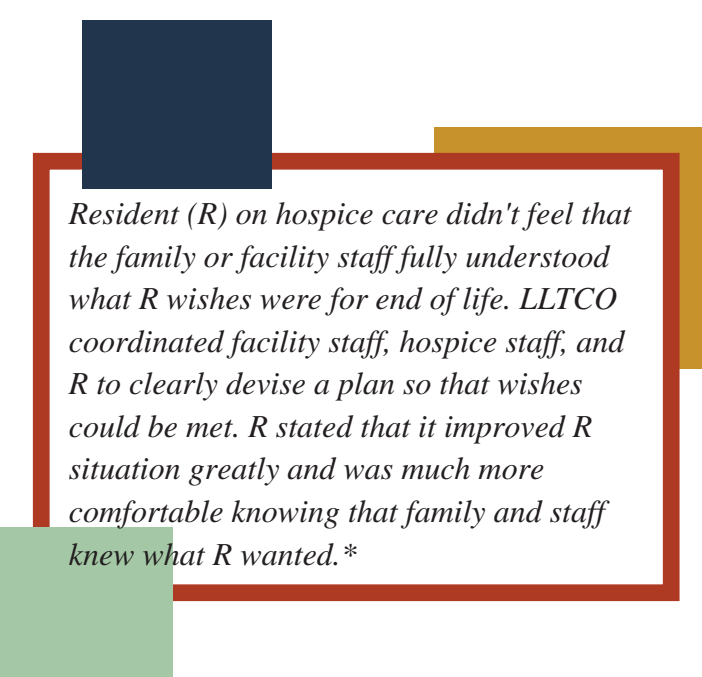
In FFY '19 the SLTCO watched numerous items of federal and state legislation. This included bills regarding:

- Dependent Adult Abuse
- Medicaid
- Managed Care
- Community Spouse Resource Allowance
- Certificate Of Need
- Appeal Rights for Denial of Admission to Iowa Veterans Home

The SLTCO also provided comment on federal action including:

- Opposing CMS Roll Back of Federal Protections for Nursing Facilities
- Supporting the extension of Spousal Impoverishment Protection
- Supporting the extension of Money Follows the Person Program

In FFY '19 the SLTCO participated in the Geriatric Patient Housing work group and the Elder Abuse work group.



*Resident (R) on hospice care didn't feel that the family or facility staff fully understood what R wishes were for end of life. LLTCO coordinated facility staff, hospice staff, and R to clearly devise a plan so that wishes could be met. R stated that it improved R situation greatly and was much more comfortable knowing that family and staff knew what R wanted.**

SCSEP Participation

During FFY '19 the OSLTCO was honored to again work with SCSEP. SCSEP is an Older Americans Act program overseen by the Iowa Department on Aging. The purpose is to help foster individual economic self-sufficiency among older Iowans and promote useful opportunities in community service activities. The OSLTCO worked with three SCSEP employees during FFY '19.

OSLTCO BY THE NUMBERS

All Iowans living in long-term care facilities for which the OSLTCO has jurisdiction have equal access to the services provided by the Office.

One of the ways the OSLTCO serves those living in long-term care settings is via program activities. Program activities are tasks performed by the OSLTCO that are related to advocating for and improving the quality of life for individuals residing in long-term care facilities, but do not rise to the level of cases. Instances of program activities performed in FFY '19 are listed in Table 2.

Table 3. OSLTCO FUNDING

Revenue	Amount
Federal	\$115,125.00
State	\$1,166,562.00
Medicaid Claiming	\$22,811.72
TOTAL	\$1,304,498.72

Additional information including recorded presentations and resources may be found on our website at <https://www.iowaaging.gov/state-long-term-care-ombudsman>.

Table 2. INSTANCES OF PROGRAM ACTIVITIES IN FFY 2019:

Visiting residents/tenants (non-complaint related)	1,602
Consulting with facilities/providers	1,197
Providing information to individuals	1,175
Providing technical assistance	477
Visiting residents/tenants (complaint-related)	163
Working with resident councils	60
Participating in facility surveys	46
Training Ombudsmen/Volunteers ..	23
Providing community education	9
Training facility staff	3

OSLTCO BY THE NUMBERS

Table 4. COMPLAINTS RECEIVED BY FACILITY TYPE

Long-Term Care Facility Type	Number of Complaints Received	Percentage of Total Complaints Received
Nursing Facilities	898	78.84
Residential Care Facilities	56	4.92
Assisted Living Programs	185	16.24
Elder Group Homes	0	0
TOTAL	1,139	100%

Table 5. RESOLUTION OF COMPLAINTS

Complaint Outcome	Number of Complaints	Percent of Total Complaints
Resolved to satisfaction of complaint	504	44%
Partially resolved, but some problem remained	280	25%
Not resolved to satisfaction of complaint	137	12%
No action needed	101	9%
Withdrawn before final outcome of investigation	67	6%
Referred to another agency	49	4%
Government policy or regulatory change or legislative action is required to resolve	1	0%

Chart 1. SOURCE OF COMPLAINTS RECEIVED

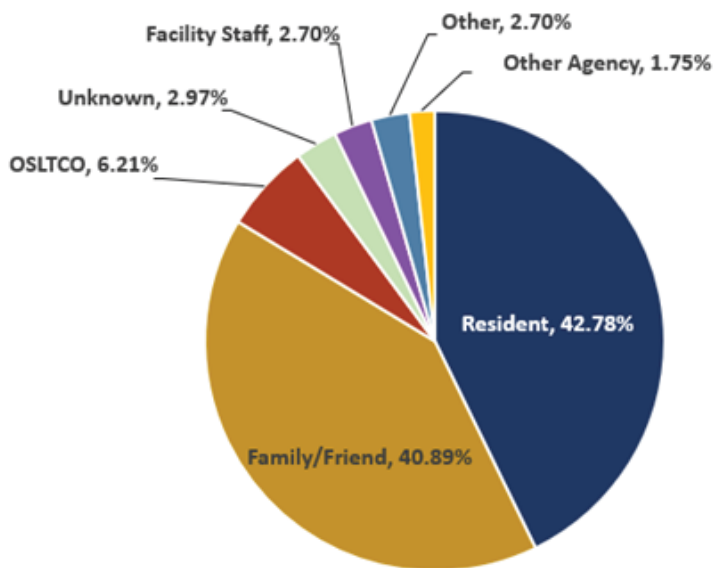
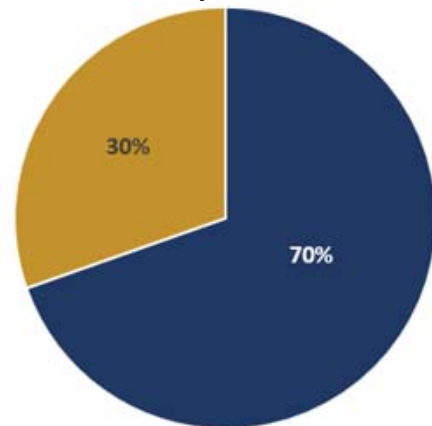


Chart 2. TOP FIVE COMPLAINTS RECEIVED

The top five complaints received by the OSLTCO include the following:

- Discharge/eviction - planning, notice, procedure, implementation, including abandonment
- Medications - administration, organization
- Exercise preference/choice and/or civil/religious rights, individual's right to smoke
- Failure to respond to requests for assistance
- Billing/charges - notice, approval, questionable, accounting wrong or denied (includes overcharge of private pay residents)

These five complaints account for 30% of all complaints received by this Office.



In FFY '19 the OSLTCO responded to 1,139 complaints on behalf of long-term care residents/tenants. Complaints are reflected as cases in OSLTCO data. A case for purposes of the OSLTCO involves a complaint made by or on behalf of a resident/tenant of a long-term care facility. The complaint is looked into by a LLTCO or VO. With resident/tenant permission, strategy is developed to resolve the complaint. The solution to the complaint is proposed and with resident/tenant permission, brought to the the party complained against for proposed implementation. Lastly, the matter is followed up to determine the resident/tenant satisfaction with the resolution. The OSLTCO opened 653 cases and closed 741 cases for long-term care resident/tenant issues in FFY '19. Resolution of those cases is reflected in Table 5.



VOLUNTEER OMBUDSMAN PROGRAM

The VOP is an essential component of the advocacy provided to residents of nursing facilities by the OSLTCO. The VOP consists of trained and certified VO who spend a minimum of three hours per month in unannounced visits to residents at nursing facilities helping to serve as a voice for residents. The VO observe, listen to, interact with and empower residents of nursing facilities. The VO identify concerns and monitor progress toward resolution. The VO advocate for the rights and quality of life for residents when requested, observe general conditions of a long-term care facility, attend resident and family council meetings at the request of council members and provide general information to residents and families.

Not having a volunteer ombudsman program coordinator on staff proved to be a barrier that needed to be addressed in order to provide optimal operation of the OSLTCO. In FFY '19 the OSLTCO hired a volunteer ombudsman program coordinator to manage the VOP. The position had been vacant as a result of budget issues since August of 2017 when the previous volunteer ombudsman program coordinator resigned. The duties of the volunteer ombudsman program coordinator include recruiting, training and managing VO. The OSLTCO was fortunate to find a candidate with long-term care experience as well as volunteer management experience who was able to hit the ground running.

For FFY '19, the most frequent complaints brought to the attention of VOP were:

- Residents' requests for call lights/assistance are not being answered and responded to in a timely manner (under 15 minutes)
- Activities not posted and legibly written
- The facility not employing sufficient number of staff to meet residents' needs

Volunteer Ombudsman Program:

Lisa Van Klavern, VOP Coordinator

*Resident (R) with many concerns about care and follow up. Through LLTCO intervention and follow through, appointments with wound nurses and lymphedema therapy appointments began, showers and new wound care schedules were created, retraining of staff occurred, doctor's planning for physical and occupational therapy and discharge planning occurred. R was ultimately able to improve and move to an apartment where R has been successful!**

*While LLTCO visited with nursing facility resident (R), R mentioned that R had been sleeping in recliner as R's bed was too short for R. R did not want to bother the staff about matter, but gave LLTCO permission to look into getting a longer bed. The staff was able to not only get R a longer bed but also a wheelchair that better suited R and R was very happy with these changes.**

MANAGED CARE OMBUDSMAN PROGRAM

Managed Care Ombudsman Program:
Pamela Heagle, Managed Care Ombudsman

*An Elderly Waiver Member (M) experienced a gap with homemaking and in-home nursing services being set up after being assigned a managed care organization (MCO). The M had a legal guardian to assist with communicating needs, yet the MCO did not have M guardianship papers on file. The MCOP worked with the M's guardian and their prospective MCO to ensure that IME and the MCO received the guardianship documents necessary to establish in-home services and a new case manager right away. The M and guardian reported they were happy with the staff assigned to M and felt health care needs were being met.**

The most frequent reasons that managed care members, or someone acting on the managed care member's behalf, contacted the MCOP, or requested assistance from the MCOP involved:

- Services reduced, denied or terminated
- Access to Services/Benefits
- Case Management

The waiver programs that most frequently resulted in a managed care member or someone acting on the managed care member's behalf, contacting the MCOP or requesting assistance from the MCOP were:

- Intellectual Disability Waiver
- Elderly Waiver
- Health and Disability Waiver

The MCOP advocates for the rights of Medicaid managed care members who receive care in a long-term care facility, assisted living program or elder group home, as well as members who are enrolled in one of the HCBS waiver programs. The MCOP looks into complaints made by or on behalf of these Medicaid managed care members and advocates for the members' desired resolution. The MCOP also serves as a resource for answers regarding Medicaid managed care rules and Medicaid managed care members' options and rights.

The MCOP performs monthly analysis of problems faced by these members, and issues monthly and quarterly reports on situations brought to the attention of the program. Reports may be found on our website: <https://www.iowaaging.gov/state-long-term-care-ombudsman/managed-care-ombudsman-program>.

*MCOP advocated for a Medicaid member (M) receiving benefits under the Elderly Waiver (EW) Program. The M had been approved for the EW yet waited several weeks to hear from an MCO. M and the guardian had not received their MCO materials and did not know who to contact to establish a care plan and receive in-home services. Due to the advocacy of a Managed Care Ombudsman, the M was contacted by a MCO and their case manager. Level of care and care planning meetings were then completed.**

* Used with Residents'/Members' permission



RECOMMENDATIONS

The following recommendations are made by the OSTLCO to improve the quality of life for those living in long-term care settings.

Care issues including problems with medications and failure to respond to requests for assistance are two of the top five complaints for which residents/tenants requested assistance from the OSTLCO. As a general rule care issues boil down to one basic problem, insufficient staffing in long-term care facilities. When nursing staff hurry through their tasks because there are too many people who need medications and treatments, errors occur. Not only do errors occur, unfortunately, sometimes medications and treatments get skipped. Not only is understaffing an issue when it comes to medication and treatment, it is also a problem in the provision of activities of daily living by others providing direct care such as nursing assistants. In facilities that keep their staffing margins too narrow, showers and baths are not provided as scheduled. Staffing shortages also cause those living in long-term care settings to suffer long wait times for assistance with something as basic as help with bathroom needs. Sometimes the residents/tenants tire of waiting and try to assist themselves with the potential for disastrous results if the resident/tenant falls and suffers injuries or worse. Staff shortages have been discussed in one form or fashion in Recommendations in the past five OSTLCO annual reports. Rules should be implemented that require a predetermined staff to resident ratio, based on the current needs of the residents/tenants in the long-term care setting, instead of the sufficient staffing requirement currently in the Iowa Administrative Code.

For several years, involuntary discharges/transfers from long-term care settings have remained a top issue impacting residents/tenants of long-term care. This year that unfortunate pattern has continued. The involuntary discharge/transfer issue includes emergency involuntary discharges, and “hospital dumps”. There are any number of reasons that a resident/tenant of long-term care may find themselves in an involuntary discharge/transfer situation. The long-term care facility may make the allegation that the resident/tenant exceeds the level of care the facility can

provide. The long-term care facility may allege that they are concerned about the behaviors of the resident/tenant. There may even be issues with payment to the facility that are out of the control of the residents/tenants of long-term care. The OSTLCO provides advocacy for those residents/tenants living in long-term care settings that request OSTLCO assistance. However, the OSTLCO cannot provide legal services to these residents/tenants. The OSTLCO recommends that funding sources be instituted to cover the costs of legal representation for long-term care residents and tenants that are facing involuntary discharges/transfers. This would put residents/tenants facing dislocation from their homes on an even footing with facilities that frequently retain counsel to represent facilities during these types of proceedings. These funding sources could be established through an annual per long-term care bed or unit fee for each long-term care bed/unit licensed in the state.

Residents/tenants living in long-term care settings retain all the same rights as those not living in long-term care settings unless a judge has determined they do not have a given right. Unfortunately, concerns brought to the attention of the OSTLCO prove that not all facilities fully understand that residents and tenants have not surrendered their rights upon admission to a long-term care facility. This annual report is for FFY '19 and is prior to COVID-19 public health emergency declarations and the restrictions imposed for resident/tenant safety. Respect for residents'/tenants' rights needs to be taught at the most introductory levels of interaction with, and care for, residents/tenants of long-term care settings. Each facility needs to promote an environment where any infringement of the right of a resident/tenant to exercise their freedom of association, right to express preferences, right to worship, right to vote, right to smoke, right to refuse medications or treatments, and their right to make choices is reported and resolved. The OSTLCO recommends that every certification course for nursing assistants, every licensing course for nurses and administrators, and every orientation provided to anyone employed in a long-term care setting needs to include a resident/tenant rights component.