OFFICE OF THE STATE LONG-TERM CARE OMBUDSMAN

ANNUAL REPORT

FEDERAL FISCAL YEAR 2020

OCTOBER 1, 2019 - SEPTEMBER 30, 2020

LETTER OF SUBMISSION

June 21, 2021,

The Honorable Kim Reynolds
Members of the General Assembly

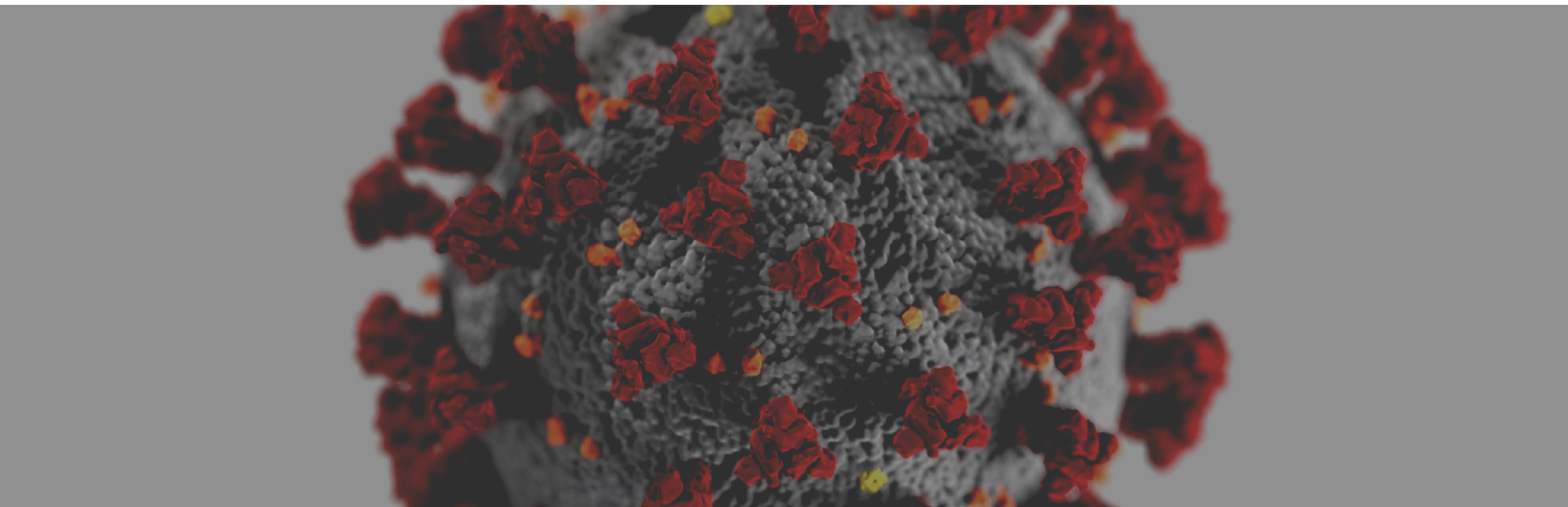
Dear Governor Reynolds and Members of the General Assembly:

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 2020. 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,

Angela R. Van Pelt

Angela Van Pelt, State Long-Term Care Ombudsman



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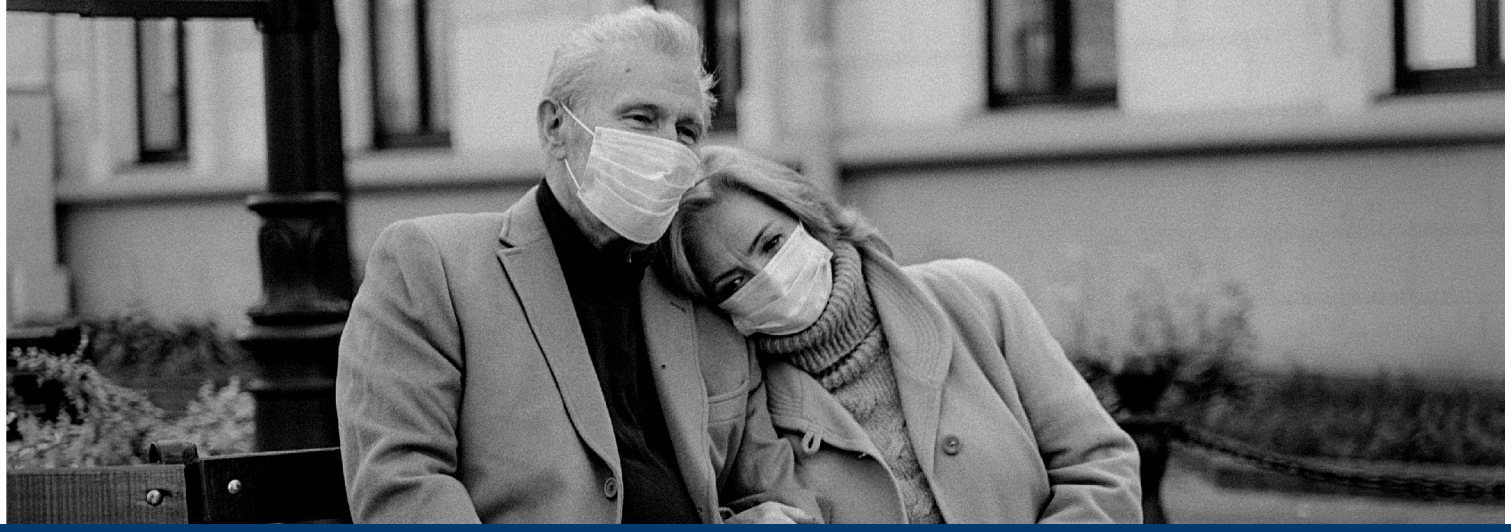


EXECUTIVE SUMMARY

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 2020 (FFY '20) and covers the time frame of October 1, 2019 through September 30, 2020.

During FFY '20, the OSLTCO had jurisdiction to advocate for the rights of Iowans residing in long-term care settings, including those living in nursing facilities, residential care facilities, assisted living programs and elder group homes. The OSLTCO had jurisdiction to advocate for the rights of Medicaid managed care members who are residents in a long-term care setting or are covered by one of the HCBS waivers.

Table 1

Long-Term Care Facility Type	Number of Facilities in Iowa	Potential Capacity of Bed/Units in Iowa
Nursing Facilities	435	29,464
Residential Care Facilities	57	1,813
Assisted Living Programs	404	24,474
Elder Group Homes	0	0
TOTAL	896	55,751

The OSLTCO is comprised of four programs: the Local Long-Term Care Ombudsman Program (LLTCOP), the Volunteer Ombudsman Program (VOP), the Managed Care Ombudsman Program (MCOP) and an Empowerment Specialist.

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. Activities of the LLTCO were greatly impacted by the public health emergency - COVID-19.

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.

In addition to these four programs, the OSLTCO also utilized office volunteers to assist the operations branch by performing office duties in the Des Moines office prior to the start of the public health emergency declaration. The office volunteers complete filing, data entry and mailing tasks.

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

- Dependent Adult Abuse
- Medicaid
- Managed Care
- Certificate Of Need
- Electronic monitoring in Nursing Facilities
- Personal Needs Allowance
- Eligibility Requirements of the Iowa Veterans Home
- Mental Health and Disability regions

In an attempt to remind residents, tenants, their loved ones and legal decision makers that we were still available to advocate on residents' behalf in spite of the COVID-19 restrictions discussed later in this report the OSLTCO ran a PSA campaign explaining residents rights, involuntary discharge, VOP, and COVID-19 Fraud. OSLTCO also sent mailings to the nursing facilities in the state with information for residents regarding COVID-19.

"Thank you for sending the newsletter to us. Your suggestions and hints to keep ourselves and loved ones safe from COVID-19 were very helpful. It will be great when scientists find a vaccine for it...Thank you for reading my letter. The sun is shining here and it's so nice to see after so much rain. Have a great day!"

OSLTCO BY THE NUMBERS

Table 2. INSTANCES OF PROGRAM ACTIVITIES IN FFY 2020:

Consulting with facilities/providers	749
Providing information to individuals	1,503
Number of Visits to all facilities	729
Number of facilities that receive one or more visits	130
Resident Council Participation	43
Participating in facility surveys	12
Community education	15
Training sessions for facility staff	15

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 '20 are listed in Table 2.

The impact of CMS restrictions prohibiting entry into facilities is reflected in the reduced number of program activities. Another change that effects numbers reported for FFY '20 has to do with reporting changes under the Older Americans Act Performance System (OAAPS). Not all activities performed by this office are reported under the new system, also resulting in decreased counts in some areas.

COVID-19 has greatly impacted the population the OSLTCO serves. In March 2020, it became apparent that Iowa would not be spared from COVID-19, as the first cases began to be reported in southeastern Iowa. In their efforts to prevent COVID-19 from entering the building, the staff of long-term care facilities in Iowa began to take measures in March of 2020 to mitigate the spread of COVID-19. These actions resulted in residents being confined to their rooms or cohorted to another part of the facility, unable to participate in group activities and enjoy communal dining. CMS guidance to long-term care facilities restricted most outside visitors and LLTCO staff from entering the facility. As the OSLTCO already provided a portion of their advocacy services via telephone and technology, the LLTCOs have been able to continue advocacy for residents/tenants of long-term care without missing a beat. VO have continued to provide remote advocacy services as requested by residents.

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

OSLTCO BY THE NUMBERS

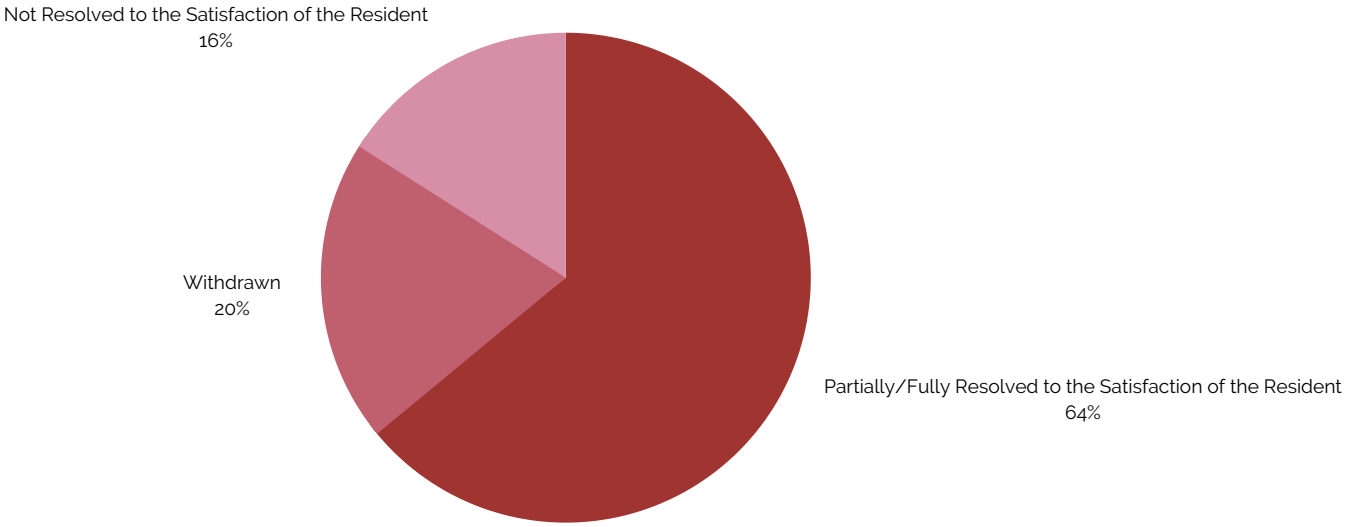
TOP FIVE COMPLAINTS RECEIVED

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

- Discharge, Eviction
- Other rights and preferences
- Visitors
- Billing and charges
- Personal property

These five complaints account for 39% of all complaints received by this Office.

Table 3



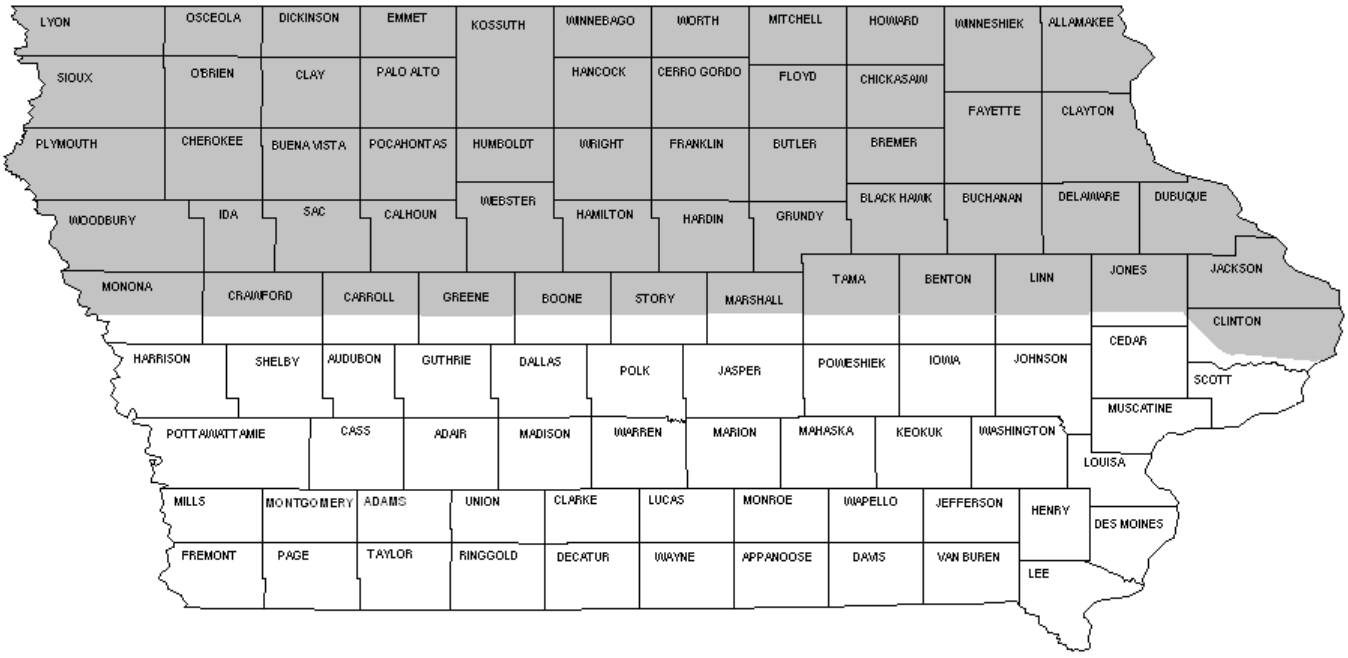
In FFY '20 the OSLTCO responded to 599 complaints on behalf of long-term care residents/tenants. Complaints are reflected as cases in OSLTCO data. A case for purposes of the OSLTCO involves a complaint made by or on behalf of a resident/tenant of a long-term care facility. The complaint is looked into 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 party complained against for proposed implementation. Lastly, the matter is followed up to determine the resident/tenant satisfaction with the resolution. The OSLTCO closed 444 cases for long-term care resident/tenant issues in FFY '20. Resolution of those cases is reflected in Table 3.

LOCAL LONG-TERM CARE OMBUDSMAN PROGRAM

Local Long-Term Care Ombudsman serve the advocacy needs of Iowans living in long-term care as reflected in the program activities and cases explained in the OSLTCO By The Numbers section. In FFY '20 LLTCO participated in education of groups such as social workers, health care administration and facility staff.

Iowa is divided into two service areas that are staffed by LLTCO.

The districts are depicted on the map below.



Wife of resident "Thank you for everything you have done for us at the facility. Administration stated because of your work and contacts they were able to have resident not go into quarantine for 14 days after dialysis appointments. Greatly appreciate all of your hard work and resident is happy with the results"

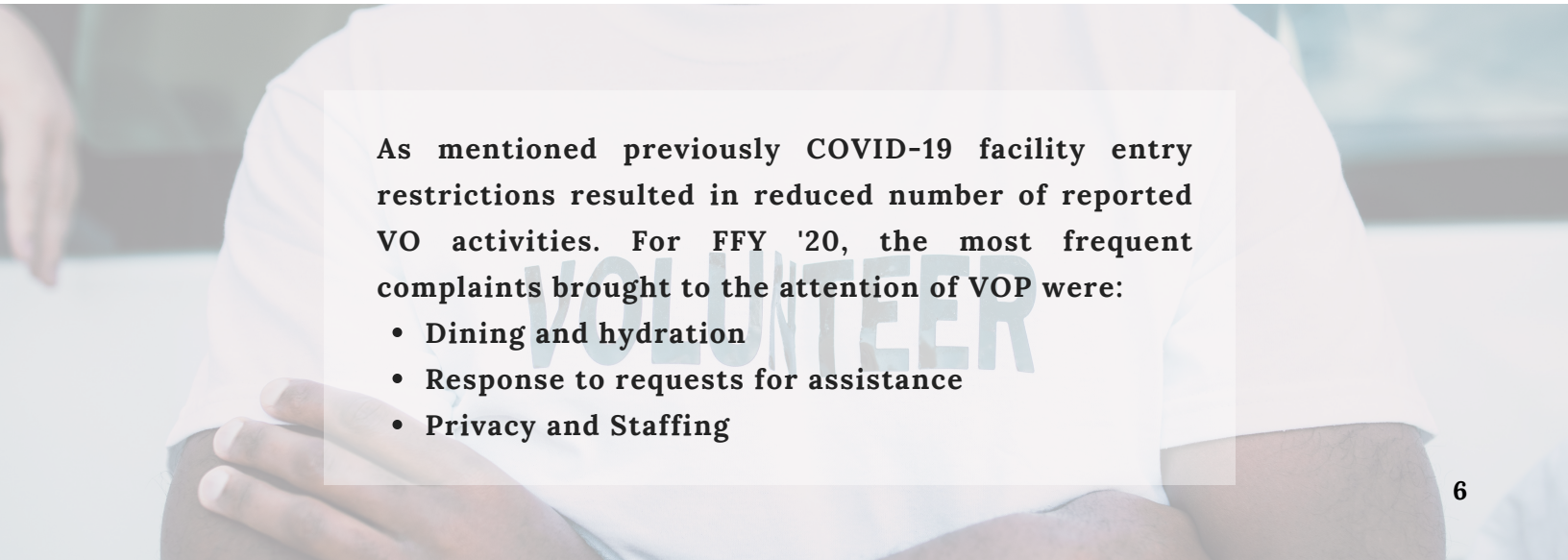
VOLUNTEER OMBUDSMAN PROGRAM

"We are your voice for choice - Iowa Volunteer Ombudsman Program"

The VOP is a vital 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 when not under COVID-19 visitation restrictions.

The VO help serve as a voice for residents. The Administration for Community Living (ACL) implemented new training requirements for representatives of the office which included increased CEUs. VO now must complete 18 hours of CEUs to remain certified. This affords VO additional support to gain skills allowing the VO to 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.

Though many VO resigned from the program over concerns about the impact of COVID-19, the VOP coordinator was successful in recruiting, training and interim certification of new VO in spite of the COVID-19 restrictions.



As mentioned previously COVID-19 facility entry restrictions resulted in reduced number of reported VO activities. For FFY '20, the most frequent complaints brought to the attention of VOP were:

- **Dining and hydration**
- **Response to requests for assistance**
- **Privacy and Staffing**

MANAGED CARE OMBUDSMAN PROGRAM

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 OSLTCO houses the MCOP. While not recognized under the Older Americans Act, the MCOP advocates for managed care members who reside in a long-term care facility or who receive services under one of the home and community based waivers. 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 the OSLTCO website: https://www.iowaaging.gov/state-long-term-care-ombudsman/managed-care-ombudsman-program.

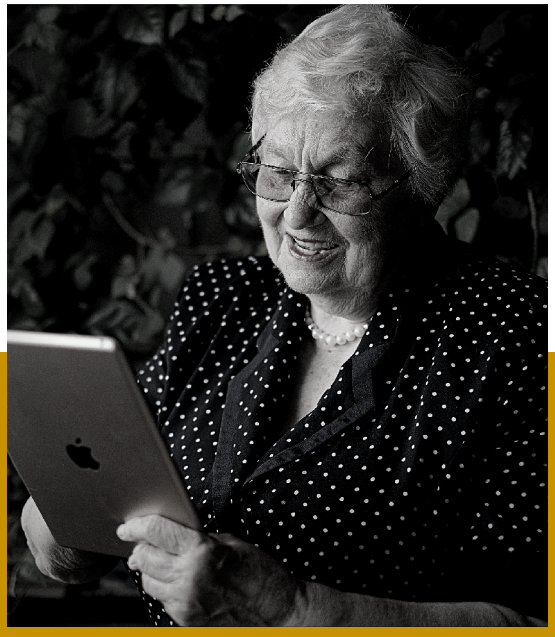
The most frequent reasons that managed care members, or someone acting on the managed care member's behalf, contacted the MCOP, or requested assistance from the MCOP involved:

1. Access to Services/Benefits
2. Case Management
3. Services reduced, denied or terminated

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:

1. Intellectual Disability Waiver
2. Elderly Waiver
3. Health and Disability Waiver

A Medicaid member on the Intellectual Disability Waiver program lost eligibility due to a language barrier during the eligibility review process. The Managed Care Ombudsman Program worked with IME and the family to request an exception to policy to assist the member with getting back on the Intellectual Disability Waiver. The MCO has assisted with access to health services needed until the member is approved for the waiver again.



EMPOWERMENT SPECIALIST

An Empowerment Specialist was added to the OSLTCO. The Empowerment Specialist Program will allow for self-directed advocacy by residents and tenants. Resident councils are recognized in the Older Americans Act as a mechanism for residents to improve the quality of life in long-term care facilities via self-directed advocacy. The Empowerment Specialist works directly with residents and tenants of Iowa's long-term care facilities to equip them with the skills they need to establish resident councils in facilities, works to support existing resident councils, and also works to educate facility administration in understanding the facility's obligations to work to resolve issues brought to the facility's attention from the resident council.

RECOMMENDATIONS

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

COVID-19 made visible cracks in the long-term care arena that those advocating for residents and tenants have seen for many years.

- One glaring example is lack of effective infection control. Nursing facilities lacked effective systems to respond to the COVID-19 virus as it spread across the state. Employees forced to work at more than one facility for economic survival – unwittingly moved the virus from one of their employers to another contributing to the spread of the virus. Poor internal infection controls resulted in wide spread COVID-19 illnesses within a facility. No amount of visitation restrictions can solve these underlying problems and provide a safe and healthy living environment for residents and tenants of long-term care. Only the development of living wage requirements for long-term care staff and enhanced enforcement of infection control regulations will achieve effective processes to prevent the same deadly impact experienced by long-term care residents and tenants as a result of COVID-19.

- Severe social isolation was an unintended consequence of the visitation restrictions imposed to protect residents/tenants from COVID-19. Even before COVID-19 professionals advocating in this arena were aware of the negative impacts of social isolation. Technology afforded the opportunity for virtual visitation which should be further explored and supported to reduce social isolation outside of the public health emergency. This support and exploration could take the form of continued funding for technology for residents and broadband access to facilities in rural areas of the state.

- Residents need to understand that they do not lose any of their rights just because they reside in long-term care. The empowerment specialist position should continue to be funded to promote self-directed advocacy through the formation and support of viable resident councils.

- Visitation restrictions should never be allowed to be used as a tool to allegedly protect residents from a contagion that should properly be addressed by adequate numbers of well paid, well trained staff working in facilities that implement the highest standards of infection control.