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Details: April 18, 2007 Informational Hearing

WISCONSIN STATE
LEGISLATURE ...
PUBLIC HEARING
COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on
Public Health, Senior
Issues, Long Term
Care and Privacy

(SC-PHSILTCP)

(FORM UPDATED: 07/02/2010)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL ...

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
(**ab** = Assembly Bill)
(**ar** = Assm. Resolution) (**ajr** = Assm. Joint Resolution)
(**sb** = Senate Bill)
(**sr** = Sen. Resolution) (**sjr** = Sen. Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Misc.

INFORMATIONAL HEARING

Committee on Public Health, Senior Issues, Long Term Care and Privacy

The committee will hold an informational hearing on the following items at the time specified below:

Wednesday, April 18, 2007
10:30 AM - or upon completion of the executive session
330 Southwest
State Capitol

Government Programs Currently Affecting Wisconsin Seniors

The committee will hear testimony relating to current Wisconsin programs affecting seniors, including SeniorCare, Wisconsin's Elderly Benefit Specialist/Legal Assistance Program and Wisconsin's Volunteer Ombudsman Program.

Testimony will include invited speakers.

Senator Tim Carpenter
Chair



February 6, 2007

To: Wisconsin State Senator Tim Carpenter

From: Gail Sumi, AARP Wisconsin State Issues Advocacy Director

Re: AARP Wisconsin State Budget Priority Issues

AARP Wisconsin, with 780,000 Wisconsin members who are aged 50+, advocates on a variety of issues of interest to and that impact our members.

The issues of particular concern to AARP Wisconsin in this upcoming 2007-09 state budget related to the Department of Health and Family Services are as follows:

- Significant Health Care Reform
 - AARP Wisconsin supports Sen. Decker/Rep. Musser, Rep. Gielow/Rep. Richards and Sen. Miller proposals.
- Healthy Wisconsin Council recommendations
- The \$1.25 cigarette tax increase
- The continuation of SeniorCare
- Increased funding to support an expansion of the volunteer ombudsman program
- A 5% increase in Medicaid reimbursement rates to providers/employees
- The expansion of Family Care and Partnership resulting in the elimination of waiting lists for home and community based services

As it relates to the Department of Transportation budget, the issue is the following:

- A \$6 million increase in Elderly and Disabled Transportation Aids

We look forward to working with you on these and other issues.

Memo

To: Senator Tim Carpenter
From: Tom Frazier
Date: February 27, 2007
Re: Aging Agenda for 2007/2009 State Budget

The following issues are CWAG's priorities for the 2007/2009 state budget and this legislative session:

1. **Family Care Expansion** — We fully support the initiative to expand Family Care statewide over the next five years, and we are pleased to assist in the implementation process. We do believe that a critical component of Family Care expansion will be consumer access to an Ombudsman or third party advocate. We support the proposals that DHFS is working on with the Board on Aging and Long-Term Care and disability advocates to fund a consumer advocacy function as a part of Family Care (see attached proposal).

In addition, we believe it will be very important to continue the nursing home relocation and diversion programs in non-Family Care counties until the program is implemented statewide. We understand that these programs have proven to be budget neutral.
2. **SeniorCare Continuation** — We strongly support the Governor's budget proposal to continue the SeniorCare program.
3. **Benefit Specialist/Legal Services Program** — As you know, this program has done tremendous work in recent years; first in helping thousands of seniors enroll in SeniorCare, and more recently in assisting thousands of older persons with Medicare Part D problems. We estimate that Part D has more than doubled Benefit Specialists' contacts in the last year. All of this is in addition to their ongoing work to provide benefits counseling on numerous other issues.

In the 2005/2007 budget, \$900,000 for the last nine months of SFY 2007 (\$1.2 million annually) was allocated to continue the additional federal funding that was received for assisting older persons with Medicare Part D. The Legislative Joint

Finance Committee reduced the amount to \$600,000, utilizing funds from OCI and specified that it was one-time funding.

The attached proposal requests an increase in the funding level by \$2.4 million a year (this would include the \$1.2 million level proposed in the last budget). The Benefit Specialist program has always been under funded (most counties receive \$28,215 a year for a full-time Benefit Specialist) despite the growing elderly population and increased demands resulting from new programs, such as SeniorCare and Part D. In addition, Benefit Specialists are very likely to be a critical component of Aging and Disability Resource Centers as Family Care is expanded statewide.

We propose consideration of the possibility of OCI funding in addition to GPR dollars.

4. **Elderly and Disabled Transportation Program** — In the 2005/2007 budget a \$6 million increase was included over the biennium and this was included in the final budget. We urge your support to provide a \$6 million increase in the 2007/2009 state budget. The \$6 million in the 2005/2007 budget was a tremendous increase after years and years of miniscule increases. Another such increase would enable the program to maintain existing service levels and expand transportation services. We would recommend that a provision be added to prevent the funds from being shifted by counties to other purposes.

Related Issues —

We also support the proposals by the Board on Aging and Long-Term Care to expand the Volunteer Ombudsman program, and to offer the Ombudsman program as an option to residents of Residential Care Apartment Complexes (RCACs) [see attached proposals]. The volunteer program is extremely cost-effective and residents of RCACs should be able to call on an Ombudsman to mediate disagreements, especially as assisted living has become such a major component of long-term care in Wisconsin.

OTHER ISSUES

1. **Health Care Reform** — CWAG is a part of a large coalition of organizations supporting comprehensive health care reform. We support the three major reform proposals: The Wisconsin Health Plan (Riemer), Wisconsin Health Care Plan (Newby), and the Wisconsin Health Security Act (Miller).

We urge you to consider the best elements of these plans to provide comprehensive health care reform either in your budget or as opportunities occur during the budget process.

2. **Property Tax Relief/Reform** — We believe that it is time for reform of the property tax system and, as a result, CWAG supports several proposals to reduce property taxes. We would like to

work with you and the legislature to address this growing and serious problem for older people.

Thanks to your support and collaboration, Wisconsin has the best prescription drug assistance program, the best long-term reform model and the best legal services program for the elderly in the country. We look forward to working with you to make Wisconsin an even better place for older people to live and to contribute to their communities.

WISCONSIN ASSOCIATION OF AREA AGENCIES ON AGING
Wisconsin Elderly Benefit Specialist Program
2005-07 Biennial Budget Proposal

1. **The need for benefits counselors and legal advisors for Wisconsin's older residents is growing.**
 - As the number of older people in Wisconsin continues to grow, the need for competent, professional and accessible benefits advice becomes increasingly important. Currently the ratio is 1 specialist per 10,524 persons 60+. By 2010 the ratio will be 1 benefit specialist per 11,785 persons over 60.
 - New and changing benefit programs such as SeniorCare, Medicare Advantage and Medicare Part D affect the entire Medicare-eligible population statewide and have dramatically increased the ongoing demand for benefits counseling and legal assistance. In the health care coverage context alone, the number of options available to older people on an annual basis is overwhelming, and the choices are fraught with risks.

2. **Wisconsin's Elderly Benefit Specialist Program is a unique and highly successful approach to providing legal assistance to older people.**
 - The Program began in 1987. In 2005-06, the program directly served 75,000 Wisconsin residents.
 - The program has been recognized at the state and national levels as exemplary. In 2006, Gov. Doyle designated June as Elderly Benefit Specialist Month, and the Social Security Administration's Regional Commissioner officially commended benefit specialists for their work with the Medicare Part D Extra Help program. The National Council on Aging and the Wisconsin Counties Association recently featured the program in their membership publications.
 - The Elderly Benefit Specialist Program provides comprehensive services. It combines face-to-face assistance from local counselors (benefit specialists) who are visible in the community, familiar with local resources and knowledgeable in the needs of their county's older residents, with strong legal advocacy, training and technical support from a team of attorneys specializing in elder law and public benefits.
 - Benefit specialists help older people who would not otherwise find one-on-one assistance with their benefits. Many are low-income, minority, isolated or vulnerable individuals. In 2000, over half the clients served were living at or below 125% of the Federal Poverty Level (\$10,738/year for an individual and \$14,513/year for a couple).
 - Benefit specialists achieve significant monetary and quality-of-life results. For every \$1 million invested in the program, \$6 million are returned to older Wisconsin residents in additional benefits and claim reimbursements, mostly through federal programs such as Social Security, veterans benefits and Medicare. In 2004, this monetary benefit was approximately \$20 million. This is noteworthy because Wisconsin traditionally ranks at the bottom in receiving federal funds.

3. **Additional resources are needed to maintain the well-known quality of the Elderly Benefit Specialist Program.**
 - The ongoing success, quality and accessibility of the program are in jeopardy if adequate funding is not available. Without additional resources, benefit specialists' ability to visit frail, disabled and isolated elderly in their homes, to provide community education to seniors, to accept referrals from service providers and constituent services offices and to attend needed training sessions will suffer.
 - Currently, most Wisconsin counties receive \$28,215 in GPR for their benefit specialist services. While stop-gap funding in 2005-06 helped meet the demand for services during the implementation of Medicare Part D, the current allocation is not sufficient to cover the benefit specialist's salary and fringe benefits and the costs of training and travel. In urban areas, the funding is particularly inadequate to provide enough benefit specialists to serve large low-to-moderate income elderly populations. Finally, the high ratio of benefit specialists (91) to supervising attorneys (7) compromises the program's capacity to continue to provide effective legal assistance to Wisconsin's older population.

BUDGET

There are currently ninety-one benefit specialists in Wisconsin.

There is a need for at least one additional benefit specialist in each of the eight largest counties after Dane and Milwaukee.

There is a need for at least two additional benefit specialists in Dane County.

There is a need for at least ten additional benefit specialists in Milwaukee County.

Benefit specialists' positions are figured with an average wage of \$15.50 per hour, a fringe factor of 35% and support costs (including travel and training) of 50%.

At least one supervising attorney is needed for every nine benefit specialists.

The average salary for a supervising attorney is based on the average 2002 salary of an assistant corporation counsel in the Wisconsin counties.

The Elderly Benefit Specialist/Legal Assistance program for Indian elders is woefully under funded and a one hundred per cent increase is recommended.

\$1.7 million in additional GPR is 44% of what is required to adequately fund the benefit specialist component of the program.

Total needed for full funding:

Benefit specialist component.

$\$15.50/\text{hr} + 5.42(35\%) + 7.75(50\%) = \$28.67/\text{hr}.$

$\$28.67/\text{hr.} \times 2000(\text{hr.}) \times 111 =$

\$6,364,740

Current resources available:

GPR \$2,270,000

Older Americans Act \$243,000

Total \$2,513,000

Shortfall \$3,851,740

Additional GPR requested \$1,700,000

Legal supervision component.

$\$54,427 \times 2(100\%) \times 13(\text{FTE}) =$

\$1,415,102

Current resources available: GPR + Federal OAA

\$510,000

Shortfall

\$905,102

Additional GPR requested

\$600,000

Indian Elders component.

Current resources available:

\$114,000

Additional GPR requested

\$114,000

Total Additional Annual GPR Request

\$2,414,000

APPENDIX A

Expansion of Volunteer Ombudsman Program

Decision Item 4002

The Board on Aging and Long Term Care (BOALTC) seeks authority and funding to hire seven (7) Volunteer Ombudsman Coordinators and one (1) Supervisory FTE to permit expansion of the Volunteer Nursing Home Ombudsman Program into all 72 counties in the state in order to realize the benefits of providing consumers with maximum access to the advocacy services of the Long Term Care Ombudsman program. The cost of this proposal for the 2007-2009 budget period is \$ 598,400, all funds.

BACKGROUND

The Long-Term Care Ombudsman Program of BOALTC is unique among state programs. It is a direct provider of advocacy and public information services to individual citizens of Wisconsin. BOALTC is the only state agency directly addressing issues relating to long-term care services provided to residents of nursing homes. The Volunteer Ombudsman Program, serving as an adjunct to the professional Ombudsman corps, represents a weekly presence in nursing homes, meeting with residents and advocating where necessary for their interests. The Volunteer Program is currently operational in 11 Wisconsin counties. As a result of word of mouth, we have had consumer inquiries from all regions of the state asking when the Volunteer Program will come to their area and affirming the great need to expand the program statewide to benefit residents in LTC facilities. Independent research has shown that residents' quality of care and quality of life is increased as the opportunity to interact with volunteer Ombudsmen becomes easier. This confirms the critical nature of this service. Volunteer Ombudsmen are particularly effective in advocating for the interests of residents in terms of privacy, confidentiality of information, individuals' dignity and the respect due to them, and their necessary involvement in choices relating to their care and treatment. As consumers have become more aware of the Volunteer Ombudsmen's abilities to advocate for residents, the credibility and value of the Volunteer Ombudsman Program has grown remarkably. As with all well-run volunteer programs, there is a need for a dedicated cadre of trained professional coordinators who will recruit, screen, and educate committed volunteers from a targeted population, provide mandatory training and support for the volunteers and collect data to identify trends and document the effectiveness of the program. With the changes occurring in the provision of long term care in Wisconsin, there is a dramatic need for the current professional staff of the Long Term Care Ombudsman Program to advocate for residents of facilities other than nursing homes. This identified need will, at some point in the future, require a means to extend the functional abilities of the program. The Volunteer Ombudsman Program has proven to be an efficient and cost-effective method of assuring that the beneficial services of this agency to the public are made accessible to whomever may need them.

PROGRAM ACTIVITY IN WISCONSIN

Volunteers make weekly unannounced, varied, and focused visits, assuring that the Long Term Care Ombudsman Program is more visible and readily accessible to the residents of nursing homes. Volunteers listen to and interact with residents, informing them about the services that BOALTC provides. Volunteers empower residents and their families to advocate for themselves. Volunteers educate residents and speak for those who will not or cannot speak for themselves. Volunteers meet with newly admitted residents during their visits to make sure the new resident and her family are aware of the services that this agency provides and of the quality of life and care they deserve at the facility.

Volunteers communicate with an assigned staff member at the nursing home at the end of each visit, and submit a monthly report to the volunteer program coordinator. The report highlights the issues that have been raised, resolved, and those that are on-going during the preceding month. The Volunteer Ombudsman is encouraged to contact with the Regional Ombudsman if there are concerns or an issue

that needs immediate attention. BOALTC strives to sustain high quality volunteer training and education, support, communication, and outreach with the overall goal of maintaining a premier volunteer advocacy service.

In 2004, the agency hired an additional volunteer coordinator to begin the process of expanding the volunteer ombudsman program into the southeastern Wisconsin lakeshore counties. The new coordinator directs all volunteer ombudsman activities in Milwaukee County, as well as recruitment and training of volunteer ombudsmen for Racine and Kenosha Counties.

In the latter part of 2004, the expansion continued with the hiring of the third volunteer coordinator. This position would manage the program in five additional counties across the central part of the state; Marathon, Portage, Shawano, Waupaca and Wood counties are now included in the program.

	2003	2004	2005	% Increase
Facilities served	55	78	111	101%
Volunteers	54	88	115	113%
Trainings held	16	17	25	56%
Recruitment	75	100	125	67%

The Volunteer Ombudsman Program is currently operating in eleven counties. The Program now serves residents in 120 homes, using the efforts of over 100 trained volunteers who make weekly visits to their assigned nursing homes. Statistics compiled by the federal Bureau of Labor Standards show that the national average actual value of an hour of volunteer time is \$18.04. The immeasurable value of the Program, however, has been demonstrated by the commentary and satisfaction of the residents who have interacted with volunteers and by the timely communication of serious issues to the professional Ombudsmen when concerns arise. There are 61 counties in Wisconsin that do not have representatives of the Volunteer Program in local nursing homes. It is manifestly unjust to deprive over two-thirds of the nursing homes in the state (nearly 300 homes) of this proven benefit.

The growth and accomplishments of the Volunteer Ombudsman Program to date have increased the service's availability, education and outreach capabilities. The program has established credibility for itself and for the current and past volunteers who have been a part of such a worthwhile program.

Federal changes to the nursing home regulatory process and economic influences affecting the nursing home industry have caused notable expansion of the Ombudsman role, particularly allowing for participation in the standard surveys, intensive monitoring of care and treatment during periods of facility noncompliance with a standard care determination, and issues arising from the closing or downsizing of facilities requiring relocation of residents. The stresses of increased workload caused by these circumstances have forced BOALTC's professional Ombudsmen to redirect their activity toward more immediately critical concerns and we have found it difficult at times to adequately pursue the mandated advocacy and "watchdog" roles of the program.

The Volunteer Ombudsman enables the Regional Ombudsman to focus on the critical concerns while consistent communication with the Regional Ombudsman assures continuity of advocacy services at the facility.

Resident relocation activities were, until recently, uncommon. In the past year, Ombudsmen have counseled residents and families affected by facility closings and downsizing in many facilities. These activities are remarkably time-intensive significantly reduce the availability of the professionals to interact with and advocate for residents in all of the facilities in that particular Ombudsman's region. The regular, predictable presence of the Board on Aging and Long Term Care in the form of the weekly visit by a trained, competent volunteer Ombudsman is an enormous relief in that the good works of the Ombudsman Program will not be forgotten or ignored because they are ongoing, even in the face of the professional Ombudsmen's need to be elsewhere, dealing with crises.

REQUEST

Implementation of changes in long term care delivery, coupled with shifts in institutional and community-based long-term care utilization patterns will continue to have a major impact on the demand for services provided by the Long Term Care Ombudsman Program. Residents and families are becoming increasingly aware of their individual rights and are more frequently seeking help from ombudsmen to secure and protect those rights.

The Board on Aging and Long Term Care recognizes that the Governor has directed that this budget be constructed with an emphasis on restricted growth of program expenditures. Recent trends in the use of Ombudsman services and anticipated increased utilization resulting from relocation of residents due to industry changes will strain currently available professional Ombudsman resources. We believe that it is of critical importance to protect the rights of older citizens in long term care facilities. The Board on Aging and Long Term Care finds that an effective, reasonable means of achieving the goals and mandate of the Ombudsman Program is to expand the scope of the existing Volunteer Ombudsman Program from 11 counties across Wisconsin to a state-wide program. With this in mind, the Board on Aging and Long Term Care requests funds to hire three additional Volunteer Ombudsman Program Coordinators and one Volunteer Ombudsman Program Supervisor during FY 2008. The agency requests an additional four Volunteer Ombudsman Program Coordinators during FY 2009. The addition of the requested positions will allow the Board to expand the Volunteer Program to allow the agency to fully meet its statutory mandate to provide advocacy and information for the older citizens of Wisconsin with a minimum of drain on the state's budget.

APPENDIX B

Extension of Long-Term Care Ombudsman Program Services to Family Care Clients

Decision Item 4003

The Board on Aging and Long Term Care (BOALTC) seeks authority and funding to hire two (2) additional full-time professional Ombudsmen to permit the Long Term Care Ombudsman Program to begin providing information and advocacy services to recipients (over the age of 60) of the state's Family Care benefit. The Legislature originally provided for an external advocacy system to be an integral part of the Family Care program. After this system was discarded, beneficiaries began encountering difficulty in making their concerns and problems understood by program officials leading to a certain amount of dissatisfaction with Family Care. The cost of this proposal for the 2007-2009 budget period is \$ 184,600.

BACKGROUND

The Long-Term Care Ombudsman Program of BOALTC is unique among state programs. It is a provider of direct advocacy and public information services to individual citizens of Wisconsin. BOALTC is the only state agency directly addressing issues relating to long-term care services provided to residents of nursing homes, community-based residential facilities, adult family homes, and to participants in the Community Options Program (COP).

At the time when Family Care was first introduced as a pilot project, it was the intent of the Legislature to include an external advocacy program, operated by a non-governmental organization under a contract administered by the Board on Aging and Long Term Care. The legislators realized that community-based provision of long term care, where feasible, would become the norm and that clients of this new design for long term care finance would need advocacy services similar to those provided by the Board's Long Term Care Ombudsman Program no less than do the current residents of more institutional settings.

Family Care has proven a valuable method of providing long term care and is to be expanded statewide. The intake staff of the Long Term Care Ombudsman Program report receiving inquiries from current Family Care beneficiaries seeking information and advocacy. Numerous complaints have come to our agency regarding poor quality of care and quality of life by providers under contract to Family Care. Due to the lack of authority to provide service to Family Care recipients either directly or through a contract with a private entity unless the recipient resides in a facility served by our program, we are often unable to serve these concerned individuals or to address their needs. With the current staff levels of Ombudsmen, it would be impossible to respond to all of these inquiries with anything more than sympathy and a general referral to some other possible source of assistance even if BOALTC did have the authority to do so.

PROGRAM ACTIVITY IN WISCONSIN

The Long Term Care Ombudsman Program has continued to be a substantial resource for residents of nursing homes, CBRFs, and clients who benefit from services paid for by the Community Options Program. These residents and their families rely on the expertise and commitment of the professional Ombudsmen to inform, educate, empower and advocate for their interests. The Long Term Care Ombudsman Program has become recognized across the state as an example of a state government agency that works for the individual citizen. Even providers regularly inquire of the Ombudsman Program for information and training assistance.

Family Care is a complex and broadly defined benefit that will, potentially, affect an enormous segment of Wisconsin's population. Of the 9,725 persons currently enrolled in the program's Care Management Organizations, 7,448 are elderly, the target population of the Board on Aging and Long Term Care. The likelihood that there will be difficulties and disagreements between citizens seeking to access this program and the bureaucrats and administrators who are charged with providing that access would be a reasonable assumption. As evidenced by the calls being directed to the Ombudsman Intake line, there is a clear and present need for an advocacy resource apart from the internal grievance process currently built into the Family Care rules. The Board on Aging and Long Term Care's Long Term Care Ombudsman Program is an existing program, experienced in resolving problems of the sort that can be anticipated to arise in the context of Family Care. Relying on the Long Term Care Ombudsman Program, with appropriately increased resources, to meet this need would be an imminently logical approach.

REQUEST.

Implementation of Family Care statewide is underway. Citizens of Wisconsin who are or will be seeking to avail themselves of the Family Care benefit are becoming increasingly aware of their individual rights and are more frequently seeking help to secure and protect those rights.

The Board on Aging and Long Term Care recognizes that the Governor has directed that this budget be constructed with an emphasis on restricted growth of program expenditures. We believe that it is of critical importance to protect the rights of Family Care beneficiaries. Difficulties associated with anticipated increased utilization of Family Care would be eased were there to be an external advocacy component to the program. While the Long Term Care Ombudsman Program is well-suited to adapt to the challenge of advocating for Family Care clients, this new responsibility would strain currently available professional Ombudsman resources well past the breaking point. The Board on Aging and Long Term Care believes that an effective, reasonable means of achieving the goals and mandate of the Family Care Program to assure resolution of client problems is to authorize the extension of Long Term Care Ombudsman Program services into the Family Care arena. With this in mind, the Board on Aging and Long Term Care requests funds to hire two additional full-time Long Term Care Ombudsmen during FY 2008. Future increases in the number of Family Care beneficiaries would warrant additional increases in the Ombudsman staff at the rate of 1 Ombudsman for every 3,500 new Family Care clients. The addition of the requested positions will allow the Board to expand the Long Term Care Ombudsman Program to allow the agency to serve residents of this new and growing long term care alternative and to fully meet the Board's statutory mandate to provide advocacy and information for the older citizens of Wisconsin with a minimum of drain on the state's budget.

APPENDIX C

Extension of Long-Term Care Ombudsman Program Services to Residential Care Apartment Complexes

Decision Item 4004

The Board on Aging and Long Term Care (BOALTC) seeks authority and funding to hire one (1) additional full-time professional Ombudsman to permit extension of the Long Term Care Ombudsman Program into Residential Care Apartment Complexes (RCAC) statewide. The Legislature has consistently indicated conceptual support for this proposal only to encounter funding constraints. The cost of this proposal for the 2007-2009 budget period is \$92,200.

BACKGROUND

The Long-Term Care Ombudsman Program of BOALTC is unique among state programs. It is a provider of direct advocacy and public information services to individual citizens of Wisconsin. BOALTC is the only state agency directly addressing issues relating to long-term care services provided to residents of nursing homes, community-based residential facilities, adult family homes, and to participants in the Community Options Program (COP).

At the time when RCACs were first authorized as a licensed form of assisted living facility, it was the intent of the authors of the legislation to include RCACs within the definition of "long-term care facility" for purposes of being served by the Long Term Care Ombudsman Program. The legislators realized that community-based provision of long term care, where feasible, would become the norm and that residents of the new forms of assisted living would need the advocacy services provided by the Ombudsman no less than do the residents of the more institutional settings.

RCACs have grown in number and in size since the first facilities appeared in 1997. The intake staff of the Long Term Care Ombudsman Program report numerous inquiries from residents and families of residents in these complexes seeking information and advocacy. Numerous complaints have come to our agency regarding poor quality of care and quality of life at these facilities. Due to the lack of authority to provide service in RCACs, we are unable to serve these concerned residents or to address their needs. Currently the Bureau of Quality Assurance investigates these complaints. As an agency, we believe that not having this authority is an injustice to the residents who reside in these facilities. As currently authorized in statute and with the current staff levels of Ombudsmen, the agency is unable to respond to these inquiries with anything more than sympathy and a general referral to some other possible source of assistance.

PROGRAM ACTIVITY IN WISCONSIN

The Long Term Care Ombudsman Program has continued to be a substantial resource for residents of nursing homes, CBRFs, and clients who benefit from services paid for by the Community Options Program. These residents and their families rely on the expertise and commitment of the professional Ombudsmen to inform, educate, empower and advocate for their interests. The Long Term Care Ombudsman Program has become recognized across the state as an example of a state government agency that works for the individual citizen.

Federal changes to the nursing home regulatory process and economic influences affecting the nursing home industry have caused notable expansion of the Ombudsman role. Most notably, the new rules allow for Ombudsman participation in the standard surveys conducted by the DHFS regulators, intensive monitoring of care and treatment during periods after a determination of facility noncompliance or substandard performance, and involvement in situations arising from relocation of residents caused by the closing or downsizing of facilities. The stresses of increased workload caused by these circumstances have forced BOALTC's professional Ombudsmen

to redirect their activity toward more immediately critical concerns and we have found it difficult at times to adequately pursue the mandated advocacy and "watchdog" roles of the program.

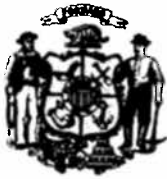
The number of RCACs operating in Wisconsin has increased steadily since the late 1990's. From complement of 99 total facilities in 2000, the industry grew by a factor of almost 100% to 191 as of the most recent report by BQA. Currently, there are a total of 8,027 residents of RCACs in Wisconsin. Assuming continued growth as a result of the shifting patterns of long term care practice, the RCAC industry can be expected to accommodate even more residents in the coming years. The residents of these facilities will be no less vulnerable and will need advocacy and information services to the same degree as do today's residents.

It is apparent that, were authorization for Ombudsman activities to be extended to RCACs without a concurrent increase in program staffing, this agency would be unable to meet the increased demand for services.

REQUEST

Implementation of changes in long term care delivery, coupled with shifts in institutional and community-based long-term care utilization patterns will continue to have a major impact on the demand for services provided by the Long Term Care Ombudsman Program. Elder individuals and their families, including those currently residing in RCACs where Ombudsman services are unavailable, are becoming increasingly aware of their individual rights and are more frequently seeking help from ombudsmen to secure and protect those rights.

The Board on Aging and Long Term Care recognizes that the Governor has directed that this budget be constructed with an emphasis on restricted growth of program expenditures. We believe that it is of critical importance to protect the rights of older citizens in Residential Care Apartment Complexes. Anticipated increased utilization of RCACs as a primary source of assisted living resulting from industry growth and relocation of residents from more institutional settings will strain currently available professional Ombudsman resources. The Board on Aging and Long Term Care finds that an effective, reasonable means of achieving the goals and mandate of the Ombudsman Program is to authorize the extension of Long Term Care Ombudsman Program services into the RCAC arena. With this in mind, the Board on Aging and Long Term Care requests funds to hire one additional full-time Long Term Care Ombudsman during FY 2008. The Board on Aging and Long Term Care proposes that funding for this proposal derive from an annual assessment on each occupied apartment in a RCAC of \$12.00. Using the current occupancy data, this would initially generate \$96,324.00. The addition of the requested position will allow the Board to expand the Long Term Care Ombudsman Program to allow the agency to serve residents of this new and growing assisted living alternative and to fully meet the Board's statutory mandate to provide advocacy and information for the older citizens of Wisconsin with a minimum of drain on the state's budget.



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 18, 2007

TO: Senator Timothy Carpenter
Room 306 South, State Capitol

FROM: Charles Morgan, Program Supervisor

SUBJECT: Funding for Benefit Specialists and the Board on Aging and Long-Term Care's
Volunteer Ombudsman Program

In response to your request, this memorandum provides information on funding for the elderly benefit specialist program, which is administered by the Department of Health and Family Services (DHFS), including the amount of funding that was budgeted for the program in the 2005-07 biennium and the amount that would be provided under the Governor's 2007-09 biennial budget recommendations (Senate Bill 40).

In addition, you requested information on the volunteer ombudsman program administered by the Board on Aging and Long-Term Care (BOALTC), including current staffing and areas of the state in which the program operates. This memorandum summarizes the Governor's 2007-09 biennial budget recommendations relating to this program.

Benefit Specialist Program

Program Description. The program's goal is to promote and preserve the autonomy, dignity, independence, and financial security of older individuals by: (a) informing and assisting older individuals in understanding their rights, benefits, and entitlements; (b) limiting the scope and nature of benefit problems experienced by older individuals through prevention, early detection, and intervention; (c) assisting older individuals in securing benefits and entitlements, and in asserting and maintaining rights promised and protected by law; (d) providing access to the system of justice by offering advocacy, advice, and representation to older individuals as clients, and by utilizing litigation, legislative and administrative reform; and (e) initiating advocacy to preserve and protect the rights and benefits of older individuals.

Benefit specialists offer information, advice, and assistance relating to individuals' eligibility for, and problems with, public benefits and services and to health care financing, insurance,

housing, and other financial and consumer concerns. In addition, benefit specialists refer older individuals in need of legal representation to the private bar and other available legal resources.

2005-07 Biennium. Under s. 46.81 of the statutes, DHFS is required to distribute \$2,298,400 GPR annually to the area agencies on aging to provide benefit specialist services for Wisconsin residents who are 60 years of age and older. In addition, in 2006-07 only, DHFS is required to allocate \$600,000 PR from insurance fee revenue transferred from the Office of the Commissioner of Insurance for the program. Finally, the statutes direct DHFS to allocate \$182,500 in each fiscal year to area agencies to provide training, supervision, and legal back-up services for benefit specialists within the area.

Under the federal Medicare Prescription Drug Improvement and Modernization Act of 2003, states were provided funding to help Medicare recipients understand the new Medicare Part D benefit, and to select Medicare Part D plans. DHFS received a one-time \$2.2 million transition grant, which it allocated as follows: (a) \$400,000 to support operations costs and a Medicare Part D information hotline; (b) \$181,100 to support training and supervision of benefits specialists by legal back-up service providers; and (c) \$1.6 million to supplement state funding for the county benefit specialist program.

DHFS allocated the federal funding for the benefit specialist program to counties over an 18-month period (April, 2005 through September, 2006), including \$225,000 FED in 2006-07. However, in order to sustain the higher level of funding for the benefit specialist program through the rest of the 2005-07 biennium, 2005 Wisconsin Act 25 (the 2005-07 biennial budget act) provided \$600,000 PR in insurance fee revenue on a one-time basis to sustain this increased funding level through June 30, 2007.

Finally, as a matter of policy, DHFS requires counties to allocate at least 5% of the federal Title III-B (Older American Act) funding they receive from DHFS to support their elderly benefit specialist programs. In 2006-07, DHFS distributed \$5,270,000 FED to counties from this source, of which at least \$263,500 (5%) was expended for the elderly benefit specialist program. However, the counties may have allocated additional Title III-B funds to their elderly benefit specialist programs.

2007-09 Biennium -- Governor's Budget. The Governor's budget would not change the GPR funding that would be provided to support the benefit specialist program. Consequently, DHFS would be directed to allocate \$2,298,400 GPR in each year of the biennium for the program, and \$182,500 GPR to support supervising legal back-up services for the benefit specialists. However, since the \$600,000 PR in insurance funds that was budgeted for the program in 2006-07 was provided on a one-time basis, this funding would not be maintained in the 2007-09 biennium under the Governor's bill. Consequently, assuming that there would be no change in federal Older Americans Act funding for the program, the (all funds) amount of funding DHFS would allocate for the program in the 2007-09 biennium would be less than the amount of funding the program

received in the 2005-07 biennium due to the discontinuation of the one-time federal funding and the one-time supplement supported by insurance fee revenue.

Volunteer Ombudsman Program

Program Description. Under the BOALTC's volunteer ombudsman program, the Board's volunteer coordinators recruit, train, and supervise volunteers. The volunteers make weekly unannounced visits to nursing homes to speak with residents, listening to their concerns, and informing residents and their families of the Board's ombudsman services. Volunteers speak with staff members at the facilities, and submit monthly reports to BOALTC's volunteer program coordinators for review and possible follow-up activities.

2005-07 Biennium. The Board is currently authorized 4.0 positions. The volunteer ombudsman program currently serves nursing homes in 11 counties -- Milwaukee, Racine, Kenosha, Dane, Rock, Monroe, Marathon, Portage, Shawano, Waupaca, and Wood Counties.

2007-09 Biennium -- Governor's Budget. The Governor's bill would provide an additional 4.0 positions (3.20 GPR positions and 0.8 PR positions), beginning in 2007-08, to enable the volunteer ombudsman program to expand to additional counties. Under the bill, a total of 8.0 state positions would be authorized for the program.

The bill would increase funding to BOALTC by \$173,400 (\$137,800 GPR and \$35,600 PR) in 2007-08 and by \$212,500 (\$170,000 GPR and \$42,500 PR) in 2008-09. The program revenue (PR) support for these positions would be federal medical assistance (MA) administrative funding, which would be budgeted in the Department of Health and Family Services and transferred to BOALTC. The Board is able to support approximately 20% of the costs of these positions with federal MA matching funds claimed by DHFS by demonstrating that approximately 20% of these positions' time is eligible for MA reimbursement as an administrative expense.

The Board's Executive Director indicates that the 4.0 additional positions recommended by the Governor would enable the Board to serve several unserved population centers, which would most likely include Brown County, the Fox Valley area, Eau Claire, the Chippewa Valley area, La Crosse, and the Kickapoo Valley area. These positions would effectively double the number of facilities that could be served, so that an additional 120 to 140 nursing homes would receive volunteer ombudsman services. However, nursing homes in other areas of the state, including the far northern counties, the southwest corner of the state, and the greater Waukesha area, would not likely be served by the volunteer ombudsman program.

Please contact me if you require additional information on this matter.

CM/bh