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Board on Aging and Long-Term Care

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LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
2	Ombudsman Services for Family Care Recipients (see Paper #560 -- Family Care)
-	Medical Assistance Reimbursement for Ombudsman Staff (Paper #235)



Legislative Fiscal Bureau

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*Board
Burke 2d*

June 7, 1999

Joint Committee on Finance

Paper #235

Medical Assistance Reimbursement for Ombudsman Staff (Board on Aging and Long-Term Care)

CURRENT LAW

The mission of the Board on Aging and Long-Term Care (BOALTC) is to serve as an advocate for elderly and disabled long-term care consumers. The Board's ombudsman program investigates and resolves complaints on behalf of persons residing in nursing homes and community-based residential facilities (CBRFs) and persons receiving community-based services. The Board also operates the medigap hotline, which is staffed by three counselors that provide callers with information and counseling, primarily on medigap insurance policies.

In 1998-99, the Board is budgeted \$1,171,600 (all funds), including \$736,800 GPR and \$434,800 PR. Program revenue budgeted for the Board includes federal funds that DHFS receives under the federal Older Americans Act and the federal Health Insurance Information, Counseling and Assistance Grant which are transferred to the Board under contract (\$243,200) and insurance industry fees collected by the Office of the Commissioner of Insurance (\$191,600).

Currently, the ombudsman program is staffed by 1.0 ombudsman supervisor, 1.0 volunteer ombudsman director and 14.0 regional ombudsman positions. The duties of the ombudsman supervisor include providing technical assistance and training to the regional ombudsman staff and interacting with other state agencies in coordinating the activities of the ombudsman program and related programs. The volunteer director oversees the volunteer ombudsman program, which consists of 92 volunteers who visit nursing homes in five counties on a weekly basis.

GOVERNOR

No provision.

DISCUSSION POINTS

1. Currently, the Board's ombudsman program is not supported by medical assistance (MA) administration funds. However, many of the persons served by the ombudsman program are MA recipients. Approximately 70% of the state's nursing home population are MA recipients and approximately 15% of residents in CBRFs are supported by the MA community-based waiver program. Also, about 60% of persons in the community options programs (COP) are part of the MA COP-waiver program. Most MA administrative costs can be reimbursed with 50% federal matching funds.
2. Quality assurance activities are eligible for reimbursement under MA as administrative costs. The ombudsman program contributes to the provision of quality care for MA services.
3. The Board has identified three types of activities conducted by the regional ombudsman positions that may be eligible for MA administrative funding: (a) complaint investigation and resolution; (b) information and education; and (c) monitoring and oversight of the Department of Health and Family Services Bureau of Quality Assurance. DHFS has provided a description of these three ombudsman activities to the federal Health Care Financing Administration (HCFA) regional office and inquired whether any of these activities would be eligible for reimbursement as MA administrative costs. The regional office staff indicated that the complaint activity could be eligible for MA reimbursement, but were somewhat skeptical about the other two activities. The regional staff person indicated, however, that HCFA would review all three activities.
4. HCFA staff indicated that the monitoring and oversight activity were not likely to be eligible for MA reimbursement because HCFA already performs that activity and therefore, reimbursement of these activities performed under the Board's ombudsman program would be duplicative. The information and education activities would also not likely be eligible for federal reimbursement because it is uncertain that this activity either affects quality of care or MA outreach or referral.
5. Since it appears likely that one of the three activities may be reimbursable as MA administrative costs, it would be reasonable for DHFS to apply for MA reimbursement for these costs and to anticipate federal MA reimbursement for the Board's complaint activity.
6. The Board estimates that ombudsman staff spend approximately 65% of their time on complaint investigation and resolution activities. However, not all of this time can be billed to MA, since a portion of the persons served by the ombudsman program are not MA recipients. Also, a portion of the federal revenues derived from the Older Americans Act must be deducted, since MA cannot cover activities that are already supported by federal grants. However, administrative overhead and related supplies and services related to the complaint activity can be billed to MA.
7. It is estimated that \$318,000 in GPR costs could be claimed annually as MA

administrative costs. Based on the 50% federal matching rate for these costs, an additional \$159,000 FED annually could be generated, allowing savings of an equal amount in GPR expenditures. This projection is only an estimate, and the actual amount of MA reimbursement would depend on time studies and approval by HCFA. Also, if other activities besides complaint activities are reimbursable, the amount of federal matching funds could be increased by up to 70% if all activities were eligible (\$270,000 in federal matching funds).

8. Before submitting a request for MA reimbursement, the Board would have to conduct a study of the time spent by regional ombudsman positions on eligible activities. All of the ombudsman positions would have to initially participate in time reporting, and would have to continue this activity unless the data indicated that the time spent on eligible activities was a very stable percentage of these positions' time. If it were very stable, HCFA would allow a minimum of one week of time reporting per month. Currently, some DHFS staff report 100% of their time throughout the year.

9. If the Board conducted time reporting during the first quarter of 1999-00, the Board could submit a request for MA funding for costs incurred for that quarter. Thus, MA reimbursement could begin July 1, 1999, although federal matching funds would not be provided until after the end of the first quarter. Claims for MA administration are submitted on a quarterly basis.

10. Since DHFS would have to claim the MA administrative funding for the ombudsman MA activity, additional PR expenditure authority for the Board would be needed to receive the MA funding from DHFS, while part of the Board's GPR funding would be transferred to the MA administration appropriation under DHFS to support the state's share of MA expenditures.

11. The Committee may wish to expand the ombudsman program as a means of using the additional federal MA administration funds that may be available to support the program.

12. The ombudsman program provides services to residents of nursing homes, CBRFs, adult family homes and individual COP participants. Currently, there are approximately 470 nursing homes, 1,400 CBRFs, 500 adult family homes and 15,000 COP participants. The number of persons who are receiving services and could request the assistance of an ombudsman totals over 92,300 individuals.

13. In a recent report on nursing home regulation, the Legislative Audit Bureau stated "the number of ombudsmen has limited their ability to perform all the roles assigned to them in federal and state statutes." The Audit Bureau report cited a national standard set by the federal Institute of Medicine that recommends one ombudsman for every 2,000 long-term care beds. The 1992 median ratio among all states was one ombudsman for every 3,024 beds. In Wisconsin, with 14 ombudsman positions, there would be one ombudsman for every 4,922 beds.

14. Under the Family Care proposal, funding would be provided for the Board to contract for the services of approximately 6.5 ombudsman positions to serve Family Care

participants, which would total an estimated 11,267 by the end of 2000-01. This would represent a ratio of one ombudsman to 1,733 Family Care participants. The non-Family Care long-term care users, which are estimated to total about 81,000 (92,300 less 11,267), would be served by 14 ombudsman positions, a ratio of one ombudsman to 5,786 long-term care users.

15. Table 1 shows several measures of the level of activity under the ombudsman program for federal fiscal year 1995-96 through 1997-98.

TABLE 1
Ombudsman Program Activity
Federal Fiscal Years 1995-96 through 1997-98

	1995-96 <u>Total</u>	1996-97 <u>Total</u>	<u>% Change</u>	1997-98 <u>Total</u>	<u>% Change</u>
Complaints Received	3,014	3,576	18.6%	3,858	7.9%
Complaint Cases Closed	1,371	1,385	1.0	1,344	-3.0
Survey Participation	59	52	-11.9	72	38.5
Activities with Residents & Resident Groups					
Individual Consultations/Information	4,428	5,677		5,520	
Resident Visitation (non-complaint)	109	188		383	
Resident Council Advice	46	25		98	
Family Council Advice	<u>32</u>	<u>31</u>		<u>32</u>	
Subtotal	4,615	5,921	28.3	6,033	1.9
Facility Support					
Facility Training	115	106		125	
Facility Consultation	<u>1,443</u>	<u>1,681</u>		<u>1,839</u>	
Subtotal	1,558	1,787	14.7	1,964	9.9
Other					
Community Education	126	51		63	
Media Contacts	<u>55</u>	<u>77</u>		<u>82</u>	
Subtotal	181	128	-29.3	145	13.3
Total (excluding complaints)	6,413	7,888	23.0%	8,214	4.1%

15. Between 1988 to 1993, the Board was authorized six ombudsman positions. The 1993-95 biennial budget act increased the number of regional ombudsman positions from six to eight, beginning in 1994-95. The 1997-99 biennial budget act increased the number to 11, while the 1997-99 budget adjustment act increased the number of ombudsman staff to 14, beginning January 1, 1999.

16. In 1998, 293 of the 474 nursing facilities were visited by ombudsman staff for purposes of acquainting residents with ombudsman services and/or checking the general conditions of the facility. Of the 1,847 CBRFs, ombudsman staff visited 90 of them outside of complaint investigations.

17. Approximately 86% of an ombudsman staff's time is spent with nursing home residents, while most of the remaining time (13%) is primarily spent with CBRFs. Only about 1% of these positions' time is spent with COP recipients.

18. The current geographic distribution of the Board's ombudsman staff is as follows:

<u>Region</u>	<u>Office Location</u>	<u>Number of Ombudsman Positions</u>
Northern	Rhinelander	1
Western	Eau Claire	2
Central	Stevens Point	2
Eastern	Green Bay	1
Southwest	Madison	3
Southeast	Milwaukee	5

If the Board were authorized additional ombudsman staff, it is likely that the Board would locate these positions to serve the Southwest and Eastern regions. The next priority would be to increase services in the Northern and Central regions.

19. Additional ombudsman positions would enable program staff to: (a) increase participation in the annual survey of nursing homes (federal law requires that ombudsman staff be provided a opportunity to participate); (b) visit nursing homes that have not been seen by ombudsman staff in complaint investigations and other activities; (c) improve the response time to complaints; and (d) spend more time addressing complaints with a lower priority. Currently, the ombudsman staff can respond to all complaints they receive although with complaints that are deemed to be less serious, an ombudsman will suggest a course of action, rather than become directly involved in the case.

ALTERNATIVES

1. Delete \$300,000 GPR and 6.0 GPR positions annually and provide \$300,000 PR and 6.0 PR positions annually to reflect the anticipated claiming of ombudsman costs as MA administrative costs. In addition, increase the MA administrative funding in DHFS by \$150,000 GPR and \$150,000 FED in both 1999-00 and in 2000-01.

<u>Alternative 1</u>	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	- \$300,000	\$300,000	\$600,000	\$600,000
2000-01 POSITIONS (Change to Bill)	- 6.00	0.00	6.00	0.00

2. In addition to Alternative 1, increase the number of ombudsman positions and funding for the Board by one of the options listed in the attachment to this paper. Specify that any new positions would start on January 1 of the fiscal year for which they are authorized.

3. Maintain current law.

Prepared by: Richard Megna

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2	BURKE	<input checked="" type="radio"/>	N	A
	DECKER	<input checked="" type="radio"/>	N	A
	JAUCH	<input checked="" type="radio"/>	N	A
	MOORE	<input checked="" type="radio"/>	N	A
	SHIBILSKI	<input checked="" type="radio"/>	N	A
	PLACHE	<input checked="" type="radio"/>	N	A
	COWLES	<input checked="" type="radio"/>	N	A
	PANZER	Y	N	A
1	GARD	<input checked="" type="radio"/>	N	A
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	KAUFERT	<input checked="" type="radio"/>	N	A
	ALBERS	<input checked="" type="radio"/>	N	A
	DUFF	<input checked="" type="radio"/>	N	A
	WARD	<input checked="" type="radio"/>	N	A
	HUBER	<input checked="" type="radio"/>	N	A
	RILEY	<input checked="" type="radio"/>	N	A

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ATTACHMENT I

	Positions						Funding						Biennial GPR Cost		
	FY 00		FY 01		Total		FY 00		FY 01		Total				
	GPR	PR	Total	GPR	PR	Total	GPR	FED	PR	Total	GPR	FED		PR	Total
a. Board of Aging	0.60	0.40	1.00	0.60	0.40	1.00	\$16,000	\$0	\$10,600	\$26,600	\$28,000	\$0	\$18,700	\$46,700	\$44,000
DHFS -- MA Admin.	0.00	0.00	0.00	0.00	0.00	0.00	5,300	5,300	0	10,600	9,300	9,400	0	18,700	14,600
Total							21,300	5,300	10,600	37,200	37,300	9,400	18,700	65,400	58,600
b. Board of Aging	0.60	0.40	1.00	1.20	0.80	2.00	16,000	0	10,600	26,600	44,000	0	29,300	73,300	60,000
DHFS -- MA Admin.	0.00	0.00	0.00	0.00	0.00	0.00	5,300	5,300	0	10,600	14,600	14,700	0	29,300	19,900
Total							21,300	5,300	10,600	37,200	58,600	14,700	29,300	102,600	79,900
c. Board of Aging	1.20	0.80	2.00	1.20	0.80	2.00	31,900	0	21,200	53,100	56,000	0	37,400	93,400	87,900
DHFS -- MA Admin.	0.00	0.00	0.00	0.00	0.00	0.00	10,600	10,600	0	21,200	18,700	18,700	0	37,400	29,300
Total							42,500	10,600	21,200	74,300	74,700	18,700	37,400	130,800	117,200
d. Board of Aging	1.20	0.80	2.00	1.80	1.20	3.00	31,900	0	21,200	53,100	72,000	0	48,000	120,000	103,900
DHFS -- MA Admin.	0.00	0.00	0.00	0.00	0.00	0.00	10,600	10,600	0	21,200	24,000	24,000	0	48,000	34,600
Total							42,500	10,600	21,200	74,300	96,000	24,000	48,000	168,000	138,500

BOARD ON AGING AND LONG-TERM CARE

LFB Summary Items for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments
3	Regional Ombudsman Position Salaries
4	Medigap Counselor Position
5	Medigap Helpline Mailings
6	Miscellaneous Adjustments
7	Computer Link-Ups With Regional Offices
8	Replace Photocopier

LFB Summary Item for Introduction as Separate Legislation

<u>Item #</u>	<u>Title</u>
9	Board on Aging and Long-Term Care -- Size and Composition