



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #180

Ombudsman Program Staff (Board on Aging and Long-Term Care)

[LFB 2021-23 Budget Summary: Page 77, #2]

CURRENT LAW

The Board on Aging and Long-Term Care (BOALTC) ombudsman program provides advocacy services for individuals over the age of 60 who are residents or tenants of licensed or certified long-term care settings, as well as persons over the age of 60 who receive home and community-based services through the state's medical assistance (MA) funded long-term care programs (Family Care, IRIS, the Program of All-inclusive Care for the Elderly (PACE), and the Family Care Partnership Program).

Additionally, the ombudsman program: (a) investigates complaints regarding long-term care services; (b) resolves and mediates issues regarding long-term care services; (c) provides information and education on resident rights, restraints, and abuse reporting and prevention; and (d) works with enforcement agencies.

Currently, the long-term care ombudsman program has 26.0 FTE positions, composed of 2.0 supervisors, 3.0 lead ombudsmen, 20.0 regional ombudsmen, and 1.0 intake specialist. The regional ombudsman positions are assigned to serve individuals in defined regions of the state, or specialize in addressing specific types of concerns, such as relocation of residents due to facility closures and downsizing or issues relating to veterans at the three state veterans homes.

DISCUSSION POINTS

1. BOALTC estimates that in federal fiscal year (FFY) 2019-20, the number of individuals eligible for ombudsman services was 125,069, composed of 91,626 residents of licensed and certified nursing homes or assisted living facilities, 25,053 managed care recipients (Family Care, PACE, and Partnership participants), and 8,390 IRIS participants.

2. In 1995, the Institute of Medicine recommended that a state's ratio of ombudsman positions to long-term care recipients should be no more than 1 to 2,000. This ratio is similar to a current statutory requirement that Disability Rights Wisconsin (DRW) include, as a goal in the agency's contract with the Department of Health Services, that DRW provide one ombudsman for every 2,500 individuals under age 60 enrolled or eligible to enroll in Family Care, Partnership, or IRIS.

3. Currently, BOALTC is not staffed to meet either of these ratios. In FFY 2019-20, the ratio was approximately one ombudsman for every 6,250 long-term care consumers. This ratio is based on the assumption that all 20 regional ombudsman positions provide services to an equal share of the eligible population. In reality, caseloads vary by position since, as mentioned, some ombudsman positions target specific issue areas or populations, for example one ombudsman serves residents facing relocation due to facility closure or downsizing and one ombudsman serves the three state veterans homes.

4. The following table shows the ombudsman program cases and non-case activities for FFYs 2018-19 and 2019-20, including the portion of the total closed cases, case complaints, and consultations attributed specifically to IRIS and managed care participants.

Ombudsman Program Activities, by Federal Fiscal Year

	<u>2019</u>	<u>2020</u>
Cases		
Total closed cases	1,419	1,377
Total case complaints*	3,880	3,827
IRIS cases closed	80	57
IRIS case complaints*	199	163
Managed care cases closed	67	156
Managed care complaints*	196	387
Non-Case Activities		
Total consultations to individuals	10,212	11,837
Total consultations to providers	4,372	5,097
IRIS consultation to individuals	279	474
IRIS consultation to providers	30	5
Managed care consultation to individuals	1,250	1,586
Managed care consultations to providers	236	170
Training for facility staff	146	109
Community education	182	192

* Complaints are designated according to complaint codes established by the federal Administration for Community Living. Every case must have at least one complaint. Cases that are more complex may have several separate complaints.

5. However, a count of the number of cases or activities completed by ombudsman program staff may not provide a complete measure of the work performed. For example, BOALTC

indicates that the time spent to resolve a managed care complaint is around 60% greater than the time spent managing a facility-based complaint. This is because, in facility-based advocacy, ombudsmen have almost immediate access to all the people and documents necessary to the investigatory process. On the other hand, in managed care advocacy, the ombudsman must typically make several calls to numerous entities to gather needed documents and work with a larger team of stakeholders from several entities. Further, managed care investigations and resolutions must comply with the managed care contract provisions, as such these cases often involve additional work looking at the boundaries of the contract, rules around assessments and functional screens, and failing an informal resolution, advocacy on behalf of the client by the ombudsman in a formal grievance, appeal, or state fair hearing process.

6. Since the start of the COVID pandemic, ombudsman program staff have reported an increase in the number of calls for visitation issues largely related to the lack of family members, legal decision-makers, or other ancillary support persons such as hospice staff able to see residents for reasons related to socialization, compassionate or supportive care, or end-of-life care and support. In these situations ombudsman program staff assisted several families in filing complaints with the state regulatory agency, the Department of Health Services (DHS) Division of Quality Assurance, but also provided education and support to facilities in how to facilitate safe visits and resident rights.

7. In response to the COVID pandemic, the ombudsman program received \$364,000 under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. These one-time federal funds were spent on technology for the ombudsman program, web-site design, resources for program consumers, staff overtime, personal protective equipment, resources and safety protections for field and office work, and education and training programs for the ombudsman program. The program is also estimated to receive one-time funding of \$73,000 under the Consolidated Appropriations Act (CAA) and \$182,000 under the American Rescue Plan Act (ARPA). However, no funds other than those provided under the CARES Act have been distributed to the program yet.

8. As recommended by the Governor, BOALTC indicates a need for increased staff for the ombudsman program to help reduce the caseloads for current regional ombudsmen, with a particular emphasis on managed care cases due to the complexity involved in those cases. Additionally, with the aging of Wisconsin's population, caseloads and demand for other non-case services are anticipated to increase in the upcoming biennium.

9. Ombudsman program staff is funded with a combination of GPR budgeted in the BOALTC general program operations appropriation and program revenue (PR) transferred from DHS. The source of the PR is federal MA matching administrative funding DHS claims for a percentage of the costs of supporting the BOALTC ombudsman positions. This percentage is based on the percentage of services the ombudsman positions provide to MA recipients.

10. Funding for BOALTC's ombudsman program is typically funded such that an amount is associated with activities of the positions that are not MA eligible (30%) and an amount is associated with MA eligible funding (70%). The 70% MA associated portion of each position's funding is split 50/50 between PR and GPR (this GPR portion constitutes required match to the DHS provided PR funds). This results in a 65% GPR and 35% PR funding split for each of the requested positions.

11. For the reasons mentioned previously, the Committee could choose to provide \$114,000 (\$74,100 GPR and \$39,900 PR) in 2021-22 and \$152,000 (\$98,800 GPR and \$53,200 PR) in 2022-23 to fund 2.0 ombudsman positions (1.30 GPR and 0.70 PR) beginning in 2021-22 [Alternative 1].

12. On the other hand the Committee could choose to provide funding and position authority for 1.0 ombudsman position. Under this alternative, funding would be \$57,000 (\$37,100 GPR and \$19,900 PR) in 2021-22 and \$76,000 (\$49,400 GPR and \$26,600 PR) in 2022-23 to fund 1.0 position (0.65 GPR and 0.35 PR) beginning in 2021-22 [Alternative 2].

13. Finally, in consideration of the fact that the agency's 2021-23 budget request did not include additional positions, the Committee could choose to take no action on this item [Alternative 3].

ALTERNATIVES

1. Provide \$114,000 (\$74,100 GPR and \$39,900 PR) in 2021-22 and \$152,000 (\$98,800 GPR and \$53,200 PR) in 2022-23 to fund 2.0 ombudsman positions (1.30 GPR and 0.70 PR) beginning in 2021-22.

ALT 1	Change to Base	
	Funding	Positions
GPR	\$172,900	1.30
PR	<u>93,100</u>	<u>0.70</u>
Total	\$266,000	2.00

2. Provide \$57,000 (\$37,100 GPR and \$19,900 PR) in 2021-22 and \$76,000 (\$49,400 GPR and \$26,600 PR) in 2022-23 to fund 1.0 position (0.65 GPR and 0.35 PR) beginning in 2021-22.

ALT 2	Change to Base	
	Funding	Positions
GPR	\$86,500	0.70
PR	<u>46,500</u>	<u>0.30</u>
Total	\$133,000	1.00

3. Take no action.

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