



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #160

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

[LFB 2019-21 Budget Summary: Page 51, #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).

The ombudsman program is currently staffed with 24.0 full time equivalent (FTE) positions, including 1.0 ombudsman services supervisor, 1.0 statewide lead ombudsman, 1.0 intake specialist, 1.0 IRIS lead ombudsman, and 20.0 regional ombudsman specialist positions. 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.

GOVERNOR

Provide \$182,200 (\$63,800 GPR and \$118,400 PR) in 2019-20 and \$242,900 (\$85,000 GPR and \$157,900 PR) in 2020-21 to fund 3.0 positions (1.05 GPR positions and 1.95 PR positions), beginning in 2019-20. These 3.0 positions include 1.0 lead ombudsman position and 2.0 ombudsman services supervisor positions.

DISCUSSION POINTS

1. In 1978, the federal Older Americans Act required states to develop and implement a nursing home ombudsman program. Subsequently, in 1985, the scope of the ombudsman program expanded to include Medicaid recipients receiving long-term care services outside of institutional settings. Since then, the scope of settings covered by the ombudsman program has gradually increased. Most recently, in the 2017-19 biennial budget act, the ombudsman program was statutorily authorized to provide services to individuals over the age of 60 who are enrolled in, or potentially eligible to enroll in, the state's Medicaid-funded, self-directed long-term care program, IRIS. Additionally, as the state's population has aged, the number of people eligible for ombudsman services has increased.

2. Table 1 shows the number of long-term care recipients who are eligible to receive ombudsman program services in federal fiscal years 2015-16 through 2017-18.

TABLE 1

**Individuals Eligible for Ombudsman Services
Federal Fiscal Years 2015-16 to 2017-18**

<u>FFY</u>	<u>Residents of Licensed and Certified Settings</u>	<u>Managed Care Recipients</u>	<u>IRIS Participants</u>	<u>Total Eligible Individuals</u>
2015-16	88,000	22,000	0	110,000
2016-17	95,000	23,000	0	118,000
2017-18	91,000	23,600	6,000	120,600

3. The ombudsman staff: (a) investigates complaints of improper treatment of elderly persons, (b) promotes and protects the rights of long-term care consumers; (c) educates community and facility groups about long-term care issues, especially with respect to consumer rights; and (d) consults with consumers to help them avoid problems with the care they receive, and resolve problems before they become crises. These services are provided at no cost to consumers.

4. Table 2 shows the number of open cases the ombudsmen worked on in federal fiscal year 2015-16 through 2017-18. However, the total number of open cases does not reflect the number of contacts or interactions necessary to investigate and resolve these cases. Table 2 also shows the number of non-case activities completed by the ombudsmen during the same timeframe. Non-case activities include training for facility staff, community education, consultation to facilities, information and consultation to individuals, monitoring of regulations and laws, unscheduled facility visits, technical assistance, and interactions with other agencies and media.

TABLE 2

**Ombudsman Program Cases and Non-Case Activities
Federal Fiscal Years 2015-16 through 2017-18**

<u>FFY</u>	<u>Non-Case Activities</u>	<u>Cases</u>
2015-16	37,997	1,008
2016-17	34,498	1,285
2017-18	35,723	1,446

5. BOALTC reports that data submitted to the Administration of Community Living (ACL) shows steady increases over the past three years in cases involving concerns that consume the greatest amount of ombudsman time and require the highest skill levels related to mediation and negotiation. For example, cases involving abuse; discharges, evictions, and facility closures; shortage of staff and inadequate staff training; and legal concerns such as powers of attorney and guardianship, have all increased.

6. Currently, the ombudsman program has one ombudsman services supervisor, one statewide lead ombudsman, and one IRIS lead ombudsman. The current ombudsman services supervisor supervises the 20 regional ombudsmen, the IRIS lead ombudsman, the statewide lead ombudsman, and one intake specialist, as well as providing oversight, program evaluation, and guidance to staff.

7. The bill would fund two ombudsman supervisor positions which would be distributed geographically, as assistant ombudsman supervisors, supervised by the existing ombudsman supervisor position. Job duties for the assistant ombudsman supervisors would include: (a) sharing oversight in data management of regional ombudsman staff; (b) identifying trends and making reports to the ombudsman program supervisor; (c) reviewing casework for thoroughness and accuracy of documentation; (d) providing standardized guidance and training to regional ombudsmen; and (e) collaborating with other agencies and organizations.

8. By funding the two new ombudsman supervisor positions, the current ombudsman program supervisor position would focus on supervising the two new ombudsman assistant supervisors, the ombudsman and lead assigned to IRIS, Dane County ombudsman, the veterans' ombudsman, the relocation ombudsman, and the intake specialist. Additionally, the supervisor would be responsible for: (a) ensuring that BOALTC ombudsmen meet program certification and continuing education requirements as per policy and federal law; (b) ensuring timely completion of performance counseling and reviews, oversight for all disciplinary activities including investigation of complaints about ombudsman staff; (c) database management for purposes of federal reporting, open records requests, and other legislative requests; (d) acting as an agency liaison to state and federal entities; and (e) developing and implementing a program-inclusive quality measurement and monitoring program.

9. The current statewide lead ombudsman position conducts some of the same kind of

work as the regional ombudsmen, but has a smaller caseload than the regional ombudsman positions, which allows the lead ombudsman time for consultations on more complex cases. Caseload for the lead ombudsman increases at times of high volume, staff vacancies, and staff leave time. The other lead ombudsman is focused on cases involving IRIS participants.

10. BOALTC indicates that if the agency were provided with funding for an additional statewide lead ombudsman position, that new position would be dedicated primarily to issues involving managed care, due to the increased volume in complex managed care casework and the need for more regular technical assistance to the regional ombudsmen for case management. Additionally, the position would participate in collaborative efforts to suggest managed care contract amendments, review of annual managed care contract amendments and changes, and disseminate the changes to the regional ombudsmen. Similar to the current lead position, the managed care lead would have a smaller caseload that could increase temporarily as needed.

11. The ombudsman staff is funded with a combination of GPR budgeted in the BOALTC GPR general program operations appropriation and program revenue (PR) transferred from the Department of Health Services (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 medical assistance (MA) recipients.

12. Funding for the BOALTC's ombudsman program is typically funded such that an amount is associated with activities of the positions that are not medical assistance (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.

13. The Governor's budget provides a 65% PR and 35% GPR funding split for each of the new positions, rather the 65% GPR/35% PR funding split that is required. Subsequently, the administration issued its May 1, 2019, errata, indicating that these positions should be funded with 65% GPR and 35% PR. Consequently, the funding sources for each of these positions should be adjusted if the Committee approves the positions. In addition, a minor change is needed to correct the fringe benefit rate that would apply to these positions. These corrections have been incorporated into the alternatives presented to the Committee.

14. BOALTC indicates that the Department of Administration – Division of Personnel Management recommends a supervisor-to-staff ratio of 7:1 to ensure adequate supervision of the ombudsman program staff. The Committee may wish to approve the Governor's recommendation and provide the 3.0 positions, as this would reduce the ratio of supervisor-to-staff from 23:1 to 8:1, thereby providing more effective administrative management of the ombudsman program.

15. If the Committee wishes to approve the Governor's recommendation funding in the bill would need to be increased by \$100 (\$54,700 GPR and -\$54,600 PR) in 2019-20 and by \$200 (\$73,000 GPR and -\$72,800 PR) in 2020-21 [Alternative 1].

16. Alternatively, the Committee may choose to fund the statewide lead ombudsman and one ombudsman supervisor position, in an effort to balance the program's need with other funding commitments. If the Committee chooses this alternative, funding in the bill would be decreased by \$62,200 (\$14,200 GPR and -\$76,400 PR) in 2019-20 and by \$83,000 (\$18,900 GPR and -\$101,900 PR) in 2020-21 [Alternative 2].

17. On the other hand, the Committee could delete the additional funding and positions. By deleting the positions, BOALTC expresses concerns that resident and care recipient health and wellbeing could suffer namely due to a lack of: resources on complex cases, staff time to respond to concerns in a timely manner, and time to analyze and manage data for trends and areas of need for remediation [Alternative 3].

ALTERNATIVES

1. Approve the Governor's recommendation to provide 3.0 additional positions for BOALTC. Increase funding in the bill by \$100 (\$54,700 GPR and -\$54,600 PR) in 2019-20 and by \$200 (\$73,000 GPR and -\$72,800 PR) in 2020-21 to correct the funding split for these positions and to correct the fringe benefit rate for the positions.

ALT 1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$276,500	1.95	\$127,700	0.90
PR	<u>148,900</u>	<u>1.05</u>	<u>- 127,400</u>	<u>- 0.90</u>
Total	\$425,400	3.00	\$300	0.00

2. Modify the Governor's recommendation to provide funding for 2.0 positions (1.0 lead ombudsman and 1.0 assistant supervisor position). Decrease funding in the bill by \$62,200 (\$14,200 GPR and -\$76,400 PR) in 2019-20 and by \$83,000 (\$18,900 GPR and -\$101,900 PR) in 2020-21.

ALT 2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$181,900	1.30	\$33,100	0.25
PR	<u>98,000</u>	<u>0.70</u>	<u>- 178,300</u>	<u>- 1.25</u>
Total	\$279,900	2.00	-\$145,200	- 1.00

3. Take no action.

ALT 3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
GPR	\$0	0.0	-\$148,800	- 1.05
PR	<u>0</u>	<u>0.0</u>	<u>- 276,300</u>	<u>- 1.95</u>
Total	\$0	0.0	-\$425,100	- 3.00

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