



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #156

IRIS Ombudsman Services (Board on Aging and Long-Term Care)

[LFB 2017-19 Budget Summary: Page 76, #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 managed long-term care programs (Family Care, the Program of All-inclusive Care for the Elderly (PACE), and the Family Care Partnership Program).

The Board is currently staffed with 19.0 ombudsman specialist positions (10.21 GPR positions and 8.79 PR positions), which 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.

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.

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

DHS contracts with Disability Rights Wisconsin (DRW) to provide ombudsman services

to Family Care and IRIS (Include, Respect, I Self-Direct) program participants who are younger than 60 years of age. However, no agency currently provides IRIS participants who are older than 60 years of age free, independent ombudsman and advocacy services.

GOVERNOR

BOALTC. Provide 3.0 PR positions, beginning in 2017-18, and an additional 1.0 PR position, beginning in 2018-19 (for a total of 4.0 positions in 2018-19), and \$225,900 PR in 2017-18 and \$291,000 PR in 2018-19 for the Board to provide ombudsman and advocacy services to individuals over the age of 60 years who are enrolled in, or are potentially eligible to enroll in IRIS, the state's Medicaid-funded, self-directed long-term care program.

Modify statutory provisions relating to the Board's ombudsman and advocacy services to include individuals over the age of 60 who are enrolled in, or potentially eligible to enroll in IRIS.

DHS. Provide \$100,000 (\$50,000 GPR and \$50,000 FED) annually to transfer to BOALTC to fund the additional positions in BOALTC to provide ombudsman services to individuals enrolled in IRIS.

DISCUSSION POINTS

1. Currently, BOALTC ombudsman staff responds to complaints and concerns regarding resident rights, care and treatment, guardianships, and resources and options available to long-term care recipients. Program staff also educates individuals about long-term care recipients' rights under state and federal law, provides information about abuse prevention, restraint reduction, the use of advance directives, and reporting and investigating instances of abuse.

2. In the past, the National Institutes of Medicine has 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 DRW include, as a goal in the agency's contract with DHS, that DRW provide one ombudsman for every 2,500 individuals under age 60 enrolled in Family Care or IRIS. However, BOALTC currently is not staffed to meet either of these ratios. For example, in 2015-16, the ratio was approximately one ombudsman for every 6,750 long-term care consumers.

3. BOALTC's current ratio is based on Family Care's availability in 65 of Wisconsin's 72 counties. However, as Family Care is expanded statewide in the first quarter of 2018, each ombudsman position will be responsible for providing services to an increasing number of individuals.

4. Another potential caseload measure for the ombudsman program is the annual number of open cases. However, the total number of open cases does not reflect the number of contacts or interactions necessary to investigate and resolve these cases. Further, BOALTC indicates that one case may contain multiple unique issues and multiple stakeholders.

5. As mentioned previously, the ombudsman program's workload is not composed exclusively of case resolution. Other program activities counted below 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 the media. Table 1 presents measures of the BOALTC's ombudsman workload for federal fiscal years (FFYs) 2012-13 through 2015-16.

TABLE 1
Ombudsman Workload -- Selected Measures

	Federal Fiscal Year			
	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>
Total Ombudsman Program Activities*	27,654	32,211	42,827	37,997
Total Cases Opened	1,015	1,084	1,025	1,008

*Includes consultations, the provision of information, and referrals.

6. The bill would expand the Board's ombudsman program to provide services to IRIS participants over the age of 60. IRIS is the state's federally required alternative to the state's MA-supported managed long-term care programs. IRIS participants self-direct their long-term care supports and services through management of a designated budget amount.

7. Currently, IRIS is available in the 65 counties that offer Family Care. By the first quarter of 2018, IRIS will be available statewide following expansion to Adams, Dane, Florence, Forest, Oneida, Taylor, and Vilas Counties.

8. DHS contracts with five IRIS consulting agencies (ICAs) and four fiscal employment agencies (FEAs) to assist participants in managing their services. ICAs are responsible for assisting participants in developing an individualized support and service plan. The services included in the plan must be within the participant's approved budget, be allowable under the federal Medicaid waiver, and ensure that the participant will be healthy and safe.

9. FEAs ensure that all services are paid according to the participant's plan and assist the participant in managing all fiscal requirements, such as paying providers and ensuring that employment and tax regulations are met.

10. IRIS participants are responsible for interviewing, hiring, training, scheduling, disciplining, and terminating their own workers, since IRIS participants are the common law employers of the service providers with whom they contract for long-term care services.

Due to the extensive authority entailed in self-directing their care, IRIS participants can resolve a number of their complaints and concerns by terminating care providers that do not meet their needs. However, concerns and complaints involving aging and disability resource centers (ADRCs), ICAs, and FEAs may require resolution with the assistance of a third party. ADRCs provide information on the broad range of programs and services available to people who are over

the age of 60 or living with a disability; help people understand the various long-term care options available to them; help people apply for programs and benefits; and serve as the access point for publicly-funded long-term care.

For individuals who request it, the ADRCs will administer the long-term care functional screen to assess the individual's level of need for services and eligibility for long-term care benefits. Once the individual's level of need is determined, the ADRCs will provide information about the options available for state funded long-term care services and aid eligible individuals in enrolling in their program of choice.

11. DRW reports that the most common concerns of IRIS participants under age 60 who seek its ombudsman services, are: (a) reductions, terminations, or denials of services or requests for durable medical equipment; (b) changes in IRIS policy that affect individual supports and services plans (ISSPs); (c) reductions in budget estimates that impact ISSPs; (d) loss of eligibility; and (d) problems with the IRIS process to request an increase in participants' monthly budgets or to make a one-time purchase (such as motorized chairs or home modifications). These concerns may be indicative of the types of cases the BOALTC ombudsman positions would be addressing for IRIS participants over the age of 60.

12. Additionally, BOALTC anticipates cases related to financial or personal exploitation; family members or other care partners attempting to limit decision-making; difficulty accessing appropriate medical and mental health care, or legal services; as well as the increasing pressures of not being able to find and hire enough qualified caregiving and support personnel.

13. As previously indicated, BOALTC's ombudsman program is currently funded, in part, by federal MA administration funding transferred from DHS's FED appropriation for administrative contracts. These funds are budgeted as PR in the BOALTC budget. Since the positions recommended by the Governor would serve IRIS recipients, these positions would be eligible for 50% federal administrative Medicaid matching funds.

14. Several funding and position adjustments for both BOALTC and DHS would be needed to implement the Governor's intent to fund additional positions for BOALTC to: (a) correctly budget the funding for these positions, consistent with the manner in which the current ombudsman positions are budgeted; (b) reflect reestimates of the personnel and supplies and services costs for these positions; and (c) incorporate changes reflected in the Department of Administration's errata regarding this item. These adjustments are summarized in the Attachment [Alternative 1].

15. Under the Governor's proposal, DRW would continue to provide ombudsman services to IRIS participants under the age of 60. Table 2 shows the IRIS specific caseload for the DRW ombudsman program which also provides services to Family Care enrollees under the age of 60.

TABLE 2

**DRW IRIS Ombudsman Caseload
Fiscal Years 2013-14 through 2015-16**

<u>Fiscal Year</u>	<u>IRIS Cases</u>	<u>Percent of Total Caseload</u>
2013-14	274	33.6%
2014-15	220	28.2
2015-16	453	40.4

16. While BOALTC does not currently track how many IRIS calls the agency receives, it is reasonable to assume that the number of calls from IRIS enrollees would increase if people were actively encouraged to contact BOALTC for dispute resolution and advocacy services.

17. The Committee may want to adopt the Governor's provision to ensure access to independent advocacy and dispute resolution services for IRIS enrollees over the age of 60, who are the only group of long-term care participants not afforded these services currently. Further, ombudsman services may provide cost and time savings for care providers and IRIS enrollees by resolving disputes through the more informal process of the ombudsman program as opposed to legal action. Finally, access to ombudsman services beyond case resolution may also lead to more educated and informed IRIS participants who are better able to access necessary community resources and services allowing them to more effectively and efficiently self-direct their care. For these reasons, the Committee could adopt the Governor's recommendations, with the adjustments summarized in the attachment [Alternative 1].

18. On the other hand, the number of individuals enrolled in IRIS over the age of 60, as of January 1, 2017, suggests that four FTE positions would result in a ratio of one IRIS ombudsman for every 1,270 IRIS participants over the age of 60. If 2.0 FTE ombudsman specialist positions were provided, the ratio of ombudsman positions to IRIS enrollees over the age of 60 would be approximately one to 2,530 IRIS participants, which would be largely consistent with the statutorily recommended ratio for DRW. For that reason, the Committee could modify the Governor's recommendation by funding 2.0 positions for the Board, beginning in 2017-18 [Alternative 2].

19. However, enrollment in IRIS has increased since the program started and is likely to continue to increase significantly following statewide expansion of the program in early 2018, as shown in Table 3.

TABLE 3

IRIS Enrollment as of January 1

<u>Year</u>	<u>Enrollment</u>	<u>Age 18-59</u>	<u>Age 60+</u>	<u>% of IRIS Recipients Aged 60+</u>
2012	5,169	3,618	1,551	30%
2013	7,471	5,304	2,167	29
2014	9,742	6,722	3,020	31
2015	11,543	7,544	3,999	35
2016	13,046	8,390	4,656	36
2017	14,124	9,065	5,059	36

20. Further, as shown above, the number of IRIS enrollees over age 60 has increased as a percentage of total IRIS enrollment. If the rate of growth in total IRIS enrollment decreases, the number of IRIS enrollees over age 60 may continue to increase.

21. Unlike the Board's other ombudsman positions, the new positions would serve Medicaid recipients, exclusively. On average, this population is likely to have fewer financial resources and natural supports than other individuals currently served by the BOALTC ombudsman positions, and therefore may have a greater need for services provided by the Board's ombudsman staff, especially as they relate to resolving disputes with caregivers.

22. Finally, the Committee could delete the provision. By deleting the provision, no additional funding or position authority would be provided to BOALTC to provide ombudsman services to IRIS recipients over the age of 60. BOALTC indicates that the agency does not currently have the capacity to provide these services without additional funding and positions. It could be argued that deleting the provision would perpetuate an existing inequality within the overall community-based long-term care waiver program.

23. DHS indicates that it would need to submit an amendment to the federal IRIS waiver to remove the ombudsman services for participants ages 60 and older, if funding and position authority are not granted to BOALTC, since BOALTC would not be able to provide ombudsman services [Alternative 3].

ALTERNATIVES

1. Approve the Governor's recommendation to provide 3.0 PR ombudsman positions in 2017-18 and 4.0 PR ombudsman positions and the statutory changes in the bill relating to the Board's responsibility to provide ombudsman services to individuals enrolled in IRIS, with the funding and position adjustments summarized in the first table in the attachment.

ALT 1	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
BOALTC				
GPR	\$227,200	2.00	\$227,200	2.00
PR	<u>227,000</u>	<u>2.00</u>	<u>- 289,900</u>	<u>- 2.00</u>
Total	\$454,200	4.00	- \$62,700	0.00
DHS				
GPR	\$0	0.00	- \$100,000	0.00
FED	<u>227,000</u>	<u>0.00</u>	<u>127,000</u>	<u>0.00</u>
Total	\$227,000	0.00	\$27,000	0.00

2. Modify the bill to provide 2.0 PR ombudsman positions, beginning in 2017-18, and approve the statutory changes in the bill relating to the Board's responsibility to provide ombudsman services to individuals enrolled in IRIS, with the funding and position adjustments summarized in the second table in the attachment.

ALT 2	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
BOALTC				
GPR	\$127,200	1.00	\$127,200	1.00
PR	<u>127,200</u>	<u>1.00</u>	<u>- 389,700</u>	<u>- 3.00</u>
Total	\$254,400	2.00	- \$262,500	- 2.00
DHS				
GPR	\$0	0.00	- \$100,000	0.00
FED	<u>127,200</u>	<u>0.00</u>	<u>27,200</u>	<u>0.00</u>
Total	\$127,200	0.00	- \$72,800	0.00

3. Delete provision.

ALT 3	Change to Base		Change to Bill	
	Funding	Positions	Funding	Positions
BOALTC				
GPR	\$0	0.00	\$0	0.00
PR	<u>0</u>	<u>0.00</u>	<u>- 516,900</u>	<u>- 4.00</u>
Total	\$0	0.00	- \$516,900	- 4.00
DHS				
GPR	\$0	0.00	- \$100,000	0.00
FED	<u>0</u>	<u>0.00</u>	<u>- 100,000</u>	<u>0.00</u>
Total	\$0	0.00	- \$200,000	0.00

Prepared by: Alexandra Bentzen
Attachment

ATTACHMENT

Alternative 1 -- Governor's Bill with Reestimate

	Bill			Corrected Bill					
				Change to Base			Change to Bill		
	<u>2017-18</u>	<u>2018-19</u>	<u>2017-19</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2017-19</u>	<u>2017-18</u>	<u>2018-19</u>	<u>2017-19</u>
BOALTC									
Funding									
GPR	\$0	\$0	\$0	\$81,800	\$145,400	\$227,200	\$81,800	\$145,400	\$227,200
PR	<u>225,900</u>	<u>291,000</u>	<u>516,900</u>	<u>81,700</u>	<u>145,300</u>	<u>227,000</u>	<u>-144,200</u>	<u>-145,700</u>	<u>-289,900</u>
Total	\$225,900	\$291,000	\$516,900	\$163,500	\$290,700	\$454,200	-\$62,400	-\$300	-\$62,700
Positions									
GPR	0.00	0.00	0.00	1.50	2.00	2.00	1.50	2.00	2.00
PR	<u>3.00</u>	<u>4.00</u>	<u>4.00</u>	<u>1.50</u>	<u>2.00</u>	<u>2.00</u>	<u>-1.50</u>	<u>-2.00</u>	<u>-2.00</u>
Total	3.00	4.00	4.00	3.00	4.00	4.00	0.00	0.00	0.00
Health Services									
Funding									
GPR	\$50,000	\$50,000	\$100,000	\$0	\$0	\$0	-\$50,000	-\$50,000	-\$100,000
FED	<u>50,000</u>	<u>50,000</u>	<u>100,000</u>	<u>81,700</u>	<u>145,300</u>	<u>227,000</u>	<u>31,700</u>	<u>95,300</u>	<u>127,000</u>
Total	\$100,000	\$100,000	\$200,000	\$81,700	\$145,300	\$227,000	-\$18,300	\$45,300	\$27,000

Alternative 2 -- 2.0 Positions, Beginning in 2017-18

BOALTC									
Funding									
GPR	\$0	\$0	\$0	\$54,500	\$72,700	\$127,200	\$54,500	\$72,700	\$127,200
PR	<u>225,900</u>	<u>291,000</u>	<u>516,900</u>	<u>54,500</u>	<u>72,700</u>	<u>127,200</u>	<u>-171,400</u>	<u>-218,300</u>	<u>-389,700</u>
Total	\$225,900	\$291,000	\$516,900	\$109,000	\$145,400	\$254,400	-\$116,900	-\$145,600	-\$262,500
Positions									
GPR	0.00	0.00	0.00	1.00	1.00	1.00	1.00	1.00	1.00
PR	<u>3.00</u>	<u>4.00</u>	<u>4.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>-2.00</u>	<u>-3.00</u>	<u>-3.00</u>
Total	3.00	4.00	4.00	2.00	2.00	2.00	-1.00	-2.00	-2.00
Health Services									
Funding									
GPR	\$50,000	\$50,000	\$100,000	\$0	\$0	\$0	-\$50,000	-\$50,000	-\$100,000
FED	<u>50,000</u>	<u>50,000</u>	<u>100,000</u>	<u>54,500</u>	<u>72,700</u>	<u>127,200</u>	<u>4,500</u>	<u>22,700</u>	<u>27,200</u>
Total	\$100,000	\$100,000	\$200,000	\$54,500	\$72,700	\$127,200	-\$45,500	-\$27,300	-\$72,800

Alternative 3 -- Delete Provision

BOALTC									
Funding									
GPR	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PR	<u>225,900</u>	<u>291,000</u>	<u>291,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>-225,900</u>	<u>-291,000</u>	<u>-516,900</u>
Total	\$225,900	\$291,000	\$516,900	\$0	\$0	\$0	-\$225,900	-\$291,000	-\$516,900
Positions									
GPR	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
PR	<u>3.00</u>	<u>4.00</u>	<u>4.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>-3.00</u>	<u>-4.00</u>	<u>-4.00</u>
Total	3.00	4.00	4.00	0.00	0.00	0.00	-3.00	-4.00	-4.00
Health Services									
Funding									
GPR	\$50,000	\$50,000	\$100,000	\$0	\$0	\$0	-\$50,000	-\$50,000	-\$100,000
FED	<u>50,000</u>	<u>50,000</u>	<u>100,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>-50,000</u>	<u>-50,000</u>	<u>-100,000</u>
Total	\$100,000	\$100,000	\$200,000	\$0	\$0	\$0	-\$100,000	-\$100,000	-\$200,000