



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGING
 Harrisburg, Pa. 17101

PENNSYLVANIA DEPARTMENT OF AGING

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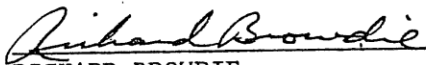
6. Origin: Office of the State LTC Ombudsman	7. Contact: LTC Ombudsman Office (717) 783-7247
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AGING PROGRAM DIRECTIVE

SUBJECT: LONG TERM CARE OMBUDSMAN PROGRAM

TO: COUNTY COMMISSIONERS
 CHAIRPERSONS, NON-PROFIT AAA GOVERNING
 BOARDS

COPIES FOR: EXECUTIVE STAFF
 AREA AGENCIES ON AGING
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 DPW, OFFICE OF PROGRAM DEVELOPMENT
 AND SUPPORT
 CO. COMMISSIONERS ASSOC. OF PENNA.
 COMPTROLLER

FROM: 
 RICHARD BROWDIE
 SECRETARY
 DEPARTMENT OF AGING

REGULATORY REFERENCE: Older Americans Act, as amended (1992), Pub. L. 100.175.
 Department of Aging Reauthorization 71 P.S. §581-1 et seq.

PURPOSE: This Aging Program Directive establishes the Office of the State Long-term Care Ombudsman, the requirements and procedures for statewide implementation of the Long-term Care Ombudsman Program, and the Pennsylvania Ombudsman Reporting System.

BACKGROUND:

Pennsylvania legislation authorizing the Department of Aging, 71 P.S. §581-1 et seq., 1244, No. 153, requires the Department to "establish and administer a State Long-term Care Ombudsman program, including providing resources to area agencies on aging or other contractors to investigate and resolve complaints related to the health, safety, or rights of older individuals who are consumers of long-term care services and to prepare and submit to the General Assembly an annual report containing data and findings regarding the types of problems experienced and complaints investigated."

An older individual is defined as a person residing in Pennsylvania and who is age sixty (60) or older.

Further, "Long-term Care" is defined as "those services designed to provide diagnostic, therapeutic, rehabilitative, supportive, or maintenance services for individuals who have chronic functional impairments in a variety of institutional and non-institutional care settings, including the home."

The Older Americans Act, as amended (1992), Pub. L. 100-175, requires the states to establish and operate a Long-term Care Ombudsman program to identify, investigate and resolve complaints made by or on behalf of residents and relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees) of providers, or representatives of providers, of long-term care services, public agencies, or health and social service agencies.

The Department has determined that the federal and state mandates for a statewide Long-term Care Ombudsman program are consistent and, in fact, the federally identified clientele are included in the larger state identified clientele of long-term care. Thus, we are providing a Long-term Care Ombudsman program to comply with both federal and state requirements. An ombudsman shall investigate and seek to resolve complaints made by or on behalf of older individuals who are consumers of long-term care services relating to action, inaction, or decisions of providers or their representatives, of long-term care services, of public agencies, or of health and social service agencies, which may adversely affect the health, safety, welfare, or rights of such consumers including the appointment and activities of a guardian or responsible payee. As always, consumers of long-term care, institutional and non-institutional, should be encouraged to attempt self-resolution of complaints utilizing established administrative procedures prior to a request for assistance from the local long-term care ombudsman.

Standards:

I. OFFICE OF THE LONG-TERM CARE OMBUDSMAN

The Department of Aging hereby establishes the Office of the Long-term Care Ombudsman to operate a state Long-term Care Ombudsman program. The office shall be headed by an individual to be known as the State Long-term Care Ombudsman, who shall be selected from individuals with expertise and experience in the fields of long-term care and advocacy.

II. AREA AGENCIES ON AGING/SUBCONTRACTOR

The Department of Aging will contract with designated Area Agencies on Aging to provide either directly or by subcontract local ombudsman services to older individuals who are consumers of long-term care services, as defined in 71 P.S. §581-1 et seq.

A. Responsibilities of Area Agency on Aging/Subcontractor

1. To designate local ombudsmen/programs and ensure that the Department of Aging has a current listing including name, addresses and phone numbers.
2. To establish a system for the investigation and resolution of complaints made by or on behalf of older individuals who are consumers of long-term care services.

3. To collect and maintain adequate complaint and case data in such a way to enable compliance with reporting requirements.
4. To inform older individuals who are consumers of long-term care services about the ombudsman program and how to access it. This includes the distribution of the Department-produced ombudsman brochure and poster and locally produced information that has been approved by the State Ombudsman.
5. To assure that only staff/volunteers that have successfully completed Ombudsman Tier II Training will investigate ombudsman complaints.
6. To ensure that legal representation is provided to an approved local ombudsman within each Area Agency on Aging's planning and service area against whom suit or other legal action is brought in connection with the good faith performance of such local ombudsman's official duties.
7. To ensure that confidentiality will be provided for all information and records acquired by the Ombudsman program with disclosure only according to procedures established by the Office of the State Long-term Care Ombudsman.
8. To ensure that neither the ombudsman nor the individual designating the ombudsman is subject to a conflict of interest.
9. To ensure that a minimum of one on-site visit is conducted per contract year to each licensed nursing home, licensed personal care home, certified domiciliary care home and older adult daily living center located in an Area Agency on Aging's planning and service area and housing older individuals. The purpose shall be to inform staff and residents of the Ombudsman program and how to access it.

III. LOCAL OMBUDSMAN

A local ombudsman may be either staff or volunteers of the Area Agency on Aging or of a subcontractor and shall be considered to be a representative of the Office of the State Long-term Care Ombudsman and having the authority and responsibilities granted under federal and state law. The local ombudsman shall not be responsible for any duties or functions involving domiciliary care services for adults other than ombudsman services. All local ombudsmen shall successfully complete Ombudsman Tier II Training prior to investigating complaints.

A. Responsibilities of the Local Ombudsman

1. To receive, investigate and resolve complaints related to the health, safety, or rights of older individuals who are consumers of long-term care services, including the appointment and activities of a guardian or representative payee.
2. To maintain case records of complaints received, investigations, findings and resolutions and information on other Ombudsman activities.

3. To report data and information about complaints and problems relating to long-term care services and Ombudsman activities to the Department as required.
4. To provide information and education relating to long-term care services and the rights of older individuals who are consumers of long-term care and to provide assistance in exercising these rights.
5. To conduct annual on-site visits of licensed nursing homes, licensed personal care homes, and certified domiciliary care homes to provide information about the Ombudsman program and how to access it.
6. To support the development of resident and family councils.
7. To ensure that confidentiality will be provided for all information and records acquired by the Ombudsman Program with disclosure only according to procedures established by the Office of the State Long-term Care Ombudsman.
8. To provide licensing agencies and the State Ombudsman Office information about complaints/problems in long-term care facilities.
9. To attend, when possible, survey exit conferences for nursing facilities licensed by the Department of Health.
10. To provide enhanced monitoring through site visits for long-term care facilities with a less than standard license or other sanctions placed against them.
11. To represent the interests of consumers of long-term care services before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of such consumers.

B. Access

1. Access to facilities and residents is provided for the Long-term Care Ombudsman in federal and state regulations. When entering a facility, the administrator/staff shall be notified of the Ombudsman's presence and identification shall be provided upon request.
 - a. Nursing Facilities
HCFA, 42 C.F.R. (j) (i) (iv) (1992) 29 PA. Code, §201.30(d) & (e) (1982)
 - b. Personal Care Homes
55 PA. code, §2620.62(a)
 - c. Domiciliary Care Homes
6 PA code, §2182(e)
 - d. Older Adult Daily Living Centers
6 PA code, §11.9(11)

2. Access to records for residents of certain facilities (for the Long-term Care Ombudsman) is provided in federal and state regulations.
 - a. Nursing Facilities
 HCFA, 42 C.F.R. §483.10(j) (3) (1992) 28 PA Code §211.5 (a) & (c) (1987)
 - b. Personal Care Homes
 55 PA Code §2620.64(b)
 - c. Older Adult Daily Living Centers
 6 PA Code §11.197(d)
3. Access to an older individual and/or an older individual's records shall be with the written/documented consent of the older individual or legal representative, where one exists, and consistent with federal and state laws and regulations.
4. When consent for access to an older individual and/or an older individual's records cannot be obtained or is denied and access is not provided for in federal or state regulations and circumstances present an imminent risk to an older individual, a referral may be made to the local provider of protective services for older adults for investigation.
5. Local ombudsmen shall have and display appropriate identification provided by the State Office for carrying out official duties under the Ombudsman Program in addition to any local identification.

C. Complaints

A complaint is a concern made by or on behalf of older individuals who are consumers of long-term care services relating to action, inaction, or decisions of providers or their representatives, of long-term care services, of public agencies, or of health and social service agencies, which may adversely affect the health, safety, welfare, or rights of such consumers including the appointment and activities of a guardian or representative payee. Complainants shall be encouraged to attempt self-resolution prior to intervention by the Ombudsman.

All complaints, including those from anonymous sources, shall be investigated or referred for investigation where the complaint involves areas beyond the scope of the Ombudsman program. However, all activity involved in the complaint process shall cease immediately if the complainant/older individual withdraws the complaint. If the Ombudsman finds that other older individuals may be in jeopardy or may benefit from intervention based on the information obtained, the Ombudsman may proceed as the complainant while maintaining confidentiality of the source.

Where a complaint alleges abuse, neglect, exploitation, or abandonment as defined by Act 1987-79, it shall be referred to the local provider of protective services for investigation. If the protective service unit determines it is not appropriate for protective services, the

complaint may be referred back to the Ombudsman for action. In addition, the Ombudsman may participate and assist the protective service unit in an investigation/resolution of a complaint.

1. Intake/Receipt

Each complaint received shall be recorded in such a way to allow for compliance with reporting requirements of the Department. A determination shall be made whether the complaint is of an emergency nature. A complaint is to be considered an emergency if the situation described presents imminent danger to older individuals. Complaints of an emergency nature shall immediately be referred to the local provider of protective services. If no imminent danger is present, a complaint shall be considered to be of a non-emergency nature and, as such, a case shall be opened and an investigation initiated within five working days of receipt. If the complaint is made by an older individual or on behalf of an older individual, consent to proceed shall be obtained and documented from said older individual or legal representative.

2. Referral

A referral is the transfer of lead responsibility for the investigation and/or resolution of a complaint. When it is determined that a complaint is beyond the scope and/or expertise of the Ombudsman program, a referral shall be made to an appropriate agency for further assessment or action. If there is no further ombudsman involvement, the case shall be closed upon referral and the referral agency shall respond directly to the complainant/older individual.

3. Investigation/Verification

The local Ombudsman shall conduct an investigation of the complaint allegations in an objective and professional manner. Investigative techniques of interviewing, observation, records review and analysis should be utilized in order to verify or not verify a complaint. In addition, there shall be documentation of the investigation/verification process. If the allegations cannot be verified, the local Ombudsman shall notify the complainant/older individual and may close the case, make a referral, or continue working with additional information from the complainant/older individual.

4. Resolution

Following verification, attempts shall be made to achieve resolution. The local Ombudsman shall take whatever action necessary and appropriate in seeking resolution. All conditions and agreements shall be documented and made part of the case record. Not all complaints can be resolved to the satisfaction of all parties.

5. Closure/Follow-up

When a complaint has been resolved and the complainant/older individual has been notified, the case shall be closed and documented as such. The local ombudsman shall follow up on complaint resolution when appropriate. If a complaint has not been resolved to the complainant's satisfaction and the Ombudsman has made every effort and exhausted all local resources, the complaint may be closed or referred to an appropriate agency. If a complaint is referred and no further action is required by the Ombudsman, the case shall be closed.

IV. CONFIDENTIALITY

All Ombudsman information collected and/or maintained by the Office of the State Ombudsman and its representatives shall be considered to be confidential. Disclosure of information collected and/or maintained by the Office of the State Long-term Care Ombudsman and its representatives shall be at the discretion of the ombudsman. Such information may be disclosed for the purposes of supervision/monitoring. In addition, information shall be shared with licensing, enforcement, and Protective Service agencies in the performance of their official duties.

The identity of a complainant or older individual who is a consumer of a long-term care service shall not be disclosed without the written consent of such complainant or older individual, or the individual's legal representative, or the complainant/older individual gives consent orally and such consent is documented contemporaneously in writing by an Ombudsman, or the disclosure is required by court order. Consent is not required to disclose the identity of the older individual who is a consumer of a long-term care service when complying with the reporting requirements under PA Act 28-1995 and as part of a report of need to Protective Services under PA Older Adult Protective Services Act 79-1987. When consent cannot be obtained from the complainant, the Ombudsman may proceed as the complainant while maintaining confidentiality of the source. For the purposes of supervision, the Director of the agency in which the local Ombudsman is housed and the immediate supervisor of that local Ombudsman shall have access to all ombudsman information. All rules, regulations or laws governing disclosure of ombudsman information shall apply to these individuals as well as local ombudsmen.

V. OMBUDSMEN AND NURSING FACILITY SURVEYS

The Health Care Financing Administration has issued regulations for Medicare and Medicaid Programs; "Survey, Certification and Enforcement of Skilled Nursing Facilities and Nursing Facilities" contained in 42 CFR Part 401, et. al. November 10, 1994. These regulations reference the Ombudsman program and identify certain activities for Ombudsmen in the survey process. The PA Department of Health is the designated survey agency for the Commonwealth. Therefore, the Office of the State Ombudsman and the PA Department of Health have agreed to the following protocol and procedures for implementation of the above-cited activities.

A. Off-Site Survey Preparation

The Department of Health's Survey Team Leader or designee will contact the local Ombudsman during the off-site survey preparation and prior to a scheduled survey of a nursing facility. The Team Leader will not indicate an exact date for the survey at this time, however, the Ombudsman may assume that a survey will occur in the near future. During this contact, the local Ombudsman shall provide such information on an identified facility that they feel may be useful to the survey team. The Ombudsman may indicate a desire to review information in the files and return the call as soon as possible. Additionally, the Team Leader may ask if the Ombudsman will be available if the residents (resident council) participating in the group interview wish the Ombudsman to be present. The local Ombudsman will take no further action until the survey team contacts the Ombudsman to inform them that a survey has been initiated in a given facility.

B. On-Site Preparatory Activities

The Team Leader or designee will call the local Ombudsman to inform the Ombudsman that Health is in a given facility for a survey and inquire if there is additional information that the Ombudsman wishes to provide. In addition, the Team Leader will inform the Ombudsman of location and time if the resident group has requested the Ombudsman be present for the group interview. If possible, the Ombudsman will be given an approximate date, time, and location for the Exit Conference.

C. Exit Conference

As soon as it is set, the Team Leader will contact the local Ombudsman with the location, date and time for the exit conference. In the event it becomes necessary to extend the length of the survey, for any reason, the team leader or designee will contact the ombudsman's office and inform him/her of the change and rescheduled exit. Following the exit conference, the local Ombudsman shall call the Office of the State Ombudsman if significant deficiencies and sanctions are present.

D. Survey Information

Prior to and during a nursing facility survey, all information related to or gathered as part of that survey is to be held in the strictest confidence by all parties. All communications regarding a survey shall occur directly between the Department of Health Survey Team and only the designated local Ombudsman.

Any person who reveals the information on survey dates or times to a provider prior to that survey is subject to adjudication and up to \$2,000 civil money penalty under §1819(g) (2) (A) (1) and 1919(g) (2) (A) (1), and §1128A of the Social Security Act. These cases are investigated by the regional office of the Office of the Inspector General. Any Ombudsman or representative of the Office of the State Ombudsman that reveals any information deemed to be confidential may be subject to loss of Ombudsman designation and other disciplinary action.

Upon completion of the survey process, the regulations provide that certain information is to be made available to the public and Ombudsman upon request.

VI. TRAINING AND APPROVAL

All Ombudsmen shall successfully complete Tier I/Tier II training prior to being recommended by the local Ombudsman Program and approved by the State Ombudsman Office for certificates and badges. Tier I consists of a one day orientation for new staff and volunteers covering the history, organization and authority of the Ombudsman Program. Tier II consists of three days of training on the long-term care system, jurisdiction, complaint process, ethics, roles and advocacy.

Following approval, Tier I Ombudsmen will receive a purple badge and be designated as a representative of the State Office and authorized to perform all Ombudsman activities assigned by the local program except investigations of complaints. Following approval, Tier II Ombudsmen will receive a gold badge and be designated as a representative of the State Office and authorized to perform all Ombudsman activities assigned by the local program including investigations of complaints. Successful completion of Tier II training once every four years, or sooner as a result of a monitoring recommendation, shall be required to retain approval to investigate complaints. In addition, each local Ombudsman Program shall have at least one representative successfully complete a state-designated enrichment training annually and attend regional Ombudsman meetings.

A. Conditional Approval

The Office may grant conditional approval to local Ombudsmen pending completion of the next available state standardized training course. Conditional approval shall not exceed a period of 1 year.

B. Denial of Approval

The Office Ombudsman shall deny approval for failure to complete Tier I or Tier II trainings as required.

C. Removal of Approval

The Office shall remove approval for failure to comply with law, regulations, and policies of the Commonwealth in the performance of official duties. Written notification shall occur and the local Ombudsman shall have the right to request an appeal of such action to the Office within fifteen (15) calendar days of receipt of the notification.

VII. CONFLICT OF INTEREST

A. No individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of a contractor or subcontractor for the provision of Ombudsman services shall be subject to a conflict of interest.

B. No officer, employee, or representative of the Office of the State Long-term Care Ombudsman, or member of the immediate family of the

officer, employee, or representative shall be subject to a conflict of interest.

- C. No ombudsman or representative of the Office of the State Long-term Care Ombudsman shall:
1. Have a direct involvement in the licensing or certification of a long term care facility or of a provider of a long term care service;
 2. Have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long term care facility or a long term care service;
 3. Be employed by, or participate in the management of a long term care facility; or
 4. Receive or have the right to receive directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long term care facility.
- D. Area Agencies on Aging, subcontractors, and representatives of the Office of the State Long Term Care Ombudsman shall determine whether they are in compliance with requirements contained in XII, A, B, and C. A determination of non-compliance declared by the entity as a representative or determined through monitoring by the Office of the State Ombudsman will require that a plan of correction, stating how and when the conflict of interest will be removed, be submitted to the Office of the State Ombudsman for approval. Failure to come into compliance may result in the removal of the authority and designation as a provider of Ombudsman services.
- E. Willful interference by anyone with local ombudsmen in the performance of their official duties shall be reported to the Office of the State Long-term Care Ombudsman immediately.

VIII. REPORTING

All providers of Ombudsman services shall meet all reporting requirements contained in Appendix A entitled "Pennsylvania Ombudsman Reporting System".

IX. QUESTIONS

All questions related to this APD should be directed to the Office of the State Long-term Care Ombudsman.

APPENDIX A

The Pennsylvania Ombudsman Reporting System (PORS)

1. Ombudsman Complaint Report (Attachment 1).

This document consists of one page and shall be completed by the local Ombudsman for each case closed in a given month. A copy shall be retained in the case record. Area Agencies on Aging shall submit a completed Ombudsman Complaint Report for each case closed to the Office of the State LTC Ombudsman by the last day of the month following the month the case was closed. Instructions for completion of this report are included as Attachment 2. Ombudsman complaint categories for completion of Item 8 on the Ombudsman Complaint Report are included in Attachment 3.

NOTE: If no cases are closed in the reporting month AAAs should enter their PSA number and a letter when appropriate in Item 1, enter the month being reported in Item 3, and enter Os in Item 4 on one copy of the Ombudsman Complaint Report and submit it to the Office of the LTC Ombudsman by the last day of the month following the reporting month.

2. Ombudsman Staff and Activity Report(Attachment 4).

This document consists of required information Items A and B, and optional Items C, D, and E. Area agencies on Aging shall submit a completed Ombudsman Staff and Activity Report monthly to the Office of the State LTC Ombudsman by the last day of the month following the reporting month. Instructions for completion of this report are included as Attachment 5.

NOTE: Item B has been revised to indicate whether paid staff and/or volunteers performed the activities under the Response column.

SUBMISSION: Ombudsman Complaint Report
Monthly

Ombudsman Staff and Activity Report
Monthly

To:

Office of the State LTC Ombudsman
PA Department of Aging
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
(717) 783-8975

ATTACHMENT 1

PA DEPARTMENT OF AGING
Ombudsman Complaint Report

1. PSA / / / - / /

2. DATE OPENED / / / - / / / - / / /
(Month) (Day) (Year)

3. DATE CLOSED / / / - / / / - / / /
(Month) (Day) (Year)

4. # / / / / /

5. COMPLAINANT (CODE #) / / /

6. COMPLAINT LOCATION (CODE #) / / /

7. LOCATION: I.D.# / / / / / / / / / /

NAME /
/
/ /

STREET /
/ /

CITY /

STATE / / / ZIP / / / / / / - / / / / / /

8. COMPLAINT CATEGORY (CODE #)	9. VERIFIED (YES) (NO)	10. DISPOSITION (CODE #)
a. / / / / / /	/ / / / /	/ / / /
b. / / / / / /	/ / / / /	/ / / /
c. / / / / / /	/ / / / /	/ / / /
d. / / / / / /	/ / / / /	/ / / /
e. / / / / / /	/ / / / /	/ / / /
f. / / / / / /	/ / / / /	/ / / /
g. / / / / / /	/ / / / /	/ / / /
h. / / / / / /	/ / / / /	/ / / /
i. / / / / / /	/ / / / /	/ / / /

j. / / / / / / / / / / / /
k. / / / / / / / / / / / /
l. / / / / / / / / / / / /
m. / / / / / / / / / / / /

ATTACHMENT 2

INSTRUCTIONS FOR THE OMBUDSMAN COMPLAINT REPORT

1. Enter your planning and service number and a letter for each sub-contractor used.

2. Enter the date the case was opened.

Case: An inquiry brought to, or initiated by, the Ombudsman on behalf of a consumer or group of consumers involving one or more complaints or problems which requires opening of a case file and includes Ombudsman investigation, fact gathering, setting of objectives and/or strategy to resolve and follow up.

3. Enter the date the case was closed.

Closed: Ombudsman activity on a case has stopped for any of the following reasons: 1.) resolution or partial resolution, 2.) by request of complainant, 3.) complaint(s) unresolvable, 4.) complaint(s) not verified, 5.) resident died and no further investigation was required, or 6.) complaint(s) referred to other agency for resolution and final disposition was not obtained and/or reported to Ombudsman.

4. Enter a progressive number beginning with 0001 for the first case closed and for every case thereafter in the current reporting month. This number is for the Department's use in data retrieval only and may be assigned by the AAA or by a sub-contractor if a sub-contractor is identified by a letter in Item #1.

5. Enter the code from below that best describes the type of complainant.

- 01 Consumer
- 02 Relative/Friend of consumer
- 03 Non-relative guardian, legal representative
- 04 Ombudsman/Ombudsman Volunteer
- 05 Facility administrator/staff
- 06 Other medical: physician/staff
- 07 Representative of other social service agency or program
- 08 Unknown/anonymous

6. Enter the code from below that best describes the location in which the complaint(s) occurred.

- 01 Nursing Facility
- 02 Personal Care Home
- 03 Domiciliary Care Home
- 04 Older Adult Daily Living Centers
- 05 Continuing Care Retirement Community
- 06 Home
- 07 Hospital or Hospice
- 08 Public or other congregate housing not providing

personal care
09 Shelters

7. Currently, disregard I.D. #. Enter name and address for the location indicated on Item 6 for the codes 01, 02, 03, 04, 05.

8. Enter a complaint category code from Appendix B for each complaint received. The code consists of a capital letter and a two digit number, e.g. B04.

COMPLAINT: A concern brought to, or initiated by the Ombudsman for investigation and action by or on behalf of consumers of long term care services relating to the health, safety, welfare, or rights of a consumer. One or more complaints constitute a case.

9. Place an X in either yes or no for complaint category in Item 8 to indicate whether the complaint was verified or not verified.

VERIFIED: It is determined after work (interviews, record inspection, observation, etc.) that the circumstances described in the complaint were substantiated or generally accurate.

10. Enter the code from below that best describes the outcome of each complaint category in Item 8 whether verified or not.

- 01 For which government policy or regulatory change or legislative action was required to resolve.
- 02 Which were not resolved* to the satisfaction of resident or complainant.
- 03 Which were withdrawn by the resident or complainant.
- 4A Which were referred to other agency for resolution and report at final disposition was not obtained.
- 4B Which were referred to other agency for resolution and other agency failed to act on complaint.
- 05 For which no action was needed or appropriate.
- 06 Which were partially resolved* but some problem remained.
- 07 Which were resolved to the satisfaction of resident or complainant.

*Resolved: The complaint/problem was addressed to the satisfaction of the resident or complainant.

ATTACHMENT 3

OMBUDSMAN COMPLAINT CATEGORIES

A. ABUSE, GROSS NEGLIGENCE, EXPLOITATION

01. Abuse, physical (including corporal punishment)
02. Abuse, sexual
03. Abuse, verbal/mental (including involuntary seclusion)
04. Financial exploitation (use E for less severe forms of financial complaints)
05. Gross neglect (use categories under F for less severe forms of neglect)
06. Resident-to-resident physical or sexual abuse

B. ACCESS TO INFORMATION BY CONSUMER OR CONSUMER'S REPRESENTATIVE

01. Access to own records
02. Access to ombudsman/visitors
03. Access to facility survey
04. Information regarding advance directive
05. Information regarding medical condition, treatment and any changes
06. Information regarding rights, benefits, services
07. Information communicated in understandable language

C. ADMISSION, TRANSFER, DISCHARGE, EVICTION

01. Admission contract and/or procedure
02. Appeal process - absent, not followed
03. Bed hold - written notice, refusal to readmit
04. Discharge/eviction - planning, notice, procedure, implementation
05. Discrimination in admission due to condition, disability
06. Discrimination in admission due to Medicaid status
07. Room assignment/room change/intrafacility transfer

D. AUTONOMY, CHOICE, PREFERENCE, EXERCISE OF RIGHTS, PRIVACY

01. Choose personal physician, pharmacy
02. Confinement against will (illegally)
03. Dignity, respect - staff attitudes
04. Exercise preference/choice and/or civil/religious rights
(includes right to smoke)
05. Exercise right to refuse care/treatment
06. Language barrier in daily routine
07. Participate in care planning by consumer and/or designated surrogate
08. Privacy - telephone, visitors, couples, mail
09. Privacy in treatment, confidentiality
10. Response to complaints
11. Reprisal, retaliation

E. FINANCIAL, PROPERTY (EXCEPT FOR FINANCIAL EXPLOITATION)

01. Billing/charges - notice, approval, questionable accounting wrong or denied (includes overcharge of private pay residents)
02. Personal funds - mismanaged, access/information denied, deposits and other money not returned (report criminal-level misuse of personal funds under A.4)
03. Personal property lost, stolen, used by others, destroyed

F. CARE

01. Accidents, improper handling
02. Call lights, requests for assistance
03. Care plan/resident assessment - inadequate, failure to follow plan or physician orders (put lack of consumer involvement under D.7)
04. Contracture
05. Medications - administration, organization
06. Personal hygiene (includes nail care and oral hygiene) and adequacy of dressing and grooming
07. Physician services, including podiatrist

08. Pressure sores
09. Symptoms unattended, no notice to others of change in condition
10. Toileting
11. Tubes - neglect of catheter, NG tube (use D.5 for inappropriate/forced use)
12. Wandering, failure to accommodate/monitor

G. REHABILITATION OR MAINTENANCE OF FUNCTIONS

01. Assistive devices or equipment
02. Bowel and bladder training
03. Dental services
04. Mental health, psychosocial services
05. Range of motion/ambulation
06. Therapies - physical, occupation, speech
07. Vision and hearing

H. RESTRAINTS - CHEMICAL AND PHYSICAL

01. Physical restraint - assessment, use, monitoring
02. Psychoactive drugs - assessment, use, evaluations

I. ACTIVITIES AND SOCIAL SERVICES

01. Activities - choice and appropriateness
02. Community interaction, transportation
03. Roommate conflict
04. Social Services - availability/appropriateness (use G.4 for mental health psychosocial counseling/service)

J. DIETARY

01. Assistance in eating or assistive devices
02. Fluid availability/hydration
03. Menu/food service - quantity, quality, variation, choice, condiments, utensils
04. Snacks, time span between meals, late/missed meals

- 05. Temperature
- 06. Therapeutic diet
- 07. Weight loss due to inadequate nutrition

K. ENVIRONMENT

- 01. Air/environment: temperature and quality (heating, cooling, ventilation, water temperature, smoking)
- 02. Cleanliness, pests
- 03. Equipment/building - disrepair, hazard, poor lighting, fire safety
- 04. Furnishings, storage for residents
- 05. Infection Control
- 06. Laundry - lost, condition
- 07. Odors
- 08. Space for activities, dining
- 09. Supplies and linens

L. POLICIES, PROCEDURES, ATTITUDE, RESOURCES (See other complaint headings for policies on advance directive, due process, billing, management residents' funds)

- 01. Abuse investigations/reporting
- 02. Administrator(s) unresponsive, unavailable
- 03. Grievance procedure (use C for transfer, discharge appeals)
- 04. Inappropriate or illegal policies, practices, record-keeping
- 05. Insufficient funds to operate
- 06. Operator inadequately trained
- 07. Offering inappropriate level of care
- 08. Resident or family council/committee interfered with, not supported

M. STAFFING

- 01. Communication, language barrier (use D.6 if problem involves consumer inability to communicate)

02. Shortage of staff
03. Staff training, lack of screening
04. Staff turn-over, over-use of nursing pools
05. Staff unresponsive, unavailable
06. Supervision

N. CERTIFICATION/LICENSING AGENCY

01. Access to information (including survey)
02. Complaint, response to
03. Decertification/closure
04. Intermediate sanctions
05. Survey process
06. Survey process - ombudsman participation
07. Transfer or eviction hearing

O. STATE MEDICAID AGENCY

01. Access to information, application
02. Denial of eligibility
03. Non-covered services
04. Personal Needs Allowance
05. Services

P. SYSTEMS/OTHERS

01. Abuse/abandonment by family member/friend/guardian or, while on visit out of facility, any other persons
02. Bed shortage - placement; lack of alternative setting
03. Board and care/similar facility licensing, regulation
04. Family conflict; interference
05. Financial exploitation by family or other not affiliated with facility
06. Legal - guardianship, conservatorship, power of attorney, wills

07. Medicare

08. PASARR

09. Resident's physician not available

10. SSA, SSI, VA (Other Benefits)

PENNSYLVANIA DEPARTMENT OF AGING
OMBUDSMAN STAFF AND ACTIVITY REPORT

Information is to be completed and submitted monthly throughout the state fiscal year to the Office of the State Long Term Care Ombudsman by the last day of the following month.

PSA _____ Month/Year _____ Date Submitted _____

A. PAID STAFF AND VOLUNTEERS

1. Enter the full-time equivalency to two decimal places for paid program staff in the Ombudsman Program for this reporting period. (Exclude Clerical) _____
2. Enter the number of paid program staff who are full-time in the Ombudsman Program for this reporting period. (Exclude Clerical) _____
3. Enter the full-time equivalency to two decimal places for paid clerical staff in the Ombudsman Program for this reporting period. _____
4. Enter the number of new volunteers recruited this reporting period. _____
5. Enter the number of volunteers completing Tier I Training this reporting period. _____
6. Enter the number of volunteers completing Tier II Training this reporting period. _____
7. Enter the total number of active volunteers who are certified to address ombudsman complaints for this reporting period. _____
8. Enter the total number of volunteers utilized for activities other than complaints in the Ombudsman Program for this reporting period. (Do not include advisory or policy committee member.) _____
9. Enter the number of hours of Ombudsman activities performed by volunteers this reporting period. _____

B. OMBUDSMAN ACTIVITIES

Please provide information on ombudsman program activities under the following columns.

Program Activities column: Insert total number of the activities performed by local program staff and volunteers. This is a count of activities not a count of Ombudsmen participating in the activity except for "trainees" in Activity B2.

Volunteer Activities column: Insert total number of the activities performed by volunteers. This is a count of activities not a count of volunteers participating in the activity except for "trainees" in Activity B2.

<u>ACTIVITY</u>	<u>MEASURE</u>	<u>PROGRAM ACTIVITIES</u>	<u>VOLUNTEER ACTIVITIES</u>
1. Complaint Cases	Number of cases worked on by volunteers	X	
2. Training/orientation for ombudsman staff and volunteers (e.g. regional ombudsman meetings)	Number of sessions		
	Number of hours		
	Total number of trainees		
3. Technical assistance to local ombudsmen and/or volunteers	Estimated percentage of total staff time		
4. Training for facility staff	Number of sessions		
	3 most frequent topics for training		
5. Consultation to facilities (Consultations: providing information and technical assistance, often by telephone)	3 most frequent topics of consultations		
	Number of consultations		
6. Information and consultation to individuals (usually by telephone)	3 most frequent requests/needs		
	Number of consultations		

<u>ACTIVITY</u>	<u>MEASURE</u>	<u>PROGRAM ACTIVITIES</u>	<u>VOLUNTEER ACTIVITIES</u>
7. Facility visitation (other than in response to complaint)	Number of total facility visits in reporting year		
	Number nursing facilities visited (unduplicated in reporting year) Complete in last reporting period for the fiscal year.		
	Number board and care (or similar) facilities (unduplicated) in reporting year) Complete in last reporting period for the fiscal year		
8. Participation in facility surveys	Number of responses		
	Number of surveys		
9. Work with resident councils	Number of meetings attended		
10. Work with family councils	Number of meetings attended		
11. Community Education	Number of sessions		
12. Work with media	Number of interviews/discussions		
	Number of press releases		
13. Monitoring/work on laws, regulations, government policies and actions.	Estimated percentage of total staff time		
14. Hearings and appeals	Number of requests for information/technical assistance		
	Number of hearings attended		

- C. **Legal Assistance/Remedies (Optional):** Discuss on an attached sheet the types and percentages of total complaints for which a) legal consultation was needed and/or used; b) regulatory enforcement action was needed and/or used; c) an administrative appeal or adjudication was needed and/or used; and d) civil legal action was needed and/or used.
- D. **Complaint Description (Optional):** Provide on an attached sheet a concise description of the most interesting and/or significant individual complaint your program handled during the reporting period. State the problem, how the problem was resolved and the outcome.
- E. **Long Term Care Issue (Optional):** Describe on an attached sheet the priority long-term care issues which your program identified and/or worked on during the reporting period. For each issue, briefly state: a) the problem; b) barriers to resolution; and c) recommendations for system-wide changes needed to resolve the issue, or how the issue was resolved in your State.

ATTACHMENT 5

PA DEPARTMENT OF AGING
INSTRUCTIONS FOR THE OMBUDSMAN STAFF
AND ACTIVITY REPORT

A. STAFF AND VOLUNTEERS:

On lines 1 through 9, enter a total for the PSA of all persons involved in the Ombudsman program in the AAA/sub contractor(s) including supervisory personnel.

B. OMBUDSMAN ACTIVITIES:

1. Complaint Cases -

Enter the total number of complaint cases worked on by volunteers. (Count the cases, not the volunteers.)

2. Training/orientation for ombudsman paid staff and volunteers -

Enter the total number of sessions and total hours provided or otherwise arranged by staff of local ombudsman entities for staff and volunteers of the local program. For each, provide the total number of people trained (not an unduplicated count of individuals) during the reporting period. For this item, a session is a meeting, whether it lasts for three hours, all day or all week. (e.g. Regional ombudsman meetings) These are trainings/ orientations provided locally, not state trainings the local Ombudsmen attended.

3. Technical assistance to local ombudsman/volunteers -

Enter an estimate of the percentage of total staff time which local program paid staff/volunteers devote to developing volunteer programs and supporting other staff and volunteers. Include staff time spent in developing and delivering training as well as in providing informal assistance.

4. Training for facility staff -

Enter the number of sessions provided and the three most frequent topics of training. (Hours are not requested. It is assumed that most sessions for facility staff would last for 45 minutes to an hour. If sessions are two hours, count as two sessions; three hours, three sessions, etc.)

5. Consultation to facilities -

Ombudsman often provide information and assistance to facility managers and staff. To capture the extent of this important activity, enter the number of such consultations provided during the reporting period. If there are repeated consultations to the same facility, count each consultation separately. Do not count training sessions, documented in B4. Enter the three most frequent subject areas of consultation.

6. Information and consultation to individuals -

Enter the number of individuals assisted by telephone or in person on a one-to-one basis on needs ranging from how to select a nursing home to residents' rights to understanding Medicaid. Count each separate request for information or assistance (but not each call related to the same request), whether made by someone who requested assistance earlier in the reporting period or by a new caller. Do not include here participants in community education sessions documented in B11. Enter the three most frequent topics/areas of requests or needs.

7. Facility visitation (other than response to complaints) -

Enter the total number of all facility visits by all representatives of the Ombudsman Program during the reporting period.

Enter the number of unduplicated nursing facilities visited during the reporting year. (Complete in last reporting period for the fiscal year)

Enter the number of unduplicated Board and Care (or similar facilities, Dom Care) visited during the reporting year. (Complete in last reporting period of the fiscal year)

8. Participation in facility surveys -

Enter the number of times the designated Ombudsman provided information as part of the pre-survey contact by the survey team.

Enter the number of facility surveys in which the Ombudsman or designated ombudsman representatives participated, including participation in exit interviews. Do not count survey team contacts to the ombudsman regarding complaints against the facility. (HCFA survey procedure requires surveyors to contact the ombudsman to inquire whether complaints have been received about the facility and obtain information about any complaints.)

9. Work with resident councils -

Enter the number of resident council meetings attended by certified ombudsmen during the reporting period.

10. Work with family councils -

Enter the number of family council meetings attended by certified ombudsmen during the reporting period.

11. Community education -

Enter the total number of presentations made to community groups, students, churches, etc. during the reporting period.

12. Work with media -

Enter the number of interviews/discussions with the media during the reporting period.

Enter the number of press releases issued during the reporting period.

13. Monitoring/work on laws, regulations, government policies and actions -

Enter a best estimate of the percentage of total staff time spent working with other agencies and individuals, both inside and outside of government, on laws, regulations, policies and actions to improve the health, welfare, safety and rights of long-term residents.

14. Hearings and appeals -

Enter the number of requests for information/technical assistance relating to hearings and appeals.

Enter the number of hearings attended.