The Long-Term Care Ombudsman Program: What Residents Who Want to Transition Can Expect from Their Advocates

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A primary objective of the Older Americans Act:

Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives, full participation in the planning and operation of community based services and programs provided for their benefit, and protection against abuse, neglect, and exploitation.

OAA Section 101(10)

The Aging Network

Envisioned and created by the OAA:

- 56 State agencies on aging,
- 629 area agencies on aging,
- nearly 20,000 service providers

  (e.g., meals, senior centers, transportation, caregiver services, elder rights protection, ombudsman programs)
- 244 Tribal organizations, and 2 Native Hawaiian organizations representing 400 Tribes

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Roles of Aging Network in Supporting Nursing Home Transitions Work

- **Providing consumers with information about long-term services and supports**
  - information and referral services (OAA funded, all states)
  - "local contact agency" under Section Q (some states/localities)
  - ADRC (some states/localities) = Focus of previous presentation
- **Providing long-term services and supports**
  - OAA-funded programs (all states)
  - State-funded home and community based services (some states)
  - Medicaid HCBS waivers (some states)
- **Participating in design and implementation**

  NOTE: LTCO systems advocacy work
  - Money Follows the Person (MFP),
  - MDS 3.0 Section Q, and/or
  - other transition initiatives

Focus of this presentation:

- **LTCO advocacy for the individual nursing home resident**
- **Follow up with resident after transition (sometimes an LTCO role)**

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Functions of LTC Ombudsman programs
(OAA Section 712)

- Work to resolve complaints on behalf of individual residents.
- Provide information, consultation, education to residents, families, facility staff regarding resident interests.
- Advocate for systemic changes to improve residents' care and quality of life.

Defining “Long-Term Care Facilities”

LTC Ombudsman programs serve residents of :

- nursing facilities,
- board and care homes,
- assisted living facilities, and
- similar adult care facilities.

OAA Section 102(a)(35)

LTC Ombudsman role: nursing home transitions

Help keep process focused on the consumer's priorities and interests:

- resolve problems when resident has a complaint about the process
- support resident through transition process (based on resident request)
  - frequently in context of families/representatives with different perspective than resident re: transition process

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Federal government support for Ombudsman involvement in transition work

"The Office of the State LTC Ombudsman is a stakeholder that should be included in the development and implementation of all MFP programs. They are a critical resource to provide information to the [State Medicaid Agency] on how the Section Q referral and follow-up process is functioning and to handle consumer complaints should they arise."

November 2010 Letter from Cindy Mann (CMS) and Kathy Greenlee (AoA):

http://www.aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Ombudsman/docs/AoA_CMS_Section_Q_memo.pdf

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Ombudsman participation: MFP

Current ombudsman services (MFP States):

- Complaint resolution
- Consultation/education to residents, families and facilities about MFP opportunity
- Follow up with resident in assisted living, board and care settings (4 or fewer beds)
- Systems advocacy – focused on state design of system to be responsive to resident interests

Expanded services (some MFP States):

- Enhanced educational materials/presentations to resident and family councils, facility staff, aging network re: Section Q
- Transition coordination: Ohio
- Follow up with resident in-home: Georgia, Delaware – ombudsman services for up to one year (i.e. complaint resolution and regular contacts)
- Follow up with resident: Michigan (includes quality of life surveys)

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Ombudsman participation: Section Q implementation

- **Current ombudsman services (all States):**
  - Complaint resolution for individual living in nursing home
  - Consultation/education to residents, families and/or facility staff about understanding Section Q
  - Follow-up available in assisted living, board and care settings (at resident request)
  - Systems advocacy – focused on State design of system to be responsive to resident interests
- **Expanded services (some States)**
  - Enhanced educational materials/presentations to resident and family councils, facility staff, Aging Network re: Section Q (e.g, Nebraska, North Carolina)
  - Options counseling role in partnership with LCA (e.g., Oklahoma)

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Ombudsman perspectives: Section Q Challenges – 1st year of implementation

- Insufficient community resources to accommodate transition
- Lack of timeliness of the process
- Challenges in discussing community options with residents with dementia or diminished capacity
- Family/guardian disagreements with resident preferences
- Emotional stress and anxiety residents may experience if they believe they can transfer to the community but they have not yet been given community options.

Source: National Ombudsman Resource Center 2010-2011 questionnaires to LTC Ombudsmen
www.ltcombudsman.org

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Ombudsman perspectives: Section Q Successes

- Residents who wish to are returning to the community
- Improved collaboration and communication between the nursing home staff and other agencies
- Nursing homes have improved their communication with residents especially during care plans and explaining community options
- Residents have a better understanding of their rights and community options

Source: National Ombudsman Resource Center 2010-2011 questionnaires to LTC Ombudsmen www.ltcombudsman.org

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What Individual Residents Who Want to Transition Can Expect from Ombudsmen

1. Advocacy for the resident

- Every state, every resident should expect:
  - Complaint resolution
    - when Section Q process isn't working for the resident while living in the nursing home
  - Information/consultation
    - answering resident/family/facility staff transitions-related questions
- Most states (within role but depends on resources):
  - Education materials and/or presentations for residents, families, and/or facility staff
    - understanding Section Q and/or MFP

What Individual Residents Who Want to Transition Can Expect from Ombudsmen

(continued)

2.Follow-up after transition

It depends -- on:

- new residential setting
- State

New Residential Setting: Residential LTC "facility"

Is the resident moving to assisted living, board and care, or similar residential LTC setting?

If so, YES . . .

Ombudsmen currently serve residents who live in these residential settings with:

- complaint resolution and
- information/consultation.

The Reality: Demand for Ombudsman services to B&C and AL residents

- Huge variability –
  - what they are called,
  - how/if they are regulated,
  - services available to residents,
  - quality of services.

- Some states less likely to use ombudsman volunteers in these less-predictable settings

- Challenge: sufficient resources to provide a regular ombudsman presence

  (39% of these homes visited regularly, compared to 74% for nursing homes*)

* 2010, National Ombudsman Reporting System

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New Residential Setting: Not a "Facility"

Is the resident moving to their own home, an apartment, or with relatives?

If so, it DEPENDS . . . .

- 12 States have authorized expansion of LTCO services to non-facility settings

- For MFP recipients -- In 2 states (GA, DE), LTCO services follow the person into their new setting (up to 1 year after transition)

Beyond the OAA: State Expansion of Program Scope

In 12 States LTCO programs are authorized under State law to expand services to in-home settings:

- Alaska
- Idaho
- Indiana
- Maine
- Minnesota
- Ohio
- Pennsylvania
- Rhode Island
- Vermont
- Virginia
- Wisconsin
- Wyoming

Source: "Home Care Ombudsman Programs," National Ombudsman Resource Center/NASUAD (2007)

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Stay tuned: Older Americans Act Reauthorization

- Reauthorization of OAA
  - S. 2037 (Senator Sanders, VT)

- Perennial issue: whether to expand LTCO scope in OAA to serve individuals receiving long-term care in non-facility settings
  - S. 1750 (Senator Frank, MN)

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If nursing homes don't know what LTCO services are available to residents related to Section Q, how can they find out?

2 suggestions:

1. **Ask your state nursing home association to discuss with the State Ombudsman to clarify what to expect in your State**
   - Contact info for State Ombudsman: www.ltcombudsman.org
   - Ask for clarification to be provided to all nursing homes in the State

   AND/OR

2. **Ask the ombudsman who regularly visits residents of your facility (may be a volunteer):**

"What can the residents of my facility expect if they want help with:

- Information about how Section Q should work?
- Resolving problems related to Section Q implementation?
- Support through the transitions process?
- Follow up after they have transitioned?"

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For more information

- **National Ombudsman Resource Center**
  - www.ltcombudsman.org
  - Webpage on MDS 3.0: http://www.ltcombudsman.org/issues/MDS-3.0
- **AoA webpage on LTCO program:**
  - http://www.aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Ombudsman/index.aspx