

# **1 Instructions for Completing the State Long Term Care Ombudsman Program Reporting Form for The National Ombudsman Reporting System (NORS)**

## **Part I - Cases, Complainants and Complaints**

In the NORS system, a case is equivalent to a complainant or a specific group of complainants.

Definition of *case*: each inquiry brought to, or initiated by, the ombudsman on behalf of a resident or group of residents involving one or more complaints which requires opening a case and includes ombudsman investigation, strategy to resolve, and follow-up.

Calls reporting incidents or seeking advice but not requiring ombudsman involvement to the degree specified in this definition should be counted as consultations to individuals or facilities in Part III. D, or recorded in some way specific to the state's needs but not included in the NORS complaint system. For example, in those few states where state law requires reporting instances of nursing home abuse to the ombudsman program, the reports should not be counted as a case and as an abuse complaint unless the ombudsman program investigates and is actively involved in working out a resolution. Unless the ombudsman program is actively engaged in investigating and working to resolve the problems reported, the program should keep its own list of such reports and not include them in the data submitted in the NORS system.

### **A. Cases Opened**

Provide the total number of *cases opened* during the reporting period. Use definition of *case* provided on the form and above. (Note: This is a free-standing number used to show the volume of cases on an annual basis. The NORS system does not require reconciliation between the number of cases opened and the number closed.)

### **B. Complainants/Cases Closed**

A case is equivalent to a complainant, and the number of complainants will equal the number of cases filed.

For all *cases closed* during the reporting period, provide the number of complainants, by type of facility/setting. Refer to discussion of type of facility or other setting under D.1, below.

Definition of *case closed*: A case where none of the complaints within the case require any further action on the part of the ombudsman and every complaint has been assigned the appropriate disposition code.

A case is closed when all complaints which are part of the case have been resolved and/or no further ombudsman action can be taken for reasons listed in Part I, E.2, “Complaint Disposition.” (A word about the definition of closed cases: Ombudsmen sometimes must refer complaints to another agency for resolution. The ombudsman should follow up on these complaints and record the outcome under the appropriate category in Part I, E.2, “Complaint Disposition.” Disposition categories d.1), 2) and 3) in Part I, E.2 are for use only in those instances when the agency to which the case was referred fails to act on a complaint or provide a response to the ombudsman's attempts to follow up, or follow-up is otherwise not possible. Since this outcome, although undesirable, occasionally occurs with complaints, it is included in the definition of closed case.)

Definition *complainant*: an individual or a party (i.e., husband and wife; siblings) who files one or more complaints made by, or on behalf of, residents with the ombudsman program.

If more than one person or party **independently** file separate complaints about the same situation in the same facility, or the same problem outside of any facility, count as separate cases. If more than one person **jointly** file complaint(s) about the same situation in the same facility or outside the facility, count as one complainant and one case.

A referring agency is not a complainant, but staff of another agency may be aware of a situation and file a complaint about it, thus qualifying as a complainant.

You can have a case involving a resident living in either a nursing facility or board and care/ALE, similar facility and thus coded as a case in a facility (rather than “other setting”) but still have a complaint in the Q “Other Setting: services from an outside provider” category. See instructions for Q. 132 in the Types of Complaints section, below.

Clarification of selected categories of complainants (self-evident categories are not repeated):

2. **Relative/friend of resident** includes relatives who are also guardians or legal representatives but not friends who are also guardians/legal representatives. For friends who are also guardians or legal representatives, use category 3. Category 2 should be used for any friend or acquaintance of the resident who does not more appropriately fit into another category. Examples: church friends, hairdresser, etc.

5. **Facility administrator/staff or former staff** is for facility representatives who register complaints **on behalf of residents**. If a facility administrator or staff person asks the ombudsman program for assistance with a situation which is a problem for the administrator and/or staff person, such as a resident with a behavior problem or difficulties with a family, the problem should not be recorded as a case but rather documented as “consultation to facilities” under III.D.4. in the “Other Ombudsman Activities” section. The rationale for this is that the ombudsman program is charged under the Older Americans Act with

identifying, investigating and resolving complaints that “**are made by, or on behalf of, residents**” (Sec. 712[a][3][A]), not complaints made by, or on behalf of, other parties.

**6. Other medical: physician/ staff** includes physicians and staff of hospitals, hospices, clinics, visiting nurse programs and similar programs which are primarily oriented toward providing medical/health care.

**7. Representative of other health or social service agency or program** includes individuals other than ombudsmen or ombudsman volunteers who file complaints (not merely refer other complainants) and are affiliated with such agencies as: area agencies on aging, facility licensure and certification, homemaker agencies and similar agencies which are primarily oriented toward health or social services. (If other agency requests consultation, in contrast to filing a complaint, record under "Other Ombudsman Activities," Part III, D., item 4.)

**9. Other** includes any complainant whose identity is known but who does not fit easily into a listed category. Examples: bankers, clergy, law enforcement, public officials. For complainants in this category, specify in the space provided the types included in the numeric count.

### **C. Total Complaints:**

For all *cases closed* during the reporting period, provide the total number of complaints received. This will be the same number as the combined total from Part I, D, *Types of Complaints*, including complaints from nursing facilities; board and care and similar types of facilities and other settings. (Do not report complaints for cases which are still open at the end of the reporting period. Save those for the next reporting period, after the case is closed.)

### **D. Types of Complaints**

#### *General Instructions for Complaint Categories*

For all *cases closed* during the reporting period, provide the total number of complaints received by the statewide ombudsman program in each of the complaint categories listed. Use the following definition of *complaint*, which is also provided in Part I, C, page 1 on the hard copy of the reporting form.

*complaint*: a concern brought to, or initiated by, the ombudsman for investigation and action by or on behalf of one or more residents of a long-term care facility relating to health, safety, welfare or rights of a resident. **One or more complaints constitute a case.**

As stated in the definitions of *case* and *complaint*, each case may have more than one complaint. However, each problem, or complaint, will have only one code. Use only one category for each type of problem (i.e., do not check both A.3 and D.26 for the same staff behavior — determine which category is most appropriate to the particular problem).

*Type of Facility:* For each type of complainant, place in the first column the number received involving a skilled nursing facility as defined in section 1819 of the Social Security Act or a nursing facility as defined in section 1919(a) of the Social Security Act (Older Americans Act Section 102(32)(A) and (B)).

Place in the second column totals of complaints received involving problems of residents in facilities, *whether licensed or unlicensed*, which the ombudsman program is authorized to serve under Section 102(32)(C) and (D) of the Older Americans Act, including the following: board and care homes, residential care facilities, adult congregate living facilities, assisted living facilities, foster care homes, and other adult care homes similar to a nursing facility or board and care home which provides room, board and personal care services to a primarily older residential population.

Add totals in both columns, sections A through P, to total for Section Q. Place grand total at **Total Complaints** on page 7 and in box at C on page 1.

### ***Specific Instructions for Complaint Categories***

See the attachment to these instructions for examples of what types of problems to code in the specific complaint categories. (State and local ombudsman programs may wish to reproduce the attachment for staff and volunteers to use in documenting complaints.)

The first four major headings – Residents’ Rights, Resident Care, Quality of Life and Administration – are for complaints involving acts of commission or omission by staff or management of the facility, or problems which staff or management has the responsibility to resolve.

The fifth major heading is for complaints against individuals or agencies outside the facility, or problems which can be resolved only by outside agencies or individuals. **Use P. 128 “Request for less restrictive placement” for requests for less restrictive setting and describe in the narrative section for this category.** (Use Part III. D. 5, “Information and Consultation to Individuals” for general information on alternative care options, with no substantial ombudsman involvement in counseling about or locating possible alternatives.)

**Categories 129-131 in the last section, Q, are for complaints involving settings other than nursing or board and care or similar facilities**, such as home care, hospitals, hospices, or congregate housing where personal care to residents is not provided. (The categories in Section Q are provided for documenting numbers of complaints only; the form does not include types of complaints for these settings, as such settings are not included within the purview of the

ombudsman program in the Older Americans Act.)

**Use Q.132 for complaints about services from an outside provider for a resident in a long-term care facility.** (Example: outside home health care for an assisted living facility resident; personal and homemaking services in an assisted living facility, therapies, non-Medicaid transportation, psychosocial services and other services provided to a facility resident by an outside provider.) As stated above in the Complainants/Cases Closed section, you can code a complainant as being a case in a long-term care facility and code a complaint in that case as being about an outside provider in the Q section.

Since ombudsmen are authorized to cover unregulated or unlicensed board and care, assisted living and similar adult care facilities, code complaints involving residents of these facilities in the right-hand column for one of the first 128 codes in sections A-P.

See the attachment for other specific instructions on how to code complaints.

### **Part I, E. Action on Complaints**

1. **Verification:** Provide, for *cases closed* during the reporting period, the total number of *complaints* which were verified, by type of facility. Use the following definition of *verified*:

*verified*: it is determined after work (interviews, record inspection, observation, etc.) that the circumstances described in the complaint are generally accurate.

Complaints included in the number of complaints received but not included in the verified total are considered unverified, but they are still counted in the disposition section below – see following note.

(Note: Some states investigate complaints which cannot be verified; other states do not. For this reason, the definition of "case closed" on page 1 of the form includes "complaint cannot be verified" as a reason for closing a case. However, the disposition categories in Part I, E. 2 do not include "complaint unverified." States which do not investigate unverified complaints should use 2.e or another category which best describes the disposition of a particular unverified complaint.)

2. **Disposition:** Provide, for *cases closed* during the reporting period, the total number of **complaints** (*not complainants/cases*), by type of facility or setting, for each disposition category. Where there are two possible choices, the ombudsman must choose the *one* category which *best* describes the outcome of the complaint. See note above for documentation of unverified complaints.

If a complaint has been referred to another agency and that agency acts on the complaint and reports the final outcome to the ombudsman program, code in the appropriate disposition category: requires policy, regulatory or legislative change to resolve; not resolved; withdrawn; no action needed or appropriate; partially resolved; or resolved. If a report on the referral is not obtained, code as E.2.d.1. If the other agency fails to act on the complaint, code as E.2.d.2. If the other agency did not substantiate the complaint, code as E.2.d.3.

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

**The total for complaint disposition must be the same as total number of complaints received, by type of facility or other setting. The grand total, as provided on page 7 and in box at C on page 1, must be the same number.**

### 3. Discussion of Legal Assistance/Remedies (Optional):

For each facility type, list the number of legal assistance remedies that were used in helping to resolve a complaint: a) legal consultation was needed and/or used; b) regulatory endorsement 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.

**F. Complaint Description (Optional):** Provide on a one-page 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.

### Part II — Major Long-Term Care Issues:

A. Describe in the section indicated the priority long-term care issues your program identified and/or worked on during the reporting period. For each issue, briefly state: a) the problem and barriers to resolution, and b) recommendations for system-wide changes needed to resolve the issue, or a description of how the issue was resolved in your state. Examples of major long-term care issues may include facility closures, planning for alternatives to institutional care, transition of residents to less restrictive settings, etc.

***Note: Do not use attachments when entering this material on the data input program provided for the report — the material will be lost. Enter the material in the box provided for this purpose in the data input program.***

### Part III — Program Information and Activities

A. Facilities and Beds

Provide, for both nursing facilities and board and care homes and similar facilities (residential care facilities, adult congregate living facilities, assisted living facilities, foster care homes, and other adult care homes similar to a nursing facility or board and care home which provide room, board and personal care services to a primarily older residential population), at the places indicated, the number of facilities which were regulated (licensed or registered) in the state during the reporting period and the number of beds in those facilities. (Note: Under the Older Americans Act, the ombudsman program covers all such facilities, whether regulated or unregulated by the state, but it would not be possible for the program to provide the total number of unregulated facilities and beds. However, if the program receives and opens cases involving unregulated facilities, it should document these cases and complaints Part I in the same way cases and complaints from regulated facilities are documented.

If there has been no change in the names and definitions of types of board and care and similar facilities previously reported, type "no change" at space indicated.

Per instructions from the U.S. Office of Management and Budget, the State has the option of providing only the number of nursing facilities which are **not** certified for Medicare and Medicaid, as numbers of Medicare/Medicaid certified facilities are available to AoA from the Centers for Medicare and Medicaid Services. If Medicare/Medicaid certified homes are not included in the total, please indicate in a note included with your submission.

## **B. Program Coverage**

Definition of *statewide coverage*: Residents of both nursing homes and board and care homes (and similar adult care facilities) and their friends and families throughout the state have access to knowledge of the ombudsman program and how to contact it, and complaints received from any part of the state are investigated and documented and steps are taken to resolve problems in a timely manner, in accordance with federal and state requirements.

### **B. 1. Designated Local Entities**

Provide, for each type of host organization, the **number** of regional or local ombudsman entities (programs) designated by the State Ombudsman to participate in the statewide ombudsman program that are geographically located outside of the State Office. There should be one or more paid staff and/or volunteers designated by the state ombudsman to investigate complaints and represent the state ombudsman program. As indicated on the form, include regional offices of the state ombudsman office.

### **B. 2. Staff and Volunteers**

Provide the numbers of staff and volunteers, as specified at the state and local levels.

## **Staff**

Note: clerical staff is reported separate from program staff (see form).

Figures should be provided as a snapshot of actual staffing at the end of the fiscal year at both the state and local level.

The Full-Time Equivalent (FTE) count includes both staff who work full-time on the ombudsman program and those who work part-time on the program. Each staff person who works full-time on the program is counted as one FTE. If, however, an employee works only part-time or a full-time employee works only a percentage of her time on the ombudsman program, the FTE for that employee would reflect the percent of time in which (s)he performed ombudsman work, up to two decimal places – .25, .50, .75, for example. Similarly, a full-time employee who splits her time between state and local ombudsman work would be .5 FTE at each level.

## **Volunteers**

Figures should be provided as a snapshot of actual volunteers (i.e., the contingent of volunteers) serving at the end of the fiscal year at both the state and local level. Include individuals serving the ombudsman program **except** those who served only as members of advisory or policy committees. Use the following definition for certified volunteer:

*certified volunteer*: an individual who has completed a training course prescribed by the state ombudsman and is approved by the state ombudsman to participate in the statewide ombudsman program.

Include an estimate of the total number of hours donated by certified volunteer ombudsmen during the reporting period on all activities – training, regular visitation, complaint investigation and serving in the ombudsman program in other ways.

### **B.3 Organizational Conflict of Interest**

#### **Definition**

#### **45 CFR §1324.21 and Section 712 (f) (2) of the Older Americans Act –**

The State agency and the Ombudsman shall consider the organizational conflicts of interest that may impact the effectiveness and credibility of the work of the Office. In so doing, both shall be responsible to identify actual and potential conflicts and, where a conflict has been identified, to remove or remedy such conflicts of interest between the Office and the State agency or other agency carrying out the Ombudsman program.

#### **Identifying, Removing or Remediating Organizational Conflicts of Interest:**

(a) Identification of organizational conflicts. In identifying conflicts of interest pursuant to section 712(f) of the Act, the State agency and the Ombudsman shall consider the organizational conflicts that may impact the effectiveness and credibility of the work of the Office. Organizational conflicts of interest include, but are not limited to, placement of the Office, or requiring that an Ombudsman or representative of the Office perform conflicting activities, in an organization that:

1. Is responsible for licensing, surveying, or certifying long-term care facilities;
2. Is responsible for licensing, surveying, or certifying long-term care services;
3. Is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities;
4. Has any ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a long-term care facility;
5. Has governing board members with any ownership, investment or employment interest in long-term care facilities;
6. Provides long-term care to residents of long-term care facilities, including the provision of personnel for long-term care facilities or the operation of programs which control access to or services for long-term care facilities;
7. Provides long-term care coordination or case management for residents of long-term care facilities;
8. Provides long-term care services, including programs carried out under a Medicaid waiver approved under section 1115 of the Social Security Act (42 U.S.C. 1315) or under subsection (b) or (c) of section 1915 of the Social Security Act (42 U.S.C. 1396n), or under a Medicaid State plan amendment under subsection (i), (j), or (k) of section 1915 of the Social Security Act (42 U.S.C. 1396n);
9. Sets reimbursement rates for long-term care facilities;
10. Sets reimbursement rates for long-term care long-term care services;
11. Provides adult protective services;
12. Is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities;
13. Conducts preadmission screening for long-term care facility placements;

14. Makes decisions regarding admission or discharge of individuals to or from long-term care facilities; or
15. Provides guardianship, conservatorship or other fiduciary or surrogate decision-making services for residents of long-term care facilities.

(b) *Removing or remedying organizational conflicts.* The State agency and the Ombudsman shall identify and take steps to remove or remedy conflicts of interest between the Office and the State agency or other agency carrying out the Ombudsman program.

(1) The Ombudsman shall identify organizational conflicts of interest in the Ombudsman program and describe steps taken to remove or remedy conflicts within the annual report submitted to the Assistant Secretary through the National Ombudsman Reporting System.

**Instruction:**

Provide a description of any organizational conflicts of interest identified and steps taken by the State agency and the Ombudsman to remedy or remove identified conflicts. Report on:

(a) the type of conflict as described in 45 CFR §1324.21 and Section 712 (f) of the Older Americans Act; or a brief description of other conflicts of interest that may impact the effectiveness and credibility of the work of the Office;

(b) indicate if the conflict was at the State Office or at a local Ombudsman entity or both;

(c) provide a description of steps taken to remedy or remove each conflict of interest.

If the same conflicts exists among several entities and the same remedy was used to address the conflicts then describe the remedy and type of entity once. For example: (1) State Ombudsman program X has 15 Area Agencies on Aging that provide Medicaid assessment and case management on behalf of the State Medicaid agency. The Ombudsman can describe the steps and remedy one time and indicate that it applies to all 15 AAA's. (2) A state may have a variety of entities (AAA's and other social service organizations, for example) that all have a same conflict – and the same remedy. It is permissible to describe the steps taken to remedy the conflict and to describe the type of applicable entities.

If no conflicts were identified among the state office or local Ombudsman entities, where applicable, write that none were identified.

In subsequent years – describe any new conflicts of interest and remedies or if there are no changes, check the box that states: I certify that I have reviewed the organization conflicts of interest in my state Ombudsman program and report no changes in organization conflicts or the remedies previously implemented.

### C. Program Funding

Provide funds **expended** during the reporting period on the Ombudsman Program as it is defined under Section 712 of the Older Americans Act, regardless of the year for which it was allocated by AoA. Expended means when payment is made on incurred costs. Do **not** include amounts which were budgeted or obligated but not expended. **Do** include amounts obligated in an earlier year but expended during the reporting year. Do **not** include “in-kind” resources; these are not “funds expended.”

Do **not** include Title VII, chapter 3 funds for abuse prevention unless they were expended on ombudsman activities. Do **not** include amounts which were expended on ombudsman activities not authorized under Section 712 (i.e., ombudsman activity in settings other than long-term care facilities, as defined in the Act).

Provide on the third line the Title III expenditures for State **or** local ombudsman activity **made by the State** from Title III funding made available under Section 304(d)(1)(B) of the Older Americans Act. Provide on the fourth line Title III expenditures for local ombudsman activity **made by area agencies on aging** from Title III funding provided under Section 304(d)(1)(D) of the Act.

Include expenditures of Civil Monetary Penalty (CMP) resources made by the Ombudsman Program under State (not Federal) expenditures.

Provide other funding, by source, as specified on the form.

As indicated above, “in kind” resources should not be included on the local expenditure line.

### D. Other Ombudsman Activities

Provide the information requested in the appropriate column. Use the State column for activities performed by the state office of the State Long-Term Care Ombudsman. Use the local column for activities performed by designated local or regional ombudsman programs, regional offices of the state ombudsman program or individuals designated by the state ombudsman to provide an ombudsman presence in a locality or region of the state. These individuals may be paid or volunteer Ombudsmen. Provide exact numbers wherever possible; where not possible, provide your *best estimate* of the numbers requested. Please be sure to record each activity only once, under the most appropriate heading.

Clarification of items listed on chart:

1. *Training for ombudsman staff and volunteers*

The information is from the perspective of the trainer (not the trainee), reporting on training provided. Thus, sessions and hours are unduplicated. A session is a meeting, whether it lasts for three hours, all day or all week.

In the state office column, give the number of training sessions and total hours provided or otherwise arranged by staff of the state office of the ombudsman for state or local program staff and volunteers, whether the meetings were held in the state capital or elsewhere in the state. In the local program column, give the total number of sessions and total hours provided or otherwise arranged by staff of local ombudsman entities or regional offices for staff and volunteers of the local program. When state staff provides all or part of the training, but the training is arranged by local program staff, the training is counted as local.

For each level, provide the total number of trainees (**not** an unduplicated count of individuals, but the total number people trained at each session) during the reporting year.

List the three most frequent topics for training at the both the state and local levels.

**2. *Technical assistance to local ombudsmen and/or volunteers***

Record here *percentages of staff resources* devoted to the management and administration of local and volunteer programs as a whole. Provide in the state column an estimate of the percentage of total staff time which paid staff of the state office of the ombudsman (i.e., state ombudsman, plus other staff) devote to developing and assisting local programs, whether in person or by telephone. Provide in the local column an estimate of the percentage of total staff time which local program paid staff devote to developing volunteer programs and supporting other staff and volunteers. Include staff time spent developing and delivering training, passing along information from training sessions, conveying changes in procedures, reviewing others' cases records, and counseling and providing informal assistance to staff and volunteers.

**3. *Training for facility staff***

Give the number of sessions provided by state and local ombudsman staff and the three most frequent topics of training at each level.

**4. Consultation to facilities**

Ombudsmen often provide information and assistance to facility managers and staff. To capture the extent of this important activity, report the number of such consultations provided during the year. If there are repeated consultations to the same facility, count each consultation separately.

Do not count training sessions, documented in F.3. Provide the three most frequent subject areas of consultation.

**5. Information and consultation to individuals**

Provide the number of individuals assisted by telephone *or in person on a one-to-one basis* on needs ranging from alternatives to institutional care, to 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 year or by a new caller. Do not include here participants in community education sessions documented in F.10. Document the three most frequent topics/areas of requests or needs.

If the ombudsman has been involved in helping residents move into community-based settings (as part of the state's response to the Supreme Court's Olmstead Decision or as a general practice), please note this in the narrative section provided for this item and also in the major issues section, providing in both sections an estimate of the number of people the program assisted in moving from a facility to a residential setting of their choice. *Reminder: Use complaint code P. 128 for Olmstead related complaints.*

**6. Facility Coverage**

Document the number of facilities (unduplicated count) covered on a *regular basis*, not in response to a complaint, by paid and volunteer Ombudsmen. **Regular basis means no less frequently than quarterly.** Note that the information requested is the unduplicated number of facilities visited, not the number of visits. If there is no visitation program, type N.A.

**7. *Participation in facility surveys***

Provide the number of facility surveys in which the ombudsman or designated ombudsman representatives participated in any aspect of both regular surveys and surveys held in response to a complaint, including pre-survey briefing of surveyors and participation in exit interviews. (Note: This count is for any kind of survey participation, not actually going with the team on the survey. The count is of surveys in which there was some level of participation, not the number of contacts regarding a particular survey; for example, three calls regarding one survey would count as one.)

**8/9. *Work with resident and family councils***

Provide the total count of all resident and family council meetings attended by designated ombudsman representatives during the reporting period, for both state and local levels.

**10. *Community Education***

Provide the total number of presentations made to and or other meetings with community groups, students, churches, etc.

**11. *Work with media***

Provide the three most frequent topics discussed with the media, the number of interviews/discussions, and the number of press releases at both state and local levels.

**12. *Monitoring/work on laws, regulations, government policies and actions***

Provide, for both state and local levels, a *best estimate of the percentage of total paid 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 care residents. (Note: percentage of time spent on this work and on item 2, providing technical assistance to staff and volunteers, cannot total more than 100 %.)