

Program Priorities and Legislative Recommendations for 2011

THE COLORADO LONG-TERM CARE OMBUDSMAN WILL:

- Monitor implementation of the Affordable Health Care Act with special attention to education and advocacy for current and future long-term care residents.
- Seek to increase the use of technology for training and support of local ombudsmen to conserve resources.
- Monitor facility closures to ensure residents' rights to choice and community placement are respected.
- Advocate for the continuation of Hospital Back Up, a unique Medicaid program for long-term care for patients with chronic medically complex conditions. This program was begun over 20 years ago to move patients from acute hospitals to long-term care settings, saving the cost of acute hospital care while providing the appropriate specialized services to high need patients.
- Support Colorado's priority to re-balance the long-term care system by increasing home and community-based services (HCBS), supporting resident choice, and saving scarce taxpayer dollars.
- Develop systems to better monitor HCBS to ensure a high quality of care and to prevent abuse of vulnerable elders in their own homes by caregivers.
- Participate in the implementation of the "Money Follows the Person" (MFP) demonstration grant in Colorado.
- Follow the implementation of the Centers for Medicare and Medicaid's revised Section Q, Minimum Data Set (MDS) requirements to ensure nursing facilities and local contact agencies are responsive to those residents who would prefer to return to living in the community. Assistant Secretary Kathy Greenlee, U.S. Department of Human Services, has issued a memo emphasizing the critical role of the state ombudsman programs in enforcing these requirements.

An excerpt from that memo reads:

THE COLORADO LEGAL ASSISTANCE DEVELOPER WILL:

- Seek to provide additional consumer protections in state law and monitor compliance with changes in federal regulations for seniors whose exempt income from Social Security is deposited into Colorado banks.
- Continue to work for amendments to the Uniform Power of Attorney Act to include the requirement of a signed Acknowledgement by the Agent of the duties imposed by the Act.
- Continue to work for implementation of a public guardianship program in Colorado to serve the needs of seniors and younger persons with disabilities who lack family members to serve as their guardian and lack funds to pay for a private guardian.
- Monitor implementation of provisions of the Patient Protection and Affordable Care Act of 2010 that are beneficial to seniors, including elimination of the "Donut Hole" in Medicare prescription drug coverage, improvements and innovations in both Medicare and Medicaid, the nursing home-related provisions of the Act and the implementation and funding of the Elder Justice Act.

The Office of the State LTC Ombudsman is a stakeholder that should be included in the development and implementation of all Money Follows the Person programs. They are a critical resource to provide information to the SMA (State Medicaid Agency) on how the Section Q referral and follow-up process is functioning and to handle consumer complaints should they arise.... Examples of activities that the State LTC Ombudsman can assist with include: conducting outreach; providing information and educating residents/families of nursing facilities and consumers about community care resources; making referrals to LCAs (local contact agencies); and resolving consumer complaints related to Section Q referrals and follow-up activities.

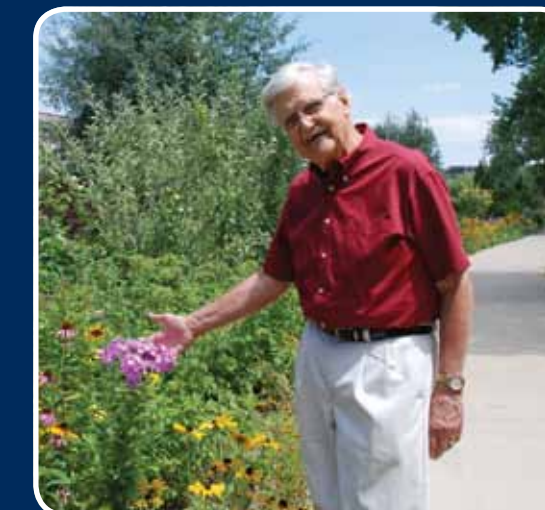
- Assistant Secretary Kathy Greenlee, U.S. Department of Human Services

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The longer I live, the more beautiful life becomes.

- FRANK LLOYD WRIGHT



"More of us are growing older together than ever before, and the impact of that collective aging will change every facet of our society in the coming years."

-Ken Dychtwald, Age Wave

ANNUAL REPORT 2010

The Colorado Long-Term Care Ombudsman

Legal Assistance Developer

The Legal Center for People with Disabilities and Older People



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The Colorado Long-Term Care Ombudsman Program 2010 Accomplishments

Shelley Hitt, as the State Long-Term Care Ombudsman:

- Responded to 2,031 calls for information and assistance from consumers, families, local ombudsmen, Area Agencies on Aging staff, and other long-term care professionals.
- Appointed to the Health Care Policy and Financing Olmstead Task Force which released its recommendations on July 26, 2010.
- Appointed to the Benefits and Services Stakeholder Workgroup for the development of Colorado's grant application for the "Money Follows the Person" (MFP) Program.
- Elected to the National Association of State Ombudsmen (NASOP) Board of Directors.
- Served on two NASOP committees charged with improving the accuracy and consistency of ombudsman data collection system.
- Served on the Colorado Department of Health Informal Dispute Resolution Committee.
- Served on the Steering Committee of the Colorado Coalition for Elder Rights and Adult Protection.
- Served on the Colorado Nursing Facility Culture Change Accountability Board.
- Partnered with the Protection and Advocacy Program for Persons with Developmental Disabilities to transition residents out of skilled nursing facilities into community settings.
- Conducted community education to protect the right of long-term care residents to vote.
- Conducted 15 training sessions for facility staff, ombudsmen, and other long-term care professionals.
- Conducted five on-site evaluations of local ombudsman programs.

Colorado's local ombudsmen:

- Made 6,537 nursing facility visits and 5,041 assisted living residence visits—more than twice the required number of visits! This is an increase of 16% over last year. (Nursing facilities must be visited at least once a month and assisted living residences once a quarter.)
- Investigated 5,230 complaints, of which 78 % were completely or partially resolved to the resident's satisfaction—a 6% increase in successful complaint resolution over 2009.
- Participated in 492 Department of Health annual nursing facility and assisted living residence surveys.
- Attended 1,800 resident council meetings and 104 family council meetings.

- Conducted 754 community education sessions, 4,158 facility consultations, and 5,012 individual consultations.
- Led 176 training sessions for volunteers and 184 training sessions for the staff of long-term care facilities.

Top Complaints in Nursing Facilities and Assisted Living Residences in 2010

1. Quality of Care	1,185
2. Autonomy and Choice (Quality of Life)	994
3. Environment	415
4. Systems/Benefits/Other Agencies	384
5. Staffing	357
6. Admission/Discharge/Eviction	349

Admission/discharge and eviction complaints saw a 16 % reduction from 2009. Colorado ombudsmen made a dedicated effort to educate residents, families and facility staff about the regulations that protect residents during an involuntary discharge. While we are pleased at the reduction in the number of cases, involuntary discharges continue at an alarming rate, with residents and families frequently misinformed or not informed in a timely manner of their right to appeal. Many involuntary discharges result from misuse of the resident's funds by family members or other persons with power of attorney. Persons with Alzheimer's disease or other forms of dementia are also frequent targets for involuntary discharge due to behavior challenges that facilities are not equipped to handle.

The Colorado Long-Term Care Ombudsman program is a part of the Colorado Culture Change Coalition (CCCC) whose mission is to "transform the culture throughout the long-term care continuum by affirming the dignity and value of each individual who lives and works in these settings." Culture change promotes flexibility and choice for residents in a welcoming, home-like atmosphere. We believe that culture change efforts by facilities, supported by state and local ombudsmen, have improved quality of care and reduced routine complaints. In 2010, only 35 nursing home complaints were referred to the Colorado Department of Health by Colorado ombudsmen. Investigation and resolution of 5,195 complaints by Colorado ombudsmen at the local level results in a significant saving of state resources when state health inspectors do not have to investigate these issues on behalf of residents.

The value of our volunteers!

Colorado's volunteer ombudsmen logged a total of **10,585 volunteer hours**. Calculated at \$20.85 hour (2009 Bureau of Labor Statistics estimate of the value of volunteer time), this represents a contribution of **\$220,697**, especially valuable in light of the state's economic difficulties.

The Colorado Long-Term Care Ombudsman Program and the **Legal Assistance Developer Program** work together to protect and promote the rights of Colorado's older adults and to improve their quality of life.

Both programs are administered by **The Legal Center for People with Disabilities and Older People** under a contractual agreement with the **Colorado Department of Human Services, Division of Aging and Adult Services**. The two programs operate in conjunction with the **16 regional Area Agencies on Aging (AAA)** to coordinate services statewide.

WHAT DO THE OMBUDSMEN DO?

Ombudsman (om-budz-man) is a Swedish word meaning "one who speaks on behalf of another." Ombudsmen protect the rights of people living in nursing homes and assisted living residences.

Colorado has the full-time equivalent of **29.21** paid ombudsmen (full- and part-time) and **103** certified volunteer ombudsmen who strive to improve the quality of life for the more than **36,000** older adults in long-term care. Colorado has **218** nursing facilities with a total of **20,235** beds and **550** assisted living residences with a total of **15,836** beds.

Ombudsmen:

Help resolve complaints about the facility or individual staff members, such as

- physical or verbal abuse
- poor quality of care

Help protect residents' rights under the law, including the right to

- privacy in care and treatment
- voice grievances without retaliation

Help older adults

- understand their options for long-term care
- choose the long-term care facility or community living arrangement that is right for them



WHAT DO THE LEGAL ASSISTANCE PROVIDERS DO?

Each of Colorado's **16** Area Agencies on Aging has a legal assistance provider who coordinates free legal services for older persons. Colorado has a total of **20** paid attorneys and over **100 pro bono** attorneys who in 2010 provided legal assistance to **4,120** older persons.

Legal assistance providers help older adults with a variety of legal issues including:

- foreclosure or eviction notices
- harassment by a collection agency for unpaid bills
- financial exploitation by a relative or caregiver
- unwanted guardianship action
- family members or professional care givers trying to force them into a facility against their will
- denials, reductions, or terminations of public assistance benefits
- home modifications or services needed to allow them to continue to live independently



The Legal Assistance Developer Program 2010 Accomplishments

Mary Catherine Rabbitt, as the Colorado Legal Assistance Developer:

- Served on the Board of Directors of Colorado Senior Lobby.
- Served as a member of the Coordinated Community Response to Elder Abuse Committee in Denver County.
- Served as a member of the Colorado Bar Association Elder Law Section and its Power of Attorney Abuse Committee.
- Worked on proposed amendments to the Uniform Power of Attorney Act to include the requirement of a signed Acknowledgement by the Agent of the duties imposed by the Act.
- Continued to serve on the "Plan for Aging Well" Leadership Committee for Jefferson County Department of Human Services and served on the Basic Needs Work Group for the preparation of the final report of that Plan.
- Responded to 1,310 requests for technical assistance: 604 calls from local legal services providers, AAA directors and local ombudsmen; 563 calls from other professionals; and 143 calls from consumers.
- Conducted on-site evaluations of four local legal assistance programs and reviewed self-evaluations of the other 12 local programs.
- Conducted 16 trainings to over 800 individuals across the state, including 12 trainings on the Uniform Power of Attorney Act in seven locations to over 700 individuals.
- Assisted in securing a legal provider for one rural Area Agency on Aging and assisted in contract negotiations for several other AAAs.

Across Colorado, the Legal Assistance Developer Program served 4,120 older adults as follows:

REGION	NUMBER OF OLDER ADULTS SERVED	REGION	NUMBER OF OLDER ADULTS SERVED
1	100	7	135
2A	389	8	33
2B	174	9	26
3A	1,514	10	152
3B	135	11	762
4	222	12	227
5	7	13	56
6	180	14	8

One issue that continues to be of great concern, financial exploitation of older adults, has intensified in the past year. With increasing frequency, the financial exploitation occurs because of the misuse of a power of attorney given by the elder ("the principal") to a relative or trusted caregiver ("the agent"). Local legal assistance providers handled numerous cases of residents being evicted from long-term care facilities for non-payment due to the failure of their relatives to send the senior's Social Security or other income to the facility. In one case an older woman was represented in a court action to recover funds improperly transferred from her bank account by her granddaughter, and in another case an older adult needed legal assistance in responding to a foreclosure due to a fraudulent transfer of the home by a relative with a Power of Attorney. Other examples from 2010 included:

- Assistance to a senior with multiple health problems who was being harassed by a collection agency. A pro bono attorney took the case and the harassing phone calls were stopped.
- Assistance to elderly residents of a mobile home park who received improper eviction notices.
- Representation in a bankruptcy by a pro bono attorney of an older couple who faced losing their home to foreclosure due to fraudulent loan practices.
- Many older adults needed assistance with a denial or termination of public assistance benefits such as Medicare Savings Program benefits, Medicaid, Old Age Pension or food stamps.

