



**Illinois Home Care
OMBUDSMAN PROGRAM**

Office of the Long-Term Care Ombudsman

AUGUST 2020

STANDARD OPERATING POLICIES AND PROCEDURES MANUAL FOR THE
HOME CARE OMBUDSMAN PROGRAM



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Chapter 100: Introduction

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101: General Authority and Mission

- A. The Home Care Ombudsman Program is a program within the Office of the State Long-Term Care Ombudsman, authorized by and in accord with section 712 of the Older Americans Act, 45 CFR Part 1324, the Illinois Act on the Aging, [20 ILCS 105/4.04] and the General Assembly's Illinois Administrative Code Title 89 Chapter II Part 270.
- B. In 2013, the Illinois Long-Term Care Ombudsman Program was given the authority to expand its services to provide Ombudsman advocacy to participants of Home and Community-Based Services waiver programs administered by the State, and of MMAI managed care organizations providing care coordination and other services to seniors and persons with disabilities.
- C. The Home Care Ombudsman Program protects and improves the quality of care and quality of life for participants in Illinois through individual and systemic advocacy for and on behalf of participants. Systemic advocacy includes representing participants' interests before governmental agencies, reviewing and commenting on existing and proposed laws, seeking out and responding to media requests and promoting best practices with entities providing home care services.
- D. The Home Care Ombudsman Program is a participant centered advocacy program. The participant is the program's client, regardless of the source of the complaint or request for service. The Ombudsman will make every reasonable effort to assist, empower, represent, and advocate on behalf of the participant.
- E. The service components of the Home Care Ombudsman Program include identifying, investigating, and resolving complaints, responding to inquiries, conducting community education sessions, providing issue advocacy and attending stakeholder meeting.
- F. Processing complaints made by or on behalf of participants, resolving complaints and responding to inquiries are the highest priority services of the program. Empowerment techniques are to be used whenever possible when addressing participant complaints and concerns.
- G. These policies and procedures govern the operations of the Home Care Ombudsman Program.

102: Organization of the Standard Operating Policies and Procedures

Chapter 100: Introduction

Describes the federal and state authority, the mission of the program, and the service components of the Home Care Ombudsman Program and lists and defines terms relevant to the program.

Chapter 200: Certification Requirements

Outlines the requirements to become a certified Home Care Ombudsman including conflict of interest, training, and mentoring and explains the decertification process.

Chapter 300: Roles and Responsibilities

Explains the role of the State Ombudsman as it pertains to the Home Care Ombudsman Program, the roles and responsibilities of the Deputy State Home Care Ombudsman and Home Care Ombudsmen related to the day to day functions of the program.

Chapter 400: Access

Clarifies how Home Care Ombudsmen gain access to participants, and to managed care organizations, state, and participant records and the process in which to follow if access is denied.

Chapter 500: Home Care Ombudsman Program Service Delivery

Describes the five service components of the Home Care Ombudsman Program and details the provisions of a home visit, including communication with participants, self-harm, and abuse, neglect and exploitation. Provides direction on conducting inquiries, community education and issue advocacy.

Chapter 600: Investigative Services

Provides guidelines for complaint intake, translation services, investigating, verifying, and resolving complaints made by or on behalf of participants.

Chapter 700: Representing a Participant

Explains how to obtain consent to represent a participant, to assist a participant with a grievance, how to request an appeal and assist with an adverse action notice; describes the Internal Review Process, the fair hearing process, and the Ombudsman role while representing a participant; includes information on how to withdraw a request for hearing; clarifies the differences in these processes between managed care organizations, the Department of Rehabilitation Services, and the Department of Human Services.

Chapter 800: Documentation

Describes documentation requirements; explains case reviews and how and when to close a case.

Chapter 900: Confidentiality of Information and Program Records

Outlines the requirements to be followed by the program and Home Care Ombudsmen to assure confidentiality of records and information pertaining to participants, complainants, witnesses or others assisting in the intake, complaint, or investigation. Specifies how and when information can be disclosed and explains how long records should be kept and in what manner.

Chapter 1000: Legal Issues

Describes the process to follow in seeking legal advice or consultation from the Office by a Home Care Ombudsman, representation and indemnification from the Attorney General or others, procedures to follow when interference, retaliation, and/or reprisals exist, and procedures to follow when working with participants who have a guardian or another legal representative.

Chapter 1100: Grievances Against a Home Care Ombudsman

Explains the process of filing a formal grievance against an Ombudsman related to the performance of his or her duties.

103: Policy Clarifications, Revisions, and Waivers to this Manual

- A. When necessary, the Office shall issue clarifications of this Manual in response to Policy Clarification Requests (PCRs).
 - a. PCRs may be submitted to the Office by a Home Care Ombudsman using the form developed by the Office. A response to a PCR will be made within thirty (30) business days by either responding directly to the clarification request or requesting further information from the requestor.
 - b. The Office may create a PCR workgroup.
- B. Revisions to the Manual
 - a. Revisions to the Manual will be made by the Office, after consultation with the Department on Aging's General Counsel's office.
 - b. When appropriate, the Office will seek guidance from the Long-Term Care Advisory Group.
 - c. Revisions to the Manual will be distributed electronically to the Home Care Ombudsmen and posted on the Department on Aging's website.
- C. Waivers to the Manual
 - a. The Deputy State Home Care Ombudsman may request additional information from an Ombudsman candidate or a certified Ombudsman in order to obtain justification to request a waiver from the State Ombudsman.
 - b. The State Ombudsman may grant a waiver to a policy of this Manual when a written request is received from the Deputy State Home Care Ombudsman which contains justification to support the approval. The Deputy State Home Care Ombudsman will be notified in writing if a waiver has been approved.
 - c. A request for waiver must be made in writing to the Office and approved by the State Ombudsman prior to:
 - i. Hiring or promotion of the employee or contractor in question; or
 - ii. Implementing the reduced minimum standard.
 - d. The State Ombudsman shall respond to requests for waivers within ten (10) business days of the written request from the Deputy State Home Care Ombudsman.

104: Definitions

For the purposes of this Manual, the following definitions will apply:

ABE (Application for Benefits Eligibility)

An on-line resource that assists individuals with applying for and manage healthcare, food, and cash assistance benefits.

Abuse

Willful infliction of injury, unreasonable confinement, intimidation, cruel punishment with resulting physical harm, pain, or mental anguish; or willful deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness. Abuse may also include exploitation.

Access

The right of an Ombudsman to seek consent to communicate privately and without restriction with any participant; to inspect the clinical or other records of a participant with the consent of the participant; and subject to permission of the participant or participant's representative, enter a home or community-based setting.

Adverse Action

The denial of services, a change in service type, or the termination from the Community Care Program, Division of Rehabilitative Services, or the Managed Care Organization.

Authorized Representative

An agent designated, verbally or in writing, by the participant to be his/her representative, or the participant's legal guardian.

Background Check

A fingerprint-based criminal history records check as defined by Section 15 of the Health Care Worker Background Check Act (225 ILCS 46/15).

Care Coordination Unit (CCU)

Local agencies where Care Coordinators are based that help older adults and caregivers determine what their specific needs are and what services are available to meet those needs.

Care Coordinator

A trained individual who is employed by a CCU to assess needs, conduct eligibility screenings, and perform care coordination services and care coordination functions for the Community Care Program.

Care Plan (or Plan of Care)

A written plan of a participant's needs identified during the Determination of Need Assessment. The care plan defines the type of support the participant needs, the reasons why it is needed, the service units and frequency that it will be rendered and details of who will provide said support.

Case

Each request for assistance brought to the Ombudsman Program by or on behalf of a participant involving one or more complaints or problems which require opening a case file for advocacy and resolution strategies.

Certification

The process by which an individual who meets minimum qualifications, is free of conflicts of interest, has successfully completed training and other criteria stipulated in Section 202 of this Manual becomes registered on the Ombudsman Representative Registry by approval of the State Ombudsman. Certification authorizes such individual to act as a representative of the Office or in keeping with this Manual.

Community-Based Services

Services provided in an integrated setting in a participant's community.

Community Education

Presentations made to the community or other meetings where an Ombudsman represents the Ombudsman Program with community groups, students, churches, etc. This includes attendance at community and health fairs and similar gatherings where an Ombudsman has a display and staff available to provide information to attendees.

Community Care Program (CCP)

Provides services to any person who applies for the program and meets all current eligibility requirements. The Community Care Program is one of the 1915(c) waivers for home and community-based services under the Medicaid Program. CCP helps senior citizens, who might otherwise need nursing home care, to remain in their own homes by providing in-home and community-based services.

Complaint

A concern or allegation regarding action, inaction, or decisions relating to a Home and Community-Based Services waiver program or services through a MMAI Managed Care Organization that may or have adversely affected the health, safety, welfare, or rights of one or more participants that is brought to the attention of , or initiated by the Ombudsman for action.

Conflict of Interest

A competing interest, obligation, or duty which compromises, influences, interferes with (or gives the appearance of compromising, influencing, or interfering with) the integrity, activities, or conduct of all Ombudsmen in faithfully and effectively fulfilling official duties.

Continuance

A request of a participant or a participant's representative to a Hearing Officer to continue the hearing provided the request meets the criteria of the applicable rule.

Customer

A person who has requested, been referred for, is receiving, or has received any DHS-DRS services, including a student at a DHS-DRS school.

Date of First Action

The date of contact with the participant or authorized representative which results in a preliminary plan for either an investigation or steps to be taken toward resolution.

Department of Human Services (DHS)

Provides Illinoisans with streamlined access to integrated services, who face multiple challenges to self-sufficiency by providing equitable access to social/human services, supports, programs and resources.

Department of Human Services-Division of Rehabilitation Services (DHS-DRS) (DRS)

DHS's Division of Rehabilitation Services serves individuals with disabilities. DRS works in partnership with people with disabilities and their families to assist them in making informed choices to achieve full community participation through employment, education, and independent living opportunities.

Department on Aging (IDoA)

Serves and advocates for older Illinoisans and their caregivers by administering quality and culturally appropriate programs that promote partnerships and encourage independence, dignity, and quality of life.

Determination of Need (DON)

A component of the comprehensive assessment tool, or any successor assessment tool authorized by the Department on Aging, used to determine eligibility for the Community Care Program and the Home and Community Based Waiver Services Programs.

Empower

The act of educating participants about their rights while encouraging them to do something about their concerns and needs.

Exploitation

The illegal or improper act or process of an individual, including a caregiver, using the resources of an older adult or adult with a disability for monetary or personal benefit, profit, or gain.

Good Faith

Evidence of performing duties in "good faith" includes, but is not limited to:

- A. Making reasonable efforts to follow procedures set forth in applicable laws and this Manual;
- B. Seeking and making reasonable efforts to follow direction from the Office of the State Long-Term Care Ombudsman; and

- C. Seeking and making reasonable efforts to follow direction from the Deputy State Home Care Ombudsman.

Grievant

Any customer who has been aggrieved by any action or inaction by the Department of Human Services- Division of Rehabilitation Services.

Guardian

Person or entity appointed by a court to exercise the legal rights and powers of another individual as specified in the court order.

Healthcare and Family Services (HFS)

Responsible for providing healthcare coverage for adults and children who qualify for Medicaid. The agency is organized into two major divisions, Medical Programs and Child Support Services. In addition, the Office of Inspector General is maintained within the agency, but functions as a separate, independent entity reporting directly to the governor's office.

Home and Community Based Services Waiver or HCBS Waiver

A waiver approved by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services, and administered by the state of Illinois that provides services allowing individuals to remain in their home or in a community setting.

Home Care Ombudsman (HCO or Ombudsman)

An Ombudsman who advocates on behalf of participants.

Home Care Ombudsman Program (HCOP)

A subdivision of the Office and any Ombudsmen housed within that subdivision that provide advocacy services to participants.

Immediate Family

A member of the household or a relative with whom there is a close personal or significant financial relationship.

Impartial Hearing Officer (or Hearing Officer)

The individual appointed to conduct the hearing (see 89 Ill. Adm. Code 510.90).

Inaction

The failure of, the Department of Human Services Division of Rehabilitation Services, the Community Care Program, or a Managed Care Organization to act within the time lines specified by the program rules.

Informal Resolution Conference

An attempt to informally resolve an appeal by the grievant and the Department of Human Services Division of Rehabilitation Services, as set forth in 89 Ill. Adm. Code 510.100.

Informal Review

The act of determining the facts relating to an appeal in an informal manner by the Department on Aging.

Informed Choice

An interactive process between the participant an individual or entity that provides sufficient, objective information and options that are designed to empower the participant in selecting services, providers and outcomes.

Inquiries

The provision of information and assistance to individuals regarding home and community-based services waivers and managed care organization services which does not involve investigating and working to resolve complaints (i.e., an inquiry is not a case). An inquiry may include when the Ombudsman refers someone with a concern to another agency and is not actively involved in investigating and working to resolve the problem.

Intake Date

The date of receipt of the information or message received by the Ombudsman.

Issue Advocacy

Activities supporting and promoting issues that benefit or advance the health, safety or rights of participants.

Legal Representative

A guardian; an agent under a valid power of attorney, provided that the agent or attorney-in-fact is acting within the scope of his or her agency; or surrogate decision maker.

Managed Care Organization (MCO)

An organization licensed and approved by the Illinois Department of Healthcare and Family Services to provide care coordination and other services to seniors and people with disabilities in the state of Illinois.

Medicare-Medicaid Alignment Initiative (MMAI)

A managed care program for individuals who are eligible for both Medicaid and Medicare (referred to as “dual eligibles”). MMAI combines both Medicaid and Medicare services into a single program.

Member Services

The Managed Care Organization’s department that assists participants with complaints, questions or information about their managed care plan.

Neglect

The failure to provide the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caregiver to provide goods and services.

Office

The Office of the State Long-Term Care Ombudsman Program is a distinct entity, separately identifiable, as established by the Illinois Department on Aging. The Office is the organizational unit headed by the State Ombudsman and comprised of any other State Ombudsman staff.

Official Duties

Those duties of an Ombudsman as set forth in applicable federal and state law and this Manual.

Ombudsman or Representative of the Office

An employee or volunteer certified by the State Ombudsman as a representative of the Office to fulfill the duties of the Office, whether the personnel supervision is provided by the State Ombudsman, the Deputy State Home Care Ombudsman, or by an agency hosting a Regional Long-Term Care Ombudsman Program or the Home Care Ombudsman Program.

Ombudsman Representative Registry

The official listing of Ombudsmen, maintained by the Office, who have been certified as representatives of the Office of the State Ombudsman.

Participant

A person aged 60 or over or an adult with a disability aged 18 through 59 who is eligible for services under a HCBS waiver administered by the state of Illinois to a person receiving care coordination and other services by a managed care organization.

Policy Clarification Request Committee

A committee created by the Office to advise on policies and procedures.

Program

The State Long-Term Care Ombudsman Program through which the functions and duties of the Office are carried out, consisting of the State Ombudsman, the Office headed by the State Ombudsman and representatives of the Office.

Program Records

All files, records, correspondence, documentation, case notes and communications related to a specific case or participant.

Providers

Service providers with whom the Department on Aging, Department of Rehabilitative Services, or managed care organizations do business through contracts on a reimbursement basis for units of service delivery to specified participants.

Record

Any medical, social, personal and financial information maintained by any State or local agency, any HCBS waiver program or any managed care organization pertaining to a participant.

Service Improvement Program Complaints (SIPs)

A complaint-based reporting process with the purpose of identifying and resolving problematic issues related to the provisions of the Community Care Program.

State Fair Hearing, Fair Hearing or Hearing

An administrative hearing of the appeal of the grievant presided over by an Impartial Hearing Officer.

State Ombudsman

The individual who heads the Office and is responsible to personally, or through representatives of the Office, fulfill the functions, responsibilities and duties set forth in federal regulations [45 CFR 1324.1]. The

State Ombudsman is employed by IDoA to fulfil the requirements of the Office of the State Long-Term Care Ombudsman as required under the Older Americans Act of 1965.

Suspension

The temporary cessation of the provision of services provided to a participant.

Termination

The permanent cessation of the provision of services and eligibility of services.

Willful Interference

Actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the Ombudsman from performing any of the functions, responsibilities, or duties of the Ombudsman.

Chapter 200: Certification Requirements

- 201: Certification Requirements
- 202: Conflict of Interest
- 203: Training Requirements
- 204: Decertification

201: Certification Requirements

- A. The State Ombudsman certifies individuals as Ombudsmen.
- B. In order to be recommended for certification, an individual must complete Level I Training and Level I Mentoring for initial certification.
- C. The Deputy State Home Care Ombudsman shall submit names of persons to be certified as Ombudsmen using the form prescribed by the Office. To be eligible for consideration as an Ombudsman, an applicant must:
 - a. Be at least 18 years of age;
 - b. Submit to a criminal background check pursuant to the Health Care Worker Background Check Act [225 ILCS 46/] and must not have a disqualifying criminal conviction;
 - c. Be able to carry out the responsibilities of an Ombudsman;
 - d. Have no unremedied conflicts of interest as listed in Section 202 of this Manual;
 - e. At minimum, have a Bachelor's degree; and
 - f. Have experience in advocacy, aging, social services, health care or related field.
- D. If an Ombudsman takes a leave of absence for more than one (1) year, they must repeat both Level I and Level II training before resuming their role as an Ombudsman.
- E. No individual shall independently investigate any complaint filed with the Home Care Ombudsman Program unless he or she has been certified as an Ombudsman by the State Ombudsman.
- F. Requests for a waiver related to minimum requirements must be made in writing by the Deputy State Home Care Ombudsman to the State Ombudsman prior to a request for certification of the employee in question or implementing the reduced minimum standard.
- G. The Office shall:
 - a. Complete the certification of the Ombudsman by recording the certification and the effective date in the Ombudsman Representative Registry;
 - b. Send a written notification of an individual's certification as an Ombudsman to the individual being certified and to the Deputy State Home Care Ombudsman within thirty (30) calendar days of the determination; and

- c. Provide the Ombudsman with an identification card.

- H. Certification continues until the individual is removed from the Ombudsman Representative Registry by the State Ombudsman.

202: Conflict of Interest

- A. Potential conflicts for an individual Ombudsman include, but are not limited to, participation in or an immediate family member's participation in any of the following:
- a. The licensing or certification of a long-term care facility, a HCBS waiver service or a managed care organization;
 - b. Ownership, operational, or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed long-term care facility, HCBS waiver provider, or managed care organization;
 - c. Current or former employment of an individual by, or current or former involvement in the management of a long-term care facility or by the owner or operator of any long-term care facility, a HCBS waiver provider or a managed care organization;
 - d. The receipt of, or 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, a HCBS waiver provider, or a managed care organization;
 - e. Accepting gifts or gratuities of significant value from a long-term care facility, a HCBS waiver, a managed care organization or its management, a resident or participant or a legal representative in which the Ombudsman provides services (except where there is a personal relationship with a participant, or representative which is separate from the individual's role as an Ombudsman);
 - f. Accepting money or any other consideration from anyone other than the Office, or an entity approved by the Office, for the performance of an act in the regular course of the duties of the Ombudsman without the State Ombudsman approval.
 - g. Serving as guardian, conservator or in another fiduciary or surrogate decision-making capacity for a participant;
 - h. Serving participants of a HCBS waiver or a managed care organization in which a family member participates; and
 - i. Providing services with conflicting responsibilities while serving as an Ombudsman to a participant such as:
 - i. Adult protective services;

- ii. Discharge planning;
- iii. Preadmission screening for long-term care or HCBS waiver services;
- iv. Case management for long-term care or HCBS waiver services; or
- v. Legal services outside the scope of Ombudsman duties.

B. Disclosure of a conflict

- a. The Deputy State Home Care Ombudsman shall screen all persons seeking certification as an Ombudsman and support staff to identify individual conflicts of interest on forms prescribed by the Office.
- b. Persons seeking certification as an Ombudsman shall disclose all potential conflicts of interest to the Deputy State Home Care Ombudsman prior to certification. Failure to report the conflict is grounds for non-certification or dismissal from the Program.
- c. After certification, Ombudsmen and support staff shall immediately inform the Deputy State Home Care Ombudsman of any new potential conflicts of interest. The Deputy State Home Care Ombudsman shall report the potential conflict of interest to the Office as soon as possible but no longer than five (5) business days of learning of the conflict. Failure to report the conflict is grounds for decertification.
- d. All Ombudsmen shall complete a conflict of interest form on an annual basis on the form prescribed and as directed by the Office.

C. Reviewing and Remediating the Conflict of Interest

- a. The State Ombudsman shall determine whether actions may be taken to remedy and identified conflict of interest. A conflict can be satisfactorily remedied only when the continued existence of the conflict does not compromise the ability of the Ombudsman to carry out his or her duties and is not likely to diminish the perception of the Program as an independent advocate for participants.
- b. When a potential conflict is identified, the State Ombudsman shall review the circumstances of the potential conflict. The State Ombudsman shall determine:
 - i. Whether a conflict of interest exists;
 - ii. Whether the conflict could be remedied by appropriate action by the individual.
- c. If the conflict can be remedied, the Deputy State Home Care Ombudsman shall:

- i. Develop a written plan within five (5) business days of identification of the conflict:
 - 1. Which shall define the conflict and propose a remedy to eliminate, or
 - 2. To the greatest extent possible, minimize the impact of the conflict.
 - ii. Submit the proposed remedy to the Office for approval.
- D. The Office shall:
 - a. Review the proposed remedy and notify the Deputy State Home Care Ombudsman of approval, denial, or additional corrections needed in order for the potential conflict to be remedied;
 - b. Respond within five (5) business days of notification of potential remedies
- E. The existence of an unremedied conflict of interest shall be sufficient grounds for decertification of an Ombudsman.
- F. Final decisions regarding sanctions to identify or remedy conflict of interest situations are determined by the State Ombudsman.

203: Training Requirements

A. Level I Training Program:

- a. All Home Care Ombudsmen must complete Level I Certification Training for Home Care Ombudsman at a minimum of 16 hours.
- b. All Home Care Ombudsmen must complete a minimum of 20 hours of Level I Mentoring with an experienced Home Care Ombudsman.
- c. Failure to complete the Level I Training Program will result in a failure to be certified and may result in dismissal from the Program.

B. Mentoring:

- a. Once an individual has completed Level I Certification Training, the Deputy State Ombudsman will assign an experienced Home Care Ombudsman as a mentor to the individual, who will provide day to day guidance to the Ombudsman in training.
- b. The Ombudsman in training will accompany and observe multiple Home Care Ombudsmen as he or she conducts services provided by the Home Care Ombudsman Program. Those services include, but are not limited to:
 - i. Phone calls with participants
 - ii. Home visits
 - iii. Community education sessions
 - iv. Outreach events
 - v. Informal Resolution Conference (IRC)
 - vi. Fair Hearings
 - vii. Preparation for hearings

C. Level II Post Certification Training

- a. All Home Care Ombudsmen must complete Level II Post Certification Training within six (6) weeks of completion of Level I Certification Training.

- b. Level II Post Certification Training can begin during the same time-frame that mentoring is taking place.
 - c. Failure to complete Level II Post Certification Training may result in a suspension of duties until the training is completed, non-certification, or decertification.
- D. Annual Continuing Education Requirements:
- a. In order to maintain certification, all Ombudsmen must complete a minimum of eighteen (18) hours of documented continuing education on home and community-based services, advocacy, managed care, disabilities, healthcare, or related subjects within each federal fiscal year.
 - b. Continuing education may consist of classroom style training, web-based, or additional mentoring.
 - c. Failure to meet the continuing education requirements may result in suspension of duties until the training is completed or a recommendation for decertification or possible dismissal from the Program. The individual may not function as an Ombudsman until they begin the process again, completing the necessary steps in the required time-frames. The final determination shall be made by the State Ombudsman.

204: Decertification

- A. The State Ombudsman has the authority to decertify an Ombudsman. The State Ombudsman may consider remedial actions which could be taken to avoid the decertification of an Ombudsman. Such remedial actions, if any, are completely within the discretion of the State Ombudsman. The State Ombudsman shall consider the written recommendation of the Deputy State Home Care Ombudsman.
- B. The State Ombudsman may decertify an Ombudsman for one or more of the following reasons:
 - a. Failure of the Ombudsman to meet and/or maintain the criteria for certification;
 - b. Existence of a conflict of interest that has not been remedied;
 - c. Deliberate failure of the Ombudsman to disclose all conflicts of interest;
 - d. Violation of confidentiality requirements of this Manual;
 - e. Failure to provide adequate and appropriate services to participants;
 - f. Falsifying Program records or providing false information;
 - g. Failure, refusal, or inability to follow the direction of the Deputy State Home Care Ombudsman or the State Ombudsman in carrying out the duties of the Program;
 - h. A change in circumstances that creates a conflict in accordance with Section 202 of this Manual;
 - i. Discontinuation of involvement with the Program including, but not limited to:
 - i. Employment or contract;
 - ii. An excused absence of six (6) months that is not otherwise provided for in law;
 - iii. Cessation of the Home Care Ombudsman Program.
 - j. Failure to act in accordance with applicable federal and state laws, regulations, or this Manual.
- C. Once a non-state employee Ombudsman is decertified, the former Ombudsman must return his or her identification badge and all property of the state to the Office or a designee within the

Department on Aging within one week of decertification or discontinuation of employment or contract, whichever comes first. The Deputy State Home Care Ombudsman shall ensure the badge is destroyed and all property of the state is accounted for. The Office will remove the individual from the Ombudsman Representative Registry. The Deputy State Home Care Ombudsman, as appropriate, and in consultation with the State Ombudsman, shall make a reasonable effort to notify all participants with open cases under the decertified Ombudsman and other entities as appropriate.

- D. Once an Ombudsman who is a state employee is decertified and dismissed from the program, the Department on Aging's Human Resource policies will be followed.

Chapter 300: Roles and Responsibilities

- 301: State Ombudsman Responsibilities
- 302: Responsibilities of the Office
- 303: Deputy State Home Care Ombudsman Responsibilities
- 304: Home Care Ombudsman Responsibilities

301: State Ombudsman Responsibilities

A. The State Ombudsman shall:

- a. Be the head of a unified statewide program and is responsible for the leadership and management of the Office;
- b. Operate the Office in accordance with section 712 of the Older Americans Act, 45 CFR 1324, and the Illinois Act on the Aging, (20 ILCS 105/4.04);
- c. Determine certification, and refusal, suspension, or removal of certification, of Ombudsmen. The State Ombudsman shall make the final determination to certify or to refuse, suspend, or remove certification of an Ombudsman pursuant to Section 201 of this Manual;
- d. Establish and maintain an Ombudsman Representative Registry as an official listing of those Ombudsmen who are certified as representatives of the Office;
- e. Reserve the right to remove from the Ombudsman Representative Registry the name of any Ombudsman who fails to meet, maintain, or comply with the standards and requirements of the Ombudsman Program. Any Ombudsman so removed shall not serve, nor represent themselves, as an Ombudsman. The State Ombudsman shall provide for notice of such removal to such individual;
- f. Establish procedures for training, certification, and continuing education of Ombudsmen;
- g. Prohibit any individual from carrying out the duties of the Office unless the individual has received the training required or is performing such duties under supervision of the Deputy State Home Care Ombudsman as part of the certification training requirements;
- h. Investigate allegations of misconduct by Ombudsmen in the performance of Ombudsman Program duties in accordance with Section 1100 of this Manual;
- i. Manage the files, records, and other information of the Home Care Ombudsman Program, whether in physical, electronic, or other formats, pertaining to the cases and activities of the Home Care Ombudsman Program. Such files, records, and other information are the property of the Office;
- j. Maintain the sole authority in making determinations regarding disclosure of Home Care Ombudsman Program records;

- k. Determine the use of fiscal resources appropriated or otherwise available for the operation of the Office. The State Ombudsman shall approve the allocations of federal and state funds provided to the Home Care Ombudsman Program and shall determine that Home Care Ombudsman Program budgets and expenditures are consistent with the laws, policies, and procedures governing the Ombudsman Program.
- B. The State Ombudsman shall, personally or through representatives of the Office:
- a. Identify, investigate and resolve complaints that:
 - i. Are made by, or on behalf of participants; and
 - ii. Relate to action, inaction, or decisions of providers, or representatives of providers, public agencies, or health and social service agencies that may adversely affect the health, safety, welfare, or rights of participants (including the welfare and rights of participants with respect to the appointment and activities of participant representatives).
 - b. Provide services to protect the health, safety, welfare, and rights of participants;
 - c. Inform participants about the means of obtaining services provided by the Ombudsman Program;
 - d. Ensure that participants have regular and timely access to the services provided through the Ombudsman Program and that participants and complainants receive timely responses from Ombudsmen to requests for information and complaints;
 - e. Represent the interests of participants before governmental agencies, assure that individuals have access to, and pursue (as the State Ombudsman determines as necessary and consistent with participant interests) administrative, legal, and other remedies to protect the health, safety, welfare, and rights of participants;
 - f. Provide administrative and technical assistance to Home Care Ombudsmen and the Deputy State Home Care Ombudsman;
 - g. Provide state wide systems advocacy. In carrying out systems advocacy efforts of the Office on behalf of participants, the provision of information, recommendations of changes in laws to legislators, and recommendations of changes in regulations and polices to government agencies by the State Ombudsman or other Ombudsmen do not constitute lobbying activities [45 CFR Part 93]. The State Ombudsman shall:
 - i. Analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations and other governmental policies and

actions, that pertain to the health, safety, welfare, and rights of participants, with respect to the adequacy of services in the State;

- ii. Recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate;
- iii. Facilitate public comment on the laws, regulations, policies and actions;
- iv. Provide leadership to statewide systems advocacy efforts of the Office on behalf of participants, including the coordination of systems advocacy efforts carried out by representatives of the Office;
- v. Provide information to public and private agencies, legislators, the media, and other persons, regarding the problems and concerns of participants and make recommendations related to the problems and concerns. Such determinations and positions shall be those of the Office and shall not necessarily represent the determination or positions of the Department on Aging; and
- vi. Coordinate with and promote the development of citizen organizations consistent with the interests of participants.

302: Responsibilities of the Office

A. The Office Shall:

- a. Work to resolve problems faced by participants;
- b. Advocate for broad policy, regulatory and/or legislative changes to improve care of participants;
- c. Plan, develop and implement training of the Ombudsmen;
- d. Maintain the Ombudsman Representative Registry;
- e. Coordinate the activities of the Program with other Department on Aging programs and other state and federal agencies involved in the care of participants;
- f. Maintain Program records and the Program reporting system;
- g. Provide technical assistance to Ombudsmen;
- h. Provide Program data and analysis; and
- i. Make revisions to this Manual after consultation with the Department on Aging.

303: Deputy State Home Care Ombudsman Responsibilities

- A. The Deputy State Home Care Ombudsman Shall:
- a. Be responsible for the day-to-day operation of the Home Care Ombudsman Program;
 - b. Follow the requirements of each federal and state grant as they apply to the administration of the varying aspects of the Home Care Ombudsman Program;
 - c. Set forth the service activities for each fiscal year, including any benchmark measures set by the Office;
 - d. Work to resolve complaints made by or on behalf of participants;
 - e. Advocate for broad policy, regulatory, administrative and legislative changes to improve the care of participants;
 - f. Ensure Home Care Ombudsmen are trained as required by the Office;
 - g. Recommend individuals for inclusion on the Ombudsman Representative Registry;
 - h. Provide technical assistance to Home Care Ombudsmen;
 - i. Ensure all Home Care Ombudsman records are contemporaneously entered into the statewide data and tracking system;
 - j. Review and close all cases in accordance with Section 803 of this Manual;
 - k. Conduct ongoing reviews of Home Care Ombudsman activities and case documentation;
 - l. Provide information and assistance to the general public, participants, legislators, community organizations and other agencies regarding managed care and home and community-based services issues;
 - m. Develop the Home Care Ombudsman Program budget;
 - n. Cooperate with and follow the direction of the State Ombudsman on projects, initiatives, and responses to systemic needs;
 - o. Partner with the Aging and Disability Networks, managed care organizations, and other stakeholders to the benefit of participants;

- p. Develop a plan for temporary personnel coverage in order to meet the standard of promptness in accordance with Section 601 G of this Manual;
- q. Attend meetings and teleconference calls as required by the State Ombudsman;
- r. Not perform any duties different from those presented in this Manual unless such duties are approved in writing by the State Ombudsman.

304: Home Care Ombudsman Responsibilities

- A. Home Care Ombudsmen shall:
 - a. Carry out the Home Care Ombudsman Program service components pursuant to Section 501 of this Manual, including;
 - i. Identifying, investigating and resolving complaints made by or on behalf of participants;
 - ii. Responding to inquiries;
 - iii. Conducting community outreach and community education sessions;
 - iv. Providing issue advocacy as directed by the Deputy State Home Care Ombudsman; and
 - v. Attending stakeholder meetings.
 - b. Document the provision of each of these services in the Office-approved documentation system;
 - c. Ensure information regarding participants and complainants is kept confidential pursuant to Section 901 of this Manual;
 - d. Assist participants who have requested assistance with grievances and appeals;
 - e. Prepare for and attend Informal Resolution Conferences and fair hearings as requested by participants;
 - f. Attend meetings and teleconference calls as required by the Deputy State Home Care Ombudsman;
 - g. Comply with all state rules, requirements, and policies as a state employee or contractor.

Chapter 400: Access

- 401: Access to Participants
- 402: Access to Participant Records
- 403: Access to State Agency Records and Officials

401: Access to Participants

- A. Home Care Ombudsmen have authority under [20 ILCS 105/4.04] to seek consent from a participant to communicate privately and without restriction.
- B. With permission of the participant requesting assistance, Home Care Ombudsmen may enter the participant's home for the purposes of investigating and resolving complaints. When entering the home, the Ombudsman must wear his or her Program identification badge.
- C. If the Home Care Ombudsman is denied access at any point during the visit by the participant or another person in the home at the time of the visit, the Home Care Ombudsman shall immediately leave the property and contact the Deputy State Home Care Ombudsman.
- D. If the participant wants to meet with a Home Care Ombudsman and is denied by anyone other than the participant and
 - a. the explanation for the denial seems reasonable, the Home Care Ombudsman shall seek the earliest opportunity to visit the participant; or
 - b. the explanation does not appear reasonable to the Home Care Ombudsman, or if access is being denied arbitrarily, the Home Care Ombudsman shall immediately inform the Deputy State Home Care Ombudsman for further direction.
- E. If at any point during the visit the Home Care Ombudsman has reason to believe the participant is at risk of harm, then the Home Care Ombudsman shall follow Section 606 E of this Manual regarding limited mandated reporting.

402: Access to Participant Records

- A. Under federal and state law, Ombudsmen have access to review the medical, social, personal, clinical, financial and other records of a participant with the permission of the participant. This includes the name and contact information of any legal representative, if any, where needed to perform the duties of the Office.
- B. Participant private health information may be released by the covered entity to the Ombudsman Program for the purposes of Ombudsman investigation or advocacy under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule [45 CFR 1324.11(e)(2)(vii)].
- C. In order to empower participants, an Ombudsman should examine a participant's records with the participant whenever possible, and should explain to the participant how to read and use the records. The Ombudsman shall seek to access the records in accordance with the following:
 - a. When a participant is capable of communicating informed consent, even when the participant has designated a legal representative including having an executed Power of Attorney, the Ombudsman may, with the express permission of the participant, examine the clinical, social, medical, financial and other records. The Ombudsman shall, whenever possible, seek to have this consent in writing. When a written consent is not possible, oral authorization by the participant or communication of informed consent via the use of auxiliary aids and services must be documented in Program records. The Ombudsman must make a good faith judgment as to the capacity to give informed consent to access the participant's records.
 - b. If a participant is not able to communicate informed consent and has a legal representative, the Ombudsman may seek informed consent from the legal representative. The Ombudsman shall, whenever possible, seek to have this consent in writing. When written consent is not possible from the legal representative, oral authorization must be documented in Program case records.
 - c. When a guardian of the person has been appointed by a court, the Ombudsman may examine the clinical, social, medical, financial, and other record with the informed consent of the participant. The Ombudsman shall, whenever possible, seek to have this consent in writing. When a written consent is not possible, oral authorization by the participant or communication of informed consent via the use of auxiliary aids and services must be documented in Program records. The Ombudsman must make a good faith judgment as to the capacity to give informed consent to access the participant's records.

- d. When a participant is not able to communicate informed consent for access to records, the Ombudsman may access records when the Ombudsman has conducted a face to face visit with the participant and concluded the participant is not able to communicate informed consent and determined:
 - i. Access to the records is necessary in order to investigate the complaint;
 - ii. The participant has no legal representative to make decisions on behalf of the participant; or
 - iii. The legal representative refuses to consent to the access, and;
 - 1. The Ombudsman has reasonable cause to believe the representative is not acting in the best interest of the participant;
 - 2. The representative cannot be located within 24 hours despite a reasonable effort by the Ombudsman to do so and the Ombudsman has documented the attempts in the Office-approved case documentation system; and
 - 3. The Ombudsman obtains approval from the State Ombudsman.
- D. When an Ombudsman is denied timely access to a participant's records by the custodian of such records, after presenting appropriate consent for a participant or a legal representative, the Ombudsman shall notify the Deputy State Home Care Ombudsman and the Deputy State Ombudsman shall then notify the State Ombudsman.
- E. The records of a participant shall be treated with the highest degree of confidentiality and obtained only as necessary to seek resolution of a complaint.

403: Access to State Agency Records and Officials

- A. The Program is entitled to copies of all administrative records, policies and documents of home and community-based services waivers and managed care organizations to which participants or the general public has access. To obtain a specific record at no cost, the Ombudsman should forward a specific request to the Deputy State Home Care Ombudsman whom will make the request to the applicable agency or department.
- B. The Program has direct access to directors of governmental entities with responsibilities which impact participants.

Chapter 500: Home Care Ombudsman Program Service Delivery

- 501: Home Care Ombudsman Program Service Components
- 502: Inquiries
- 503: Community Education
- 504: Issue Advocacy

501: Home Care Ombudsman Program Service Components

- A. The Home Care Ombudsman Program Service Components are:
 - a. Identify, investigate and resolve complaints on behalf of participants made by or on behalf of participants which may adversely affect the health, safety, welfare or rights of such participants;
 - b. Respond to inquiries;
 - c. Conduct community education sessions;
 - d. Perform issue advocacy; and
 - e. Attend stakeholder meetings.
- B. Each Home Care Ombudsman must provide and document the provision of each of these service components.
- C. The Deputy State Home Care Ombudsman shall set forth the service activities for each fiscal year and Home Care Ombudsmen shall meet or exceed any benchmark measures set by the Office.
- D. The activities of the Home Care Ombudsmen shall be evaluated by the Deputy State Home Care Ombudsman on a monthly basis.

502: Inquiries

- A. The Home Care Ombudsman Program shall provide information and assistance regarding the needs and rights of participants of HCBS waivers and MMAI managed care organizations.
- B. An inquiry may include when the Ombudsman refers someone with a concern to another agency and is not actively involved in investigating and working to resolve the problem.
- C. The Home Care Ombudsman Program shall promptly respond to requests for information; however, responses should not take more than five (5) working days when practicable.
- D. All inquiries must be documented in the Office-approved documentation system as required by Section 801 A of this Manual.

503: Community Education

- A. The Home Care Ombudsman Program shall conduct presentations made to community members, stakeholders, universities, state agencies, or advocacy groups, etc.
 - a. Ombudsmen must use Office-approved presentations when conducting community education and outreach.
- B. Home Care Ombudsmen shall attend meetings where an Ombudsman represents the Home Care Ombudsman Program with community groups, advocacy groups and coalitions, students, churches, etc.
- C. Home Care Ombudsman shall participate in community and health fairs and similar gatherings where the Ombudsman has a display and hand-outs and is available to provide information to the attendees.
- D. Community education sessions may be provided by distance learning, such as a webinar.
- E. Ombudsmen must notify the Deputy State Home Care Ombudsman prior to conducting a presentation or participating in a community meeting, health fair, or similar gathering if:
 - a. There is a fee associated with the event; or
 - b. There is a question about what information will be shared and if any specific materials should be available as hand-outs.
- F. Each Home Care Ombudsman is responsible for coordinating community education events and meetings. This coordination may include:
 - a. Corresponding with the organizer;
 - b. Setting up a display table; and/or
 - c. Gathering and submitting necessary invoices, W9s, the Invoice Information Request form and other forms required for the session.
- G. Community education sessions are considered an Ombudsman activity and must be documented by the Ombudsman in the Office-approved documentation system as required by Section 801 A of this Manual.

504: Issue Advocacy

- A. The Program shall assure that the interests of participants are represented to governmental agencies and policymakers.
- B. Issue advocacy activities performed by Home Care Ombudsmen shall be consistent with the positions of the Office and shall be directed by the Office.
- C. Issue advocacy activities may include:
 - a. Informing advocacy groups, governmental agencies and policymakers regarding the impact of laws, policies, or practices on participants;
 - b. Advocating for modification of laws, regulations, and other governmental policies and actions pertaining to the rights and well-being of participants;
 - c. Facilitating the ability of participants and the public to comment on such laws, regulations, policies, and actions;
 - d. Presenting to and participating in public hearings related to long-term care issues; and
 - e. Educating other aging service providers, advocacy groups, and the public on specific long-term care issues and policies.
- D. Home Care Ombudsmen should not participate in issue advocacy activities without the approval and direction of the Deputy State Home Care Ombudsman or the State Ombudsman.
- E. The Program may address participant complaints through issue advocacy when:
 - a. There are no statutory or regulatory remedies;
 - b. Many participants share a similar complaint or are affected by a similar policy or practice;
or
 - c. Other strategies to reach resolution with particular agencies or organizations have been unsuccessful.
- F. The Office shall:
 - a. When possible, inform the Director of the Department on Aging, or his or her designee, of plans to engage in issue advocacy activity in advance and as reasonable, provide written testimonies;

- b. Represent the interest of participants before government agencies and seek administrative, legal and other remedies to protect the health, safety, welfare and rights of participants;
- c. Review, and if necessary, comment on any existing and proposed laws, regulations and other government policies and actions that pertain to the rights and well-being of participants;
- d. Facilitate public comment on laws, policies and actions;
- e. Link advocacy groups with mutual concerns or issues;
- f. Coordinate issue advocacy activities with the Program and provide direction to Home Care Ombudsmen on specific issue advocacy activities;
- g. Develop and implement advocacy priorities and strategies;
- h. Identify and meet, to the extent possible, resources and training needs of Ombudsmen and others related to issue advocacy; and
- i. Provide training and technical assistance to others in the aging and disability network regarding the Office's role in issue advocacy and the issue advocacy priorities as determined by the Office.

Chapter 600: Investigative Services

- 601: Complaint Intake
- 602: Complaint Investigation
- 603: Home Visits
- 604: Complaint Verification
- 605: Complaint Resolution
- 606: Abuse Neglect and Exploitation
- 607: Self-Harm
- 608: Referral for Services

601: Complaint Intake

- A. Most complaints are initiated by the participant. However, complaints may also be initiated by any person with a concern about a participant's rights or services.
- B. When complainants seek to remain anonymous:
 - a. Ombudsmen may proceed without knowing the complainant identity and should continue to investigate the issue with proper permission from the participant.
 - b. The Ombudsman receiving the complaint should attempt to communicate directly with the anonymous complainant, and explain that, in some circumstances, anonymity could limit the ability of the Program to investigate and resolve the complaint.
- C. Regardless of the source of the information or complaint, the participant is the Program's client and all complainants shall be so informed.
- D. Complaints are generally received through the Department on Aging's Senior HelpLine, email or standard mail. Regardless of how the complaint is generated, the Program shall:
 - a. Request all necessary information and determine eligibility of Home Care Ombudsman services in the Participant Search Screen (PSS) or the current system used at the Department on Aging to determine eligibility.
 - b. Collect all relevant information from the complainant/participant;
 - c. Discuss attempts that have been made to resolve the complaint;
 - d. Determine the participant's desired outcome(s);
 - e. Discuss options or potential solutions for handling the complaint;
 - f. Encourage the complainant/participant to personally take appropriate action with Program assistance, if needed;
 - g. Explain the Program's role to act in accordance with the participant's requests and to maintain confidentiality, unless the requests fall within Section 601 (C)(i);
 - h. Seek verbal consent from the participant to advocate on their behalf; and
 - i. Determine whether the complaint is appropriate for Home Care Ombudsman services. The following complaints are not appropriate for Ombudsman activity:

- i. Complaints that do not directly impact participants;
 - ii. Complaints that are outside the scope of the mission or the authority of the Home Care Ombudsman Program;
 - iii. Complaints that are not within the waiver or MLTSS guidelines or administrative code;
 - iv. Complaints which would create an irresolvable conflict of interest.
 - j. Other intake actions may include:
 - i. Identity proofing through the ABE system; or
 - ii. Determining if translation services are needed.
- E. All complaint intakes shall be reviewed by the Deputy State Home Care Ombudsman and assigned to a Home Care Ombudsman.
- F. Once the Deputy State Home Care Ombudsman has assigned a case, the Home Care Ombudsman has 48 hours to confirm receipt of the assigned case or within 24 hours when the complaint has been flagged as a priority.
- G. Should a complainant call with a concern about an individual who is not eligible for Home Care Ombudsman Services, the Ombudsman shall attempt to determine the appropriate referral source and document any assistance provided as an inquiry.
- H. Should a complaint be received on behalf of a deceased participant, the Home Care Ombudsman shall:
 - a. Not open a case on behalf of a deceased participant. The Home Care Ombudsman shall inform the complainant that the Ombudsman is unable to open a case as there is no client for which an issue can be resolved.
 - b. Suggest to the complainant other referral options including law enforcement, private attorneys, coroner, etc.
- I. Home Care Ombudsman timeliness of response to complaint intakes
 - a. For intakes that involve abuse, gross neglect, threat of suicide, the complainant should be immediately referred to Adult Protective Services and/or referred to “911” and/or the local crisis service/hotline.

- b. The Home Care Ombudsman Program is not designed to serve as an emergency response system. Emergency or life-threatening situations should be referred to “911” or other emergency response systems for immediate response.
- c. For intakes that involve actual or threatened loss of all necessary services to live in the community, the Ombudsman shall make all attempts to contact the participant within 24 hours from receipt of the complaint.
- d. For intakes that involve a significant cut in services, the Ombudsman shall respond within three (3) working days from receipt of the complaint.
- e. For all other intakes, the Home Care Ombudsman shall make an attempt to initiate contact with the participant within five (5) working days of receipt of the complaint.
- f. The Home Care Ombudsman shall make at least three (3) attempts to contact a participant. If the Ombudsman is not able to reach the participant after three (3) attempts, then the Home Care Ombudsman shall send the Office-approved letter to the participant.
- g. When the Home Care Ombudsman is unable to initiate an investigation in a timely manner due to a planned vacation, training, or extended illness, etc., the Deputy State Home Care Ombudsman shall develop a plan for temporary coverage in order to meet the standard of promptness.

602: Complaint Investigation

- A. Home Care Ombudsmen investigate complaints in order to verify the general accuracy of the complaint and to gather information for resolution. The investigation shall be conducted in a timely and thorough manner in order to:
 - a. Identify the relevant issue areas raised by the complainant;
 - b. Determine the sequence of investigatory steps;
 - c. Assemble all necessary facts;
 - d. Determine the validity of the complaint; and
 - e. Seek resolution of the complaint.
- B. Regardless of the source of the complaint (i.e., the complainant), the Home Care Ombudsman must support and maximize participant participation in the process of resolving the complaint as follows:
 - a. The Home Care Ombudsman shall offer privacy to the participant for the purpose of confidentially providing information and investigating and resolving complaints.
 - b. Communication of informed consent may be made in writing, orally or visually, including through the use of auxiliary aids and services, and such consent must be documented contemporaneously by the Home Care Ombudsman.
 - c. The Home Care Ombudsman shall personally discuss the complaint with the participant, or the participant's legal representative if the participant cannot communicate informed consent, in order to:
 - i. Determine if translation services or other means of communication are necessary to move forward with the investigation;
 - ii. Advise of participant rights;
 - iii. Determine the participant's perspective of the complaint;
 - iv. Request informed consent to advocate on behalf of the participant and investigate the complaint(s);
 - v. Determine the concerns and requests of the participant with respect to solution of the complaint;

- vi. Discuss necessary forms to be completed in order to proceed with the investigation, including the Release of Information form;
 - vii. Develop a plan of action for resolution;
 - viii. Determine if the complaint can be verified; and
 - ix. Determine whether the complaint is resolved to the satisfaction of the participant.
- d. Investigation by the Home Care Ombudsman shall proceed only with the express consent of the participant, or legal representative when applicable, except in systemic cases.
- e. When the participant is unable to communicate informed consent, the Ombudsman shall:
- i. Advocate for the participant's requests to the extent that the participant can express them, even if the participant has limited decision-making capacity; or
 - ii. Determine if the participant has a legal representative and seek informed consent from that representative.
- f. In determining whether to rely upon a legal representative to communicate or make determinations on behalf of the participant related to complaint processing, the Ombudsman shall ascertain the extent of the authority that has been granted to the legal representative under a court order (in the case of a guardian or conservator), by a power of attorney or other document by which the participant has granted authority to the representative, or under other applicable state or federal law.
- g. If a participant is unable to communicate his or her perspective on the extent to which the matter has been satisfactorily resolved, the Ombudsman may rely on the communication of the legal representative's perspective regarding the resolution of the complaint so long as the Ombudsman has no reasonable cause to believe that the representative is not acting in the best interests of the participant.
- h. When the participant is unable to communicate informed consent and has no representative, the Ombudsman shall:
- i. Seek permission from the Office to advocate on behalf of the participant;
 - ii. Take appropriate steps to investigate and work to resolve the complaint in order to protect the health, safety, welfare and rights of the participant; and

- iii. Determine whether the complaint was resolved to the satisfaction of the complainant.
 - i. For all complaints in which the participant refuses or withdraws consent, the Ombudsman shall:
 - i. Attempt to determine why the participant refused or withdrew the consent;
 - ii. Explain the consequences of withdrawing consent as it pertains to complaint resolution (i.e. if the time has run out to appeal the decision);
 - iii. Consider the following past responses (such as failure to respond to complaints and/or retaliation against complainants) from:
 - 1. The Care Coordination Unit;
 - 2. The HCBS waiver services program;
 - 3. The Provider Agency; or
 - 4. The Managed Care Organization
 - iv. Discontinue work on the complaint; and
 - v. Send a letter to the participant informing the participant that his or her case is being closed with the Home Care Ombudsman Program and that he or she may contact the Program in the future regarding the withdrawn complaint or other complaints.
 - j. When the Program has an open case and the participant dies, the Ombudsman shall notify the Office immediately and shall close the case.
- C. In order to investigate, verify, and ultimately resolve a complaint, the Ombudsman shall take one or more of the following steps as appropriate to the nature of the complaint and with the express consent of the participant:
 - a. Research relevant laws, rules, regulation, and policies;
 - b. Observe the situation and evidence;
 - c. Interview the participant and/or complainant;

- d. Interview any in-home care staff, provider agency staff, care coordinators, case managers, physicians, family members or anyone the participant believes has knowledge of the matter;
 - e. Examine any relevant records including clinical, medical, social, financial, and other records in keeping with access and confidentiality policies and procedures;
 - f. Review any other information available to the Ombudsman and pertinent to the investigation;
 - g. Consider the most appropriate time to conduct a home visit if necessary;
 - h. Consider combining these issues with other problems in the managed care organization, Home and Community-Based Waiver Services Program, provider agency, care Coordination Unit or Program; and
 - i. Determine the sequence of investigatory steps.
- D. An investigation shall minimally include direct contact and interview with the participant or legal representative if applicable, which may be by:
- a. A face-to-face visit;
 - b. A telephone call; and/or
 - c. An e-mail correspondence.

603: Home Visits

- A. Not all cases require a face-to-face visit with a participant. However, there are times when the Home Care Ombudsman will conduct a home visit. Those circumstances could include, but are not limited to:
 - a. The participant requests a home visit;
 - b. The participant has difficulty communicating via phone and/or email; or
 - c. Timely signatures are needed from the participant and/or the legal representative.
- B. If it is determined that a home visit is warranted, the Home Care Ombudsman shall prepare for the visit by:
 - a. Assuring the participant is agreeable to the visit;
 - b. Determining the best date and time of the visit for the participant and that the participant is aware of the scheduled visit;
 - c. Finding out who lives in the home, who the participant wants to be present during the visit and who the participant does not want to be present during the visit;
 - d. Inviting other parties to attend the visit if the participant has requested others to attend or has given permission for others to attend;
 - e. Gathering all necessary forms needed for the visit, such as a release of information form, and other information such as brochures, business cards, etc.;
 - f. Assuring translation services or other auxiliary means of communication are available for the visit;
 - g. Determining if the Ombudsman should wear any type of protective gear, depending on the health status of the participant;
 - h. Determining if the participant can answer the door, and if not, what the plan is for the Ombudsman to enter the home;
 - i. Inquiring about parking accessibility;
 - j. Asking if the participant has pets; and/or

- k. Asking about community violence or issues of concern within the community relative to an individual's safety.
- C. The Ombudsman must wear the Office-issued identification badge and must identify himself or herself as the Home Care Ombudsman.
- D. The Ombudsman must have permission to enter the participant's home at the time of arrival by being invited in by the participant, home owner, the participant's legal representative or the complainant.
- E. During the face-to-face visit with the participant, the Ombudsman shall assure privacy is respected and only individuals present have been approved by the participant.
- F. Home Care Ombudsmen should make observations during the home visit that are relevant to the concern and to the visit. Those observations shall be documented in the case file.
- G. Home Care Ombudsmen may use state-issued phones to scan documents for the purposes of documentation in the case file. Prior to doing so, the Ombudsman should explain the process to the participant and receive permission to scan the document. If the participant refuses consent, the Ombudsman should then ask to take the document with them, then mail the documents back to the participant. If the participant still refuses, then the Ombudsman should ask the participant to complete a release of information form so the Ombudsman can access the necessary documents from the pertinent source. The participant may also choose to secure copies and mail or fax them to the Home Care Ombudsman.
- H. If the Ombudsman is refused entry to the home, or is asked to leave the premises at any time during the visit, the Ombudsman should leave the property and contact the Deputy State Home Care Ombudsman immediately.
- I. If the Ombudsman feels threatened in any way by anyone in the home, the Ombudsman may promptly end the visit and immediately contact the Deputy State Home Care Ombudsman.
- J. Anytime a planned visit did not occur or ended abruptly, the Home Care Ombudsman should consult with the Deputy State Home Care Ombudsman and shall document the visit or attempted visit as directed by the Deputy State Home Care Ombudsman.
- K. If, at any time during the visit, the Ombudsman has concern about the safety and well-being of the participant, the Ombudsman shall determine if the participant shares the concern and what actions the participant wants to take, if any. If the participant does not want the Ombudsman to take action, the Ombudsman may not do so. See Section 606 of this Manual for direction on reporting suspected abuse, neglect and exploitation.

604: Complaint Verification

- A. A complaint is verified when the Home Care Ombudsman confirms after interviews, record inspections, observations, etc., that most or all facts alleged by the complainant are likely to be true.
- B. The Ombudsman is not required to independently verify a complaint in order to seek resolution on behalf of a participant. Participant perception is a sufficient basis upon which an Ombudsman can seek resolution of a problem or complaint.
- C. Because the Program works on behalf of participants, the Ombudsman gives the benefit of any doubt to the participant's perspective.
- D. Ombudsmen always attempt to verify complaints, but they work to resolve a complaint to the satisfaction of the participant whether the concern is verified or not.

605: Complaint Resolution

- A. Upon verifying a complaint, the Ombudsman shall discuss with the participant or legal representative, the legal, administrative, and other remedies available to resolve the complaint. The Ombudsman shall, to the fullest extent possible, involve and empower the participant to participate in the resolution of the complaint.
- B. The Ombudsman shall work with the participant to develop a plan of action to resolve the complaint.
 - a. The plan of action shall be mutually agreed upon by the participant and the Ombudsman.
 - b. The following factors shall be considered in developing the plan of action:
 - i. The scope and nature of the complaint;
 - ii. The history of the agency or organization with respect to resolution of other complaints;
 - iii. Available remedies and resources for referral;
 - iv. The individual or agency best able to resolve the complaint; and
 - v. The likelihood of retaliation against the participant or complainant.
 - c. The Ombudsman shall propose a plan to attempt to resolve the dispute directly with the appropriate staff or other party that is the source or cause of the complaint unless the Ombudsman and the participant determine that another strategy would be more advantageous to the participant.
 - d. One or more of the following strategies may be used to develop an appropriate plan of action in resolving complaints:
 - i. Negotiation on behalf of, or with the participant with the appropriate party to develop an agreement or course of action that resolves the complaint;
 - ii. Mediation between parties of equal status (i.e., between a managed care organization and the Department of Human Services) to assist the parties in developing an agreement that resolves the complaint;
 - iii. Assistance or representation for participants before the Department on Aging, Department of Human Services (DHS), or the Department of Health Care, managed care organizations and Family Services (HFS) in administrative hearings;

- iv. Coordination with and/or referrals to appropriate agencies; or
 - v. Issue advocacy, which is discussed in Section 504 of this Manual.
- C. If a complaint received or an investigation by an Ombudsman discloses information or facts indicating the commission of a criminal offense or a violation of standards of professional conduct, the Office may refer to the Illinois State Police, State's Attorney, or any other law enforcement official having jurisdiction to prosecute the crime, and/or to the appropriate professional licensing board in keeping with the resolution plan developed with the participant.
- D. If the complaint cannot be resolved through negotiations with the appropriate governmental or non-governmental agency and the complaint does or may adversely affect the health, safety, welfare or civil rights of a participant or a class of participants, the Office:
- a. May recommend and assist the participant with securing legal representation to commence legal actions, including complaints for injunctive relief, declaratory relief, or actions for civil damages, provided that exhaustion of any available administrative remedies shall not be required prior to commencement of suit; and
 - b. Shall consider the possibility of legal action and in appropriate circumstances, the Office shall involve the Legal Services Developer and the Department on Aging's General Counsel in assisting the Ombudsman.
- E. Disposition is the final resolution or outcome of a complaint. When choosing the disposition, the Ombudsman shall assure it is consistent with the desired outcome of the participant. If the participant cannot communicate his or her interests, the Ombudsman may look to the participant's legal representative or the complainant to determine if the resolution is consistent with rights and interests of the participant. The resolution of each complaint, whether verified or not, shall be documented according to the classifications listed below:
- a. Partially or fully resolved – when the complaint addressed is partially or fully resolved to the satisfaction of the participant.
 - b. Withdrawn or no action needed – when the complaint was withdrawn at the request of the participant or complainant or discontinued by the Ombudsman. If a significant portion of the complaint was resolved prior to the withdrawal, record as “partially or fully resolved”.
 - c. Lack of follow up from participant or participant could not be reached.
 - d. Not resolved – when the complaint has not been corrected or the change made was in no way to the satisfaction of the participant.

- e. Participant died before final outcome.
- F. If a participant is unable to communicate his or her level of satisfaction or dies before determining his or her perspective, the Ombudsman will determine the disposition based on:
- a. The participant's legal representative's perspective so long as the Ombudsman has no reasonable cause to believe that the representative is not acting in the best interest of the participant; or
 - b. The complainant's satisfaction if the participant does not have a legal representative; or
 - c. The Ombudsman's own perception of the resolution if the Ombudsman was the complainant and there is no legal representative.
- G. Cases may be closed under the following circumstances:
- a. When the participant refuses to give the Ombudsman consent to continue to advocate or investigate;
 - b. When the participant withdraws consent or requests that Program action end on the complaint;
 - c. When the participant refuses to complete necessary paperwork or fails to keep appointments required for resolution;
 - d. When the participant withdraws his or her appeal for complaint resolution and no further action is warranted;
 - e. When the participant knowingly gives false information or false testimony, or their actions are in direct violation of administrative code or the waiver services and/or MLTSS rules or any other actions that may be threatening or may cause harm to others;
 - f. When the participant fails to follow up or communicate with the Ombudsman after three (3) attempts made by the Ombudsman;
 - g. When the participant is institutionalized or will not be available for HCBS for 60 calendar days;
 - h. When the final administrative decision rendered is in not favor of the participant;
 - i. When the complaint(s) have been resolved to the participant's satisfaction; or

- j. When the Ombudsman has exhausted all possible means of working to resolve the complaint and the participant is not satisfied with the outcome;
 - k. When the participant moves out of state; or
 - l. If the participant dies.
- H. Once a case has been closed, the Home Care Ombudsman shall send notification to the participant, in a manner in which the participant communicates, indicating the case closure and the Ombudsman contact information should the need arise for future Ombudsman advocacy.
- I. Cases shall be closed in a timely manner as directed in Section 801 (A)(e) of this Manual.

606: Abuse Neglect and Exploitation

- A. Any Home Care Ombudsman who, while carrying out their professional duties, gains personal knowledge of any case of alleged or suspected abuse, neglect, or exploitation of a person who fits the definition of an “eligible adult” pursuant to the Adult Protective Services Act [310 ILCS 20/2] and who, because of a disability or other condition of impairment is unable to seek assistance for himself or herself shall, to the extent permitted by the applicable Program confidentiality provisions of state and federal law, report and provide information on such a case to Adult Protective Services (APS).
- B. Home Care Ombudsmen do not investigate abuse, neglect or exploitation (ANE), but if ANE is suspected, the Ombudsman should determine the participant’s requests in terms of reporting or any other actions to consider. Prior to reporting ANE to APS or law enforcement, the Ombudsman shall:
 - a. Talk to the participant about the concern and ascertain if the participant understands the facts;
 - b. Ensure the participant is expressing free choice and not being unduly influenced;
 - c. Discuss the risks and benefits of reporting and failing to report suspected ANE with the participant; and
 - d. Empower the participant to report on his or her own behalf; or
 - e. Seek permission from the participant to share his or her name and relevant information to APS or law enforcement.
- C. If the participant continues to refuse to file an ANE report after Section 606 (A) has been completed, the Ombudsman shall:
 - a. Document the information gathered;
 - b. Not report the alleged ANE; and
 - c. Contact the Office for further direction and follow the procedure in Section 608 E of this Manual.
- D. If the Ombudsman believes the participant is in imminent danger, but refuses to report the concern to the appropriate authorities, the Ombudsman shall contact the Office immediately for further direction.

- E. When a participant is unable to report abuse, Home Care Ombudsmen are limited mandated reporters pursuant to the Adult Protective Services Act [320 ILCS 20/4]. If the Ombudsman has reason to believe that a participant who because of a disability or other condition or impairment is unable to seek assistance for himself or herself has been subjected to ANE within the last 12 months, the Home Care Ombudsman shall report the alleged ANE within 24 hours to Adult Protective Services and shall immediately report the concern to the Deputy State Home Care Ombudsman.

607: Self-Harm

- A. If a participant tells an Ombudsman that he or she intends to harm himself or herself, the Ombudsman shall conduct a Preliminary Suicide Risk Assessment approved by the Office. Based on the assessment, determine if the participant is a low, medium, or high risk.
 - a. If the participant scores in the low risk category:
 - i. Document the assessment and determination of risk;
 - ii. Seek permission to talk to agency staff, a family member, and/or a caregiver;
 - iii. Advise the participant to tell someone (doctor, nurse, family or friend) if suicidal thoughts become more prevalent;
 - iv. Ask the participant what additional supports he or she has to could use in his or her life;
 - v. Provide your contact information and the Center for Elderly Suicide Prevention Friendship Line phone number; and
 - vi. Discuss with the Deputy State Home Care Ombudsman within a week.
 - b. If the participant scores in the medium risk category, the Ombudsman shall:
 - i. Document the assessment and determination of risk;
 - ii. Seek permission to talk to agency staff, family members and/or a caregiver;
 - iii. Ask the participant if he or she is willing to schedule a doctor's appointment or willing to ask a caregiver or family member to schedule a doctor's appointment;
 - iv. Facilitate a referral. Offer to assist the participant with making an appointment. If the participant is unwilling, ask for an alternate plan;
 - v. Provide your contact information and the Center for Elderly Suicide Prevention Friendship Line phone number; and
 - vi. Discuss with the Deputy State Home Care Ombudsman or the State Ombudsman as soon as possible (within 24 hours but no longer than 48 hours).
 - c. If the participant scores in the high risk category, the Ombudsman shall:

- i. Document the assessment and determination of risk;
- ii. Assess the environment for personal safety;
- iii. Tell the participant the concern for being at risk of harm and state additional assistance is needed. Ask if the participant is currently working with a doctor or counselor;
- iv. Seek permission to talk to agency staff, family members and/or a caregiver;
- v. Advise the participant to call the Center for Elderly Suicide Prevention Friendship Line to discuss the situation and determine next steps; if the participant refused, call the Friendship Line; and
- vi. Discuss with the Deputy State Home Care Ombudsman or the State Ombudsman as soon as practicable.
- vii. If the participant's plan involves harming others, immediately report to the Office and dial 911 if there is an imminent threat.

608: Referral for Services

- A. The Program shall refer a complaint or problem to another agency when the participant gives consent and when one or more of the following applies:
 - a. Another agency has resources that may benefit the participant;
 - b. The action to be taken and the complaint is outside of the Program's authority and/or expertise;
 - c. The Ombudsman needs additional assistance in order to achieve resolution of the complaint;
 - d. The participant requests the referral be made.
- B. Referrals to Adult Protective Services or law enforcement
 - a. An Ombudsman shall assist a participant, or legal representative if applicable, in contacting the appropriate agency when the participant or legal representative has communicated informed consent for such referral.
 - b. An Ombudsman may encourage participants or complainants to directly contact the appropriate agency or organization to file a complaint or to request assistance and will offer information and assistance to participants or complainants in making such contact and follow-up.
- C. Referrals to legal services
 - a. For a participant who is requesting, or in need of legal representation, the Program shall assist the participant in finding appropriate legal services. With consent from the participant, or legal representative when applicable, Ombudsmen provide information to participants in order for them to determine which of the following legal services is appropriate for their needs:
 - i. Older Americans Act-funded legal services agencies,
 - ii. Legal Services Corporation-funded legal services agencies, and/or
 - iii. Equip for Equality.
 - b. When the legal services provider is unable to provide the requested legal service, an Ombudsman may refer the participant to private attorneys by providing a list of attorneys.

- i. This list must contain a minimum of three (3) attorneys.
 - ii. Ombudsmen shall not recommend a specific attorney.
- D. The Program shall follow up with the participant to determine whether services have been received and if the identified need has been met following the formal referral.
- E. Referrals regarding abuse, neglect, exploitation and suicidal ideation requiring approval from the State Ombudsman on behalf of a participant:
 - a. Home Care Ombudsmen shall receive permission from the State Ombudsman prior to making a referral to APS or law enforcement without the express permission of the participant when the participant is able to communicate his or her consent.
 - b. Home Care Ombudsmen shall receive permission from the State Ombudsman prior to disclosing a participant's suicidal ideation to anyone without the express permission of the participant when the participant is able to communicate his or her consent.
 - c. The State Ombudsman shall reply with in two (2) business days as practicable to any request for approval under this provision.
 - d. In the event that the State Ombudsman is not available, approval may be provided by the designated staff member of the Office.
- F. The State Ombudsman, Deputy State Home Care Ombudsman, or a Home Care Ombudsman may refer the matter and disclose participant-identifying information to the appropriate agency or agencies for regulatory oversight, protective services, access to administrative, legal, or other remedies and/or law enforcement action in the following circumstances:
 - i. The participant is unable to communicate informed consent to the Ombudsman and has no representative and the Ombudsman has reasonable cause to believe that an action, inaction or decision may adversely affect the health, safety, welfare or rights of the participant, or the Ombudsman has reasonable cause to believe that the legal representative has taken an action, inaction or decision that may adversely affect the health, safety, welfare, or rights of the participant;
 - ii. The Ombudsman has no evidence indicating that the participant would not want a referral to be made;
 - iii. The Ombudsman has reasonable cause to believe that it is in the best interest of the participant to make a referral; and

- iv. The Ombudsman obtains approval from the State Ombudsman.

Chapter 700: Home Care Ombudsman as an Authorized Representative

701: Obtaining Consent to be an Authorized Representative

702: Grievances Against an Entity Providing Managed Care or Waiver Services

703: Appeals

704: State Fair Hearings

701: Obtaining Consent to be an Authorized Representative

- A. For a Home Care Ombudsman to represent a participant in a formal grievance, an Informal Resolution Conference, or a fair hearing, Home Care Ombudsmen shall use the authorized representative forms from the applicable entity or shall use the Office-approved Authorized Representative Form when the entity does not have a standard form.
- B. If the participant is not able to give written permission, a witness or a legal representative may sign on behalf of the participant.

702: Grievances Against an Entity Providing Managed Care or Waiver Services

- A. A Home Care Ombudsman may assist a participant with filing an official complaint against an employee of a managed care organization, or a home and community-based services waiver (HCBS) provider about any matter other than a denied, reduced, or terminated service or item.
- B. Each organization and agency has a process for filing a grievance. To assist the participant with making an informed decision, the Home Care Ombudsman shall:
 - a. Discuss the nature of the complaint and the options for complaint resolution;
 - b. Determine who is the care coordinator when necessary;
 - c. Explain the applicable grievance process to the participant, including the advantages and disadvantages of filing a grievance; and
 - d. Assist the participant in completing and submitting the authorized representative form and provide the participant with the necessary forms to advance the process.
- C. When the Home Care Ombudsman is assisting an individual receiving services through the Aging Waiver or the Community Care Program, and the participant wants to file a grievance, the Ombudsman shall:
 - a. Explain that the participant must first call the Senior HelpLine and request to file a Service Improvement Program complaint (SIP);
 - b. Give the participant the Senior HelpLine phone number; and
 - c. Offer to participate on the call.
- D. When the Home Care Ombudsman is assisting an individual receiving services through DHS-DRS, the Home Care Ombudsman shall:
 - a. Explain the grievance form and assist the participant with filling out the form;
 - b. Send the form to the participant for signature;
 - c. Send the written complaint to the Rehabilitative Supervisor at DRS, when the complaint is against a DRS Counselor; or
 - d. Send the written complaint to the Assistant Bureau Chief, when the complaint is against the Rehabilitative Supervisor; or

- e. Send the written complaint to the Bureau Chief, when the complaint is against the Assistant Bureau Chief;
 - f. Mail a copy of the forms related to the complaint to the participant; and
 - g. Follow up with DHS for acknowledgement of the complaint.
- E. When the Home Care Ombudsman has received permission to assist an individual receiving services through a managed care organization, the Ombudsman shall:
- a. Explain the grievance form and assist the participant with filing out the form;
 - b. Send the participant the authorized representative form and the grievance form for signature;
 - c. Submit both forms to the MCO and mail a copy to the participant;
 - d. Follow up with the MCO for acknowledgement of the complaint.

703: Appeals

- A. A Home Care Ombudsman may assist a participant with filing an appeal against a managed care organization, or a home and community-based services waiver (HCBS) provider when:
 - a. Services have been denied, terminated, reduced, or changed in any way;
 - b. A referral for services has been refused;
 - c. The provider failed to act upon a referral within the mandated time-frame;
 - d. A participant has been denied a request for redetermination;
 - e. The provider failed to advise the participant of his or her rights or choices;
 - f. The provider failed to make a decision or take appropriate action on any request made by a participant within the required timeframe;
 - g. A determination is made to uphold a provider decision that the participant does not agree;
 - h. The provider failed to comply with applicable rules; or
 - i. The denial of an enrollee's request to obtain services outside the network when the participant lives in a rural area with access to only one MMAI Plan.
- B. Assure the participant's request to appeal a matter is within the scope of actions, inactions or decisions of the applicable rules of the specific waiver or MMAI services.
- C. The Home Care Ombudsman shall explain the participant's rights, including but not limited to, the right to appeal and to have representation, (i.e., family member, Ombudsman, or an attorney).
- D. When a Home Care Ombudsman has received permission to assist a participant with an appeal against a decision, action or inaction of the Department on Aging, a CCU, or a provider of the Aging Waiver, the Home Care Ombudsman shall discuss the appeal process with the participant and/or assist the participant with the following actions:
 - a. Explain to the participant that they will need the Plan of Care Notification Form (POCNF) when calling the HelpLine to start the appeal process;
 - b. Call the Senior HelpLine to request the appeal within 60-calendar days from the date of the notice of the decision, action or inaction;

- c. When the circumstances apply, discuss if the 60-calendar day timeframe can be exceeded;
 - d. Remind the participant to sign and mail the Notice to Appeal form to the Department on Aging Springfield office within 10 business days and that services are to remain in place during the appeal process, until a final administrative decision has been made.
 - e. Send the participant the release of information forms;
 - f. Once the ROIs are received, request information from all necessary parties;
 - g. Explain the informal review process, the participants right to withdraw an appeal, and, if applicable, the circumstances when the Department on Aging has the authority to cancel an appeal;
 - h. If the participant is not satisfied with the decision after the informal review process, the Ombudsman shall explain the participant's right to request a State Fair Hearing.
- E. When a Home Care Ombudsman has received permission to assist a participant with an appeal against a decision, action or inaction of the Department of Human Services-Division of Rehabilitation Services (DHS-DRS), the Home Care Ombudsman shall discuss the appeal process with the participant and/or assist the participant with the following actions:
- a. Ensure the participant received the adverse action notice;
 - b. Send the participant the release of information forms;
 - c. Once the ROIs are received, request information from all necessary parties;
 - d. Explain the informal resolution process, the participants right to withdraw an appeal and request an informal resolution conference; and
 - e. If the participant is not satisfied with the decision after the informal resolution process, the Ombudsman shall explain the participant's right to request a State Fair Hearing.
- F. When a Home Care Ombudsman has received permission to assist a participant with an appeal against a decision, action or inaction of the MCO the Home Care Ombudsman shall discuss the appeal process with the participant and/or assist the participant with the following actions:
- a. Request an appeal through the plan within 60 calendar days from the date on the Notice of Action form sent from the MCO, or within 10 calendar days from the Notice if the participant wants their services to remain the same during the appeal process until a final administrative decision has been made;

- b. Call Member Services to initiate the appeal process and ask for the “Appointment of Representative” form or submit an appeal letter by mail or fax.
- c. When a participant believes his or her life or health will be seriously jeopardized by the decision made by the MCO, the Ombudsman shall assist the participant with requesting an expedited appeal and follow the guidance in the MCO’s member’s handbook.
- d. Send the participant the release of information forms;
- e. Once the ROIs are received, request information from all necessary parties;
- f. Explain the Internal Review Entity and the participants right to withdraw an appeal; and
- g. When a participant disagrees with the Decision Notice made by the MCO, the Ombudsman shall explain the State Fair Hearing Appeal.

704: State Fair Hearings

- A. After the Home Care Ombudsman has received permission to be the participant's authorized representative as noted in Section 701 of this Manual and when the participant disagrees with the Decision Notice based on the appeal, the HCO may represent the participant throughout the state fair hearing process and shall explain participant's rights to a hearing and right to representation (whether it be the Ombudsman, an attorney, or a family member) during the hearing.
- B. The Home Care Ombudsman is responsible for maintaining a working knowledge of the time-frames in which participants have to request a hearing and shall educate the participant of the time-frame, including the time-frame to keep services intact while proceeding through the state hearing process. These time-frames may vary depending on the specific waiver services or managed care organization.
- C. To request a hearing, the Home Care Ombudsman shall contact the Bureau of Hearings at the Division of Rehabilitation Services when the participant is receiving the following waiver services:
 - a. Persons with Disabilities Waiver,
 - b. Traumatic Brain Injury Waiver,
 - c. HIV/AIDS Waiver, or
- D. To request a hearing for those receiving services under the Aging Waiver or the Community Care Program, the Home Care Ombudsman shall contact the Bureau of Hearings at Healthcare and Family Services.
- E. For MMAI beneficiaries requesting a Third Appeals level hearing before an ALJ, the Home Care Ombudsman shall contact the Office of Medicare Hearings and Appeals in the Department of Health and Human Services (Medicare appeal hearings). If the participant does not agree with the outcome of the hearing, the Ombudsman shall explain to the participant the next steps for the appeals process.
- F. When the complaint is outside of the service delivery component, the Home Care Ombudsman shall refer the participant to legal services per Section 608 C of this Manual.
- G. The Home Care Ombudsman shall assist the participant with the appropriate hearing withdrawal form when resolution has been achieved prior to the hearing, but when the request for a hearing has already been made.
- H. When the Home Care Ombudsman is the authorized representative, the HCO shall, when appropriate, complete the following activities to prepare for the hearing:

- a. Meet with participant to explain the fair hearing process and to prepare participant for the hearing;
 - b. Complete additional evidence gathering;
 - c. Complete a list of witnesses;
 - d. Conduct additional interviews with all necessary parties;
 - e. Gather a list of questions for the hearing;
 - f. Prepare opening and closing statements; and
 - g. Prepare and submit the Summary of Evidence to the appropriate Bureau of Administrative Hearings and to the opposing party within 72 hours of the hearing.
- I. The Home Care Ombudsman may ask the Hearing Officer for a continuance under the following circumstances:
- a. The Ombudsman needs more time to prepare a case;
 - b. The opposing party has not submitted their Summary of Evidence;
 - c. The participant cannot attend the date of the hearing; or
 - d. The participant fails to appear at the hearing.
- J. If the final Administrative Decision is not desirable to the participant, the Ombudsman shall explain the participant's right to have legal representation and to request an appeal through the circuit court system.

Chapter 800: Documentation

801: Documentation Requirements

802: Case Reviews

803: Case Closures

801: Documentation Requirements

- A. Every activity completed, complaint received, and all actions undertaken to investigate, verify, and resolve complaints by the Home Care Program shall be documented by Ombudsman staff as prescribed by the Office.
 - a. All cases shall be opened within three (3) business days, once the Home Care Ombudsman determines the complaint qualifies as a case.
 - b. Activities shall be entered within fifteen (15) calendar days of completion of the activity.
 - c. Case journal entries shall be entered within thirty (30) calendar days of completion of the casework.
 - d. Once the Ombudsman determines a case is ready to be closed, he or she must immediately notify the Deputy State Home Care Ombudsman through the Office-approved documentation system or an email.
 - e. Cases shall be reviewed and closed by the Deputy State Home Care Ombudsman within thirty (30) calendar days of completion when no further action is needed on the complaints within the case.
- B. All Ombudsman shall use the data collection system designated by the Office.
- C. Release of information forms and any other written documents obtained by the Ombudsman through the course of an investigation should be scanned and attached electronically to the case file.
- D. Permission or refusal by the participant or the participant's legal representative to consent to the Ombudsman investigative or advocacy services shall be documented in every case.
- E. If a participant or complainant provides consent to release his or her identity, that consent shall be documented within a case journal entry and any release of information forms shall be attached to the case file.

802: Case Reviews

- A. Open cases shall be reviewed by the Deputy State Home Care Ombudsman on a regular basis and as needed or requested by a Home Care Ombudsman.
- B. Case reviews may be a desk review of the case as entered in the documentation system or may be conducted in-person, or on the phone with the Home Care Ombudsman.
- C. Case reviews should include a check that the following documents are attached to the case as applicable:
 - a. Any and all required release of information forms;
 - b. Authorized representative forms;
 - c. Power of Attorney, guardianship, or other legal representative forms;
 - d. All forms related to a fair hearing, grievance, or appeal process;
 - e. Letters mailed to the participant from the Home Care Ombudsman Program specific to the case;
 - f. Records requests; and
 - g. Participant records received via mail or electronically.
- D. Case reviews should include verification that the following technical aspects of documentation are accurate including:
 - a. Complaint date;
 - b. Date of first action;
 - c. Complaint code;
 - d. Verification code;
 - e. Disposition code;
 - f. Participant and complainant names;
 - g. Journal entries in chronological order;

- h. Medical coverage;
- i. A statement in the journal entry indicating consent was given to advocate on behalf of a participant; and
- j. Resolution and follow up.

803: Case Closure

- A. Cases may be closed in the following circumstances:
- a. When the complaint or complaints have been resolved to the participant's satisfaction;
 - b. When the Ombudsman has exhausted all possible means of working to resolve the complaint and the participant is not satisfied with the outcome;
 - c. When the participant requests that Program action end on the complaint;
 - d. When the participant cannot be located or stops communicating with the Ombudsman;
 - e. When the participant is institutionalized or will not be available for HCBS for 60 calendar days;
 - f. When the final administrative decision rendered is in not favor of the participant and there are no other obtainable advocacy strategies to consider;
 - g. When the participant refuses to take necessary action steps towards complaint resolution, such as:
 - i. Refusing to complete and sign required forms in order to continue with Ombudsman advocacy; or
 - ii. Failing to keep appointments with the Ombudsman.
 - h. When the participant fails to act in a cooperative and appropriate manner with the Ombudsman such as:
 - i. Willfully providing false information;
 - ii. Refusing to adhere to HCBS/MCO program guidelines; or
 - iii. Threatening an Ombudsman or other service providers.
 - i. When the participant moves out of the State of Illinois; or
 - j. When the participant dies.
- B. The Home Care Ombudsman shall prepare the case for closure by the Deputy State Home Care Ombudsman by:

- a. Reviewing the case to ensure all forms and documents are attached to the case pursuant to Section 802 C of this Manual;
 - b. Reviewing the case to ensure all contact with the participant and other individuals pertinent to the case is documented in the journal entries of the case;
 - c. Reviewing all information and required codes are accurate and complete pursuant to Section 802 D of this section; and
 - d. Entering a brief case summary and a written statement on why the Ombudsman is recommending the case be closed.
- C. The Home Care Ombudsman shall notify the Deputy State Home Care Ombudsman immediately once the case is ready for review pursuant to Section 801 (A)(d) of this Manual.
- D. The Deputy State Home Care Ombudsman shall make the determination as to whether or not the case should be closed.

Chapter 900: Confidentiality of Information and Program Records

901: Confidentiality of Program Records

902: Disclosure of Information

903: Receiving Participant Information

904: Record Maintenance

905: Quality Assurance

901: Confidentiality of Program Records

- A. Program records are the property of the State Ombudsman. The Office shall have access to Program records at all times.
- B. Program records shall be confidential and shall be disclosed only in limited circumstances specifically provided by applicable law and Section 902 of this Manual.
- C. Each Ombudsman and, as necessary, Program support staff trained in Program services and confidentiality, have access to Home Care Ombudsman Program records.
- D. The Deputy State Home Care Ombudsman shall:
 - a. Limit access of Program records to authorized Program personnel;
 - b. Ensure all Home Care Ombudsman Program records are stored in secure locations; and
 - c. Ensure all Home Care Ombudsman have means for a secure transmission of records by electronic mail or facsimile.
- E. Home Care Ombudsman shall:
 - a. Only use state-issued property for documentation purposes;
 - b. Immediately inform the Deputy State Ombudsman of a request for information; and
 - c. Immediately inform the Deputy State Ombudsman of a breach in confidentiality.

902: Disclosure of Information

- A. The State Ombudsman shall have the sole authority to make or delegate determinations concerning the disclosure of the files, records and other information maintained by the Ombudsman Program. The State Ombudsman shall comply with section 712(d) of the Older Americans Act, and implementing regulations, in responding to requests for disclosure of files, records and other information, regardless of the format of such file, record or other information, the source of the request and the sources of funding to the program.
- B. Ombudsmen shall not disclose the identity of, or any information that would lead to the identification of a participant or complainant involved in a complaint, report or investigation, unless the individual (or his or her legal representative) has consented to the disclosure, or such disclosure is required by a court order. Consent may be made in writing, orally, visually, or through the use of auxiliary aids and services and such consent shall be documented contemporaneously in the case notes by the Ombudsman.
- C. The consent to release information shall be on forms developed by the Office and shall be properly signed and dated.
- D. The Ombudsman shall make every effort to obtain written consent from the participant or legal representative.
- E. When a request is made by any party for any Program records containing participant information, the Office shall be contacted immediately by the Home Care Ombudsman or the Deputy State Home Care Ombudsman, or his or her designee. Program records containing participant information may not be released or disclosed to anyone who is not a representative of the Office without the written permission of the Office.
- F. The Office shall determine whether to disclose all or part of the records as follows:
 - a. The Office may require that the request for Program records be made in writing and may require a copy of the request before determining the appropriate response. Where the request is made orally by a participant or legal representative, the request must be documented in the Program case record by the Ombudsman to whom the request was communicated in order to meet this requirement;
 - b. The Office shall review the request with the relevant Program staff to determine whether the release of all or part of the records would be consistent with the requests or interests of the relevant participant and shall respond to the requesting Ombudsman within five (5) business days;

- c. In consultation with the Department on Aging's General Counsel, the Office shall determine whether any part of the records should be redacted (i.e., all identifying information removed). The identities of participants and complainants who have not provided consent for the release of their names shall not be revealed; and
- d. The Office, in consultation with the Department on Aging's General Counsel, shall consider the source of the request (i.e., complainant, participant, another agency, or any other party) and the type of request (written request, Freedom of Information Act request, subpoena, court order) in determining whether to disclose all or any part of the records. Requests coming from participants should generally be honored. The Program may provide the participant copies of records that are directly related to him or her and such records shall be redacted to protect the identity of the complainant. Response to such requests for records shall be within five (5) business days when the requests are time-sensitive due to an upcoming administrative hearing.

903: Receiving Participant Information

- A. Ombudsmen shall use the forms prescribed by the Office when a participant is granting an Ombudsman permission to access information or records from another entity.
- B. When other entities, such as managed care organizations, or physicians, do not accept the Office prescribed release of information form and request use of their own form, the Ombudsman shall comply with the request from the other entity.
- C. When the Ombudsman receives records from another entity, that information becomes a part of the participant's record and shall be treated as confidential per Section 901 of this Manual.
- D. Ombudsmen may not receive records or confidential information from another entity without the express permission of the participant. If information is sent to the Ombudsman without participant permission, the Ombudsman shall immediately:
 - a. Inform the source that permission was not granted for the Ombudsman to receive the information;
 - b. Return hard copies to the sender or delete electronic copies;
 - c. Inform the Deputy State Home Care Ombudsman of the breach in confidentiality; and
 - d. Inform the participant of the breach in confidentiality.

904: Record Maintenance

- A. Documents related to case work shall be scanned and attached electronically to the case file within three (3) business days. Once saved electronically, the hard copy of these documents shall be destroyed no later than ten (10) business days after the case is closed. The electronic files shall be saved by the Office pursuant to the required retention schedule.
- B. Hard copies of case documentation or confidential information shall not be stored outside of the Office-approved case documentation system without the approval of the Office.
- C. No case documentation or confidential information shall be stored on the Ombudsman's personal computer or personal device.
- D. Documents relating to confidential activities shall be scanned and attached electronically to the activity entry within three (3) business days. Once save electronically, the hard copy of these documents shall be destroyed within ten (10) business days of completion of the activity.
- E. Home Care Ombudsmen must submit a signed confidential record storage plan to the Office upon certification for approval that includes:
 - a. The specific location of all hard copies of participant records and other confidential information will be stored, which must include storage in the state-issued lock box or another Office-approved storage mechanism, where no one other than the Ombudsman has access;
 - b. How and when confidential documents are to be scanned into the state approved documentation system;
 - c. How and when confidential documents are to be destroyed after being entered into the case documentation system;
 - d. Confidential transmission of hard copies to the designated locked storage location;
 - e. Confidential transmission of electronic documents.
 - f. Immediate Office access to the documents should the documents be requested by the Office.
- F. The Office shall review the confidential record storage plan and reply within 5 business days.

- G. The Ombudsman shall immediately notify the Office, in writing, of any changes or proposed changes to the confidential documentation storage plan. Any change to the plan must be approved by the Office.
- H. The State Ombudsman has final approval of all documentation storage plans.
- I. Failure to follow confidentiality policies may result in decertification and termination pursuant to Section 204 (B)(d) of this Manual.

905: Quality Assurance

- A. The Deputy State Home Care Ombudsman shall conduct an annual review of select Home Care Ombudsman records for quality assurance.
- B. The Deputy State Home Care Ombudsman shall track and review inactive cases and determine if additional action needs to be taken or if the case should be closed.
- C. The Deputy State Home Care Ombudsman shall personally monitor and observe each Home Care Ombudsman, on an annual basis, during the following activities:
 - a. Participant home visits;
 - b. Community education sessions;
 - c. Outreach events;
 - d. Informal Resolution Conference; and
 - e. Fair Hearings
- J. When concerns arise with the quality of advocacy services provided by a Home Care Ombudsman, the Deputy State Home Care Ombudsman shall notify the Home Care Ombudsman of the specific concerns and provide tools and techniques for improvement.
- K. When the concerns continue after intervention, the Deputy State Home Care Ombudsman shall notify the State Ombudsman for further guidance.

Chapter 1000: Legal Issues

1001: Legal Advice and Consultation

1002: Representation for Civil Legal Action

1003: Willful Interference

1004: Retaliation and Reprisals

1005: Guardianship

1001: Legal Advice and Consultation

- A. Ombudsmen shall have access to adequate legal counsel to support Program activities.
- B. Ombudsmen shall assist participants in seeking administrative, legal and other appropriate remedies in accordance with Section 608 of this Manual.
- C. The Home Care Ombudsman may contact the Deputy State Home Care Ombudsman when seeking legal advice regarding issues raised by or on behalf of participants. The request for advice may be made in writing or via phone.
- D. The Deputy State Home Care Ombudsman will seek to respond to the request within five (5) working days by:
 - a. Providing the requested legal advice to the Home Care Ombudsman, after conferring with counsel;
 - b. Requesting additional information from the Home Care Ombudsman;
 - c. Providing an update to the Home Care Ombudsman on the progress in obtaining the necessary information and an anticipated time frame for providing requested legal advice; or
 - d. Indicating to the Home Care Ombudsman that the request submitted is inappropriate and when the Office will take no further action.
- E. For the Office to obtain legal advice, the State Ombudsman or as designated by the State Ombudsman, the Deputy State Home Care Ombudsman may:
 - a. Confer with the Legal Services Developer; or
 - b. Contact the Department on Aging's General Counsel for guidance on Department policy or procedure; or
 - c. Contact the Department on Aging's General Counsel's Office for assistance from the State of Illinois Office of the Attorney General by following Department procedures for such requests.

1002: Representation for Civil Legal Action

- A. An Ombudsman acting in the good faith performance of his or her official duties has immunity from liability in legal proceedings brought as a consequence of the performance of his or her official duties. For an Ombudsman to obtain legal representation in accordance with Illinois Act on the Aging [20 ILCS 105/4.04(h)] and the State Employee Indemnification Act [5 ILCS 350/1 *et seq.*]:
 - a. The Home Care Ombudsman shall immediately notify the Deputy State Home Care Ombudsman who shall notify the State Ombudsman upon receipt of any complaint, summons, subpoena, lawsuit, injunction, court order, or notice of any other legal action taken against the Home Care Ombudsman Program or any Home Care Ombudsman in connection with the performance of official duties. The notice shall be provided within 24 hours, in writing, and shall include a copy of the legal documents along with a brief case summary. Copies of the case notes and records shall be forwarded to the Office, upon request;
 - b. The Office may consult with the Department on Aging's General Counsel about the legal action or threatened legal actions against an Ombudsman; and
 - c. When appropriate, the State Ombudsman, or the Deputy State Ombudsman will submit a written request to the Office of the Attorney General for legal representation.
- B. Legal Representation
 - a. Should the Attorney General's office agree to represent the Ombudsman, by acceptance of this representation, the Ombudsman agrees to fully cooperate with the Attorney General's office.
 - b. Should the Attorney General's office decline to represent the Ombudsman subject to the legal action or identifies a conflict, the Ombudsman may choose to obtain private counsel. The services of the private legal counsel may be subject to reimbursement at reasonable rates approved by the Attorney General.
 - c. No federal or state funds may be expended by the Program for the reimbursement of private legal counsel where it is the final judgement of the court that the actions, decisions, or conduct which are the basis for the legal action for which the private legal counsel was employed were not undertaken in good faith or were outside the scope of official duties.

1003: Willful Interference

- A. The Ombudsman statute provides that no person shall willfully interfere with any Ombudsman in the performance of official duties [20 ILCS 105/4.04(f)]. A violation is a business offense subject to a fine.
- B. The Office shall investigate any report of willful interference.
- C. When a Home Care Ombudsman believes that willful interference was attempted or has occurred, the Ombudsman will inform the perpetrator of the sanctions provided by law, and, when the perpetrator is an employee of state government or a social service agency providing services to a participant or a managed care organization, advise the appropriate supervisor of the situation and the sanctions provided by law. All attempts to prevent or correct willful interference shall be recorded in the case records.
- D. If the interference continues, the Ombudsman shall immediately inform the Office about the interference and provide supporting documentation concerning the interference.
- E. The prosecution of any willful interference may involve a trial, and, accordingly, any corroborating evidence should be carefully collected, preserved, and safeguarded for delivery to the appropriate law enforcement official.
- F. The State Ombudsman shall notify the appropriate State's attorney or the Office of the Attorney General that an apparent violation of the Illinois Act on the Aging [20 ILCS 105/4.04(f)(1)(i)] has occurred, and request prosecution for a business offense.

1004: Retaliation and Reprisals

- A. The Ombudsman state statute provides that no person shall intentionally discriminate, retaliate or effect reprisals in any manner against any participant or employee of a home care provider, for filing a complaint with, providing information to, or otherwise cooperating in good faith with an Ombudsman.
- B. The Office shall investigate any report of intentional acts of discrimination, retaliation, or reprisal of a participant.
- C. When an Ombudsman believes that intentional acts of retaliation, discrimination or reprisal are occurring, have occurred or have been attempted, the Ombudsman should take such steps as are feasible to prevent the retaliation, discrimination or reprisal from continuing. These steps may include, but are not limited to:
 - a. Warning and educating the perpetrator of the sanctions provided by the law;
 - b. Documenting the intentional acts of retaliation, discrimination or reprisal; and/or
 - c. Educating the alleged victim about their rights in regard to being free from retaliation, discrimination or reprisal.
- D. When the perpetrator is an employee of a state agency, an agency carrying out the services under a waiver, or a managed care organization, the Office shall notify the supervisor of the employee in writing of the concern and of the sanctions provided by the law;
- E. The Home Care Ombudsman shall immediately notify the Deputy State Home Care Ombudsman about the intentional acts of retaliation, discrimination, or reprisal and submit supporting documentation of the act or acts. The Deputy State Home Care Ombudsman shall review the information provided, and conduct further investigation, if necessary, to confirm the occurrence of the interference or retaliation.
- F. Once confirmed, the Deputy State Home Care Ombudsman shall inform the State Ombudsman in writing of the intentional acts of retaliation, discrimination or reprisal.
- G. The prosecution of any intentional acts of retaliation, discrimination or reprisal as a business offense may involve an administrative procedure or trial, and accordingly, any corroborating evidence should be carefully collected, preserved, and safeguarded for delivery to the appropriate law enforcement official.
- H. If based on such review, the Office determines that enforcement action is warranted, the Office shall inform the Office of Attorney General or the appropriate State's Attorney that an apparent violation has occurred, and request prosecution of the individual or entity for a business offense.

1005: Guardianship

- A. The Program should always advocate for the desired interests of a participant as determined by the Ombudsman's best investigatory and counseling efforts. With permission of the participant, an Ombudsman may refer to legal services a participant who chooses to oppose a guardianship petition, or to have his or her guardianship revoked or is being abused by the guardian.
- B. The Program encourages participants and their families to execute and use a Power of Attorney, a Living Will and obtain a representative payee whenever possible to avoid unnecessary guardianships. When educating participants, Ombudsman should regard guardianships as a last resort and when no other alternatives are available.
- C. No Ombudsman shall serve as guardian of either the estate or the person, as a representative payee, or as an agent under a Power of Attorney for a participant, due to the potential conflict of interest or the appearance of a conflict of interest. This restriction does not apply to an Ombudsman acting as a guardian, a representative payee, or as an agent of a Power of Attorney for his or her own family member. However, an Ombudsman serving as a guardian, a representative payee, or as an agent of a Power of Attorney for his or her own family member may not advocate or serve as the Home Care Ombudsman for a family member during an appeal or fair hearing. In such an instance, the Deputy State Home Care Ombudsman will assign another Home Care Ombudsman to the case.
- D. Nothing in the Manual is meant to diminish the responsibilities of the Program or individual Ombudsmen to provide information to participants, their families or the community about the appropriate use of guardianship and its alternatives.

Chapter 1100: Grievances Against a Home Care Ombudsman

Section 1101: Grievances Against a Home Care Ombudsman

Section 1102: Grievances Against the Deputy State Home Care Ombudsman

Section 1103: Grievances Against the State Ombudsman

Section 1104: Indirect Complaints

Section 1101: Grievances Against a Home Care Ombudsman

- A. All grievances shall be documented and an outcome and any relevant action shall be identified. Grievances shall be promptly resolved at the lowest possible level.
- B. Complaints about a Home Care Ombudsman shall be in writing and directed to the Deputy State Home Care Ombudsman.
- C. The nature of the complaint and the investigation shall be promptly documented.
- D. The Deputy State Home Care Ombudsman shall inform the State Ombudsman of any grievances filed against an Ombudsman.
- E. The Deputy State Ombudsman shall investigate the complaint and provide a response back to the complainant after the investigation. The investigation shall be initiated within seven (7) business days from receipt of the written complaint. The response to the complainant shall be sent within thirty (30) calendar days of receipt of the complaint when practicable.
- F. The response to the complainant shall include the phone number of the State Ombudsman's Office, along with instructions on sending the matter to the next level, in the event the complainant is not satisfied with the outcome of the investigation.
- G. An individual who filed a grievance and is dissatisfied with the decision of the Deputy State Home Care Ombudsman may file a written request for review with the State Ombudsman within thirty (30) calendar days of the decision. The State Ombudsman shall respond with the written request for review within forty-five (45) calendar days of receipt of the request when practicable.
- H. The decision of the State Ombudsman is final and cannot be appealed.

Section 1102: Grievances Against the Deputy State Home Care Ombudsman

- A. A complaint about the Deputy State Home Care Ombudsman shall be made in writing and directed to the State Ombudsman.
- B. The nature of the complaint and the investigation shall be promptly documented.
- C. The State Ombudsman shall begin the investigation within seven (7) business days from receipt of the written complaint. The response to the complainant shall be sent within thirty (30) calendar days of receipt of the complaint when practicable.
- D. An individual who filed a grievance and is dissatisfied with the decision of the State Ombudsman may file a written request for review with the Director of the Department on Aging. The Director shall respond to the written request for review within sixty (60) days of receipt of the request when practicable.

Section 1103: Grievances Against the State Ombudsman

- A. A complaint about the State Ombudsman shall be in writing and directed to the Director of the Department on Aging.
- B. The Nature of the complaint and the investigation shall be promptly documented.
- C. The Director of the Department on Aging shall begin the investigation within seven (7) business days from receipt of the written complaint when feasible. The response to the complainant shall be sent within thirty (30) calendar days of receipt of the complaint when practicable.
- D. The decision of the Director is final and cannot be appealed.

Section 1104: Indirect Complaints

A. Governor's Office of Constituent Affairs (GOCA) complaints

- a. The Office shall review any complaint against the Program or a specific Ombudsman and shall respond to the GOCA complaint as directed in the correspondence from the Governor's Office. All responses must follow the confidentiality standards as spelled out in Chapter 900: Confidentiality of Information and Program Records of this Manual.
- b. The Office shall inform the Department on Aging of all GOCA requests and Office responses.
- c. The Office shall review current or closed cases related to the specific complaint to ascertain relevance to the complaint.
- d. When appropriate, the Office shall discuss the concern with the appropriate Home Care Ombudsman to determine what actions have or have not been taken to resolve the participant's and/or the complainant's concerns and to determine the appropriateness of the advocacy provided to the participant.
- e. If the complaint rises to the level of a grievance against an Ombudsman, the applicable Section of Chapter 1100 will be followed.

B. Legislative Affairs complaints

- a. The Office shall consider complaints received from the offices of State Representatives or State Senators on behalf of constituents to determine if further action is warranted.
- b. The Office shall review current or closed cases related to the specific complaint to ascertain relevance to the complaint.
- c. The Office shall discuss the concern with the appropriate Home Care Ombudsman to determine what actions have or have not been taken to resolve the participant's and/or the complainant's concerns and to determine the appropriateness of the advocacy provided to the participant.
- d. If the complaint rises to the level of a grievance against an Ombudsman, the applicable Section of Chapter 1100 will be followed.
- e. The Office shall contact the appropriate legislative office with a response that may include:

- i. Further information is needed and contact with the original complainant is necessary;
 - ii. No action is necessary or appropriate; or
 - iii. The complaint will be treated as a grievance and the applicable Section of Chapter 1100 will be followed.
 - f. All responses must follow the confidentiality standards as spelled out in Chapter 900: Confidentiality of Information and Program Records of this Manual.
- C. Indirect complaints from the Department on Aging Director, Communications Director or Legislative Liaison
 - a. When a complainant expresses a concern, either verbally or in writing, about a Home Care Ombudsman or the Home Care Ombudsman Program with the Department on Aging's Director, Communications Director, Legislative Liaison, or any other executive management staff member, and the concern is shared with the Office, the Office shall consider the complaints received to determine if further action is warranted.
 - b. The Office shall review current or closed cases related to the specific complaint to ascertain relevance to the complaint.
 - c. When relevant, the Office shall discuss the concern with the appropriate Home Care Ombudsman to determine what actions have or have not been taken to resolve the participant's and/or the complainant's concerns and to determine the appropriateness of the advocacy provided to the participant.
 - d. If the complaint rises to the level of a grievance against an Ombudsman, the applicable Section of Chapter 1100 will be followed.
 - e. All communication with Department on Aging staff must follow the confidentiality standards as spelled out in Chapter 900: Confidentiality of Information and Program Records of this Manual.
- D. Complaints received via social media
 - a. When the Office becomes aware of concerns presented via social media, such as on the Department on Aging's Facebook page, the Office shall consider the concern to determine if further action is warranted.
 - b. The Office may reach out to the complainant in a private message to ascertain if further action or information is needed and if the complainant wants to file a formal grievance.

- c. If further action is needed, the Office shall review current or closed cases related to the specific complaint to ascertain relevance to the complaint.
- d. When relevant, the Office shall discuss the concern with the appropriate Home Care Ombudsman to determine what actions have or have not been taken to resolve the participant's and/or the complainant's concerns and to determine the appropriateness of the advocacy provided to the participant.
- e. If the complaint rises to the level of a grievance against an Ombudsman, the applicable Section of Chapter 1100 will be followed.

RESOURCES

Illinois Department on Aging Long-Term Care Ombudsman Program Policies and Procedures Manual
November 2017

Title 89 Chapter IV b Part 521.20

<http://www.ilga.gov/commission/jcar/admincode/089/089005210000200R.html>

http://www.dhs.state.il.us/page.aspx?Item=22450#a_toc15

<http://www.ilga.gov/commission/jcar/admincode/089/08900270sections.html>

Molina Healthcare of Illinois Member Handbook, Effective Date: January 1, 2018

Blue Cross Community MMAI MEMBER HANDBOOK FOR 2020