



ANNUAL REPORT 2009

The Colorado
Long-Term Care
Ombudsman

Legal Assistance
Developer

The Legal Center for People
with Disabilities and Older People



Colorado's Protection & Advocacy System

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Never doubt that a small group of thoughtful,
committed citizens can change the world.

It is the only thing that ever has.

MARGARET MEAD

WHAT IS AN OMBUDSMAN?

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

Across Colorado there are 25 full-time, 24 part-time, and 87 volunteer ombudsmen who strive to improve the quality of life for almost 20,000 older adults in nursing facilities and more than 14,000 in assisted living residences.

Through their visits, ombudsmen can act as sentinels regarding quality of care and resident right issues. Their interactions and familiarity with residents can potentially alert facility staff to issues before they become actual complaints. Their visits to facilities may act as a deterrent to actions negatively affecting the quality of care and the lives of residents and prevent the need for costly interventions by state officials later.

-National Health Policy Forum 12-2-09

WHAT IS A LEGAL ASSISTANCE DEVELOPER?

Each of Colorado’s 16 Area Agencies on Aging has a legal assistance provider who coordinates free legal services for older people. The legal help may be provided by local private attorneys or a nonprofit organization that specializes in elder law.

Examples of older adults’ legal concerns include:

- Financial exploitation by a relative or caregiver;
- Eviction from a long-term care facility for non-payment that may be due to the failure of a loved one to send the senior’s Social Security or other income to the facility;
- A relative or professional trying to force them into a facility against their will;
- Obtaining or maintaining public assistance benefits such as Medicare, Medicaid or food stamps; and
- Being harassed by collection agencies for unpaid bills, or having their exempt income improperly garnished.

All people 60 years and older, living on low incomes are eligible for this program, whether they live in a long-term care facility, their own home or the home of a relative.

About our Programs

The Colorado Long-Term Care Ombudsman Program and the Legal Assistance Developer Program work together to protect and promote the rights of Colorado’s older adults and to improve their quality of life. The Ombudsman Program protects the rights of all people in long-term care, regardless of age.

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

The Colorado Long-Term Care Ombudsman, Shelley Hitt, and the Legal Assistance Developer, Mary Catherine Rabbitt:

- Provide leadership, support, training and technical assistance to the local ombudsmen and legal assistance providers throughout the state on the front lines of service;
- Evaluate their respective programs at the 16 Area Agencies on Aging;
- Stay abreast of current legislation and new regulations;
- Research and analyze critical issues and monitor changing trends;
- Work together on public policy initiatives to expand resources on elder law and to improve long-term care;
- Direct public education programming on resources for older adults and their families;
- Provide training and support to volunteers and professionals in local organizations;
- Serve as the voice of older people to policymakers, regulators and government officials;
- Advocate for improvements in legislation, policies, and funding affecting long-term care and elder rights; and
- Represent Colorado’s long-term care and legal service needs at the national level.

The Colorado Long-Term Care Ombudsman Program 2009 Accomplishments

The Colorado Long-Term Care Ombudsman Program served 213 nursing facilities with a total of 19,946 beds and 518 assisted living residences with a total of 14,446 beds.

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

- Served as Co-Chair of the Nursing Facility Advisory Council, Department of Health Care Policy and Financing;
- Served as a Governor-appointed member of the statewide Alzheimer's Coordinating Council tasked with developing a plan to address the epidemic growth in the number of people with Alzheimer's and the resulting impact on health care systems;
- Served on the statewide Nursing Facility Relocation Team, which assists residents when there is a facility closure;
- Served on the Steering Committee of the Colorado Coalition for Elder Rights and Adult Protection;
- Served on the Colorado "LANE"-Local Area Network for Excellence—as part of the national Advancing Excellence in Nursing Homes campaign;
- Was appointed by the Governor to serve on the Commission on State and Veteran's Nursing Homes;
- Served as a member of a multi-agency task force working to develop prevention protocol to protect against falls in long-term care facilities;
- Conducted a three-day annual training conference for staff and volunteer ombudsmen;
- Conducted eight on-site evaluations of local ombudsman programs; and
- Responded to 2115 calls for information and assistance from consumers, families, local ombudsmen and AAA staff and other long-term care professionals.

Colorado's local ombudsmen:

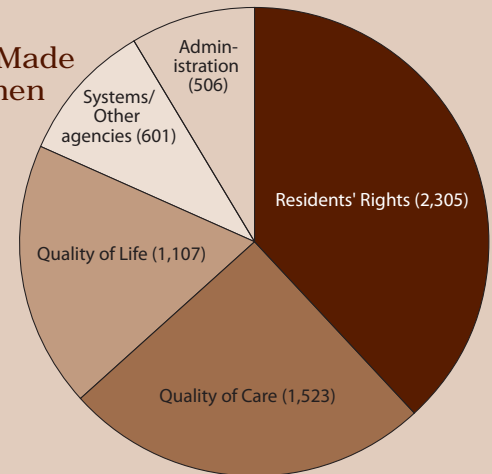
Visited 100% of nursing facilities at least monthly and 100% of assisted living residences at least quarterly;

- Investigated 6,096 complaints, of which 78% were verified, consistent with the national average of 77% of complaints being well-founded;
- Participated in 583 Department of Health annual Nursing Facility recertification surveys;
- Attended 1,713 resident council meetings and 104 family council meetings; and
- Conducted 864 community education sessions, 3,960 facility consultations, 5,309 individual consultations, 263 training sessions for volunteers, and 186 training sessions for the staff of long-term care facilities.

The value of our volunteers!

Colorado's volunteer ombudsmen logged a total of 9,946 volunteer hours. Calculated at \$20.25 hour (Independent Sector's 2008 estimate of the value of volunteer time), this represents a contribution of \$201,406, especially valuable in light of the state's economic difficulties.

Types of Complaints Made to Ombudsmen in Nursing Homes and Assisted Living Residences in 2009



Top Five Complaints in Nursing Facilities and Assisted Living Residences in 2009

1. Quality of Care	1,319
2. Autonomy and Choice	1,203
3. Systems/Benefits/Other Agencies	601
4. Environment	421
5. Admission/Discharge/Eviction	415

In 2009, quality of care complaints included 281 complaints regarding administration of medication, 230 complaints about staff failure to respond to requests for assistance and 173 complaints regarding failure to provide adequate personal hygiene care. The quality of life category includes 278 complaints about abuse and neglect, 501 regarding lack of dignity in care and services, and 313 complaints for the facility's failure to honor residents' choices and preferences or honor their civil and religious rights.

Systems, benefits and other agency complaints is a new category to the top five in 2009 reflecting residents' increasing concerns with accessing and keeping public benefits in this weak economy. In addition, the number of calls regarding financial exploitation (130) family conflict and interference (150) and powers of attorney and guardianship (136) remain high, as do related calls to adult protective services and local law enforcement. The large number of discharge and eviction complaints correlates with the poor economy and increasing abuse of residents' powers of attorney. The silver lining in the poor job market with high unemployment rates is that complaints about facility staffing went down from 561 in 2008 to 407 in 2009, reflecting more available and stable staff.

Legal Assistance Developer Program 2009 Accomplishments

Throughout Colorado, a total of 20 paid attorneys and over 100 pro bono attorneys provided legal services to 4,595 older persons through the 16 local Legal Assistance programs.

Mary Catherine Rabbitt, as the Colorado Legal Assistance Developer:

- Provided technical assistance to 416 individuals: 245 calls from local legal services providers, AAA directors and local ombudsmen, 126 calls from other professionals, and 45 calls from consumers;
- Made revisions to the desk evaluation form for the local programs and received approval from the state to implement it beginning in July 2009;
- Conducted on-site evaluations of four local Legal Assistance Programs and reviewed self-evaluations of 12 other local programs;
- Worked on revisions to Volume 10 of the Code of Colorado Regulations governing the Legal Assistance Program and worked on revisions to the Colorado Legal Assistance Program Policy & Procedure Manual;
- Testified in favor of HB 09-1198 – The Uniform Power of Attorney Act, which was signed into law by Governor Ritter on April 9, 2009. Participated in the preparation of a brochure for community education produced by the Colorado Bar Association explaining this new law: “So Now You Are An Agent Under Financial Power of Attorney (June 2009);
- Provided training on the Uniform Power of Attorney Act to over 100 individuals and secured scholarships for 11 local legal assistance providers to participate in the Colorado Bar Association’s continuing legal education program about the Uniform Power of Attorney Act;
- Conducted two training sessions for ombudsmen during the 2009 Colorado Long-Term Care Ombudsman Conference in Estes Park in May 2009: one on the new “Power of Attorney” legislation and a second training on “Confidentiality”;
- Provided training on the Legal Assistance Program for the Colorado Coalition for Elder Rights & Adult Protection;
- Continued to serve on the “Plan for Aging Well” Leadership Committee for Jefferson County Department of Human Services and served on the

Basic Needs Work Group for the development of that plan;

- Served on the Board of Directors of Colorado Senior Lobby; and
- Served as a member of the Colorado Bar Association Elder Law Section and its Power of Attorney Abuse Committee.

Across Colorado, the Legal Assistance Developer Program served 4,631 older adults as follows:

REGION	NUMBER OF OLDER ADULTS SERVED
1	78
2A	326
2B	149
3A	2,345
3B	101
4	249
5	1
6	204
7	102
8	12
9	36
10	173
11	678
12	106
13	68
14	3





Colorado Long-Term Care Ombudsman Priorities for 2010

1. Protect residents of long-term care from the effects of the recession

Given that the precipitous decline in the state's financial resources creates multiple risks to long-term care residents, as co-chair of the Health Care Policy and Financing Nursing Facility Advisory Council the priorities for 2010 are to:

- Work to reduce the delays in processing Medicaid applications by the counties;
- Bring together stakeholders to address the inadequate number of secure units for Medicaid clients with Alzheimer's and other forms of dementia. We have already seen closures resulting in the loss of 86 beds—the skilled nursing unit at the Grand Junction Regional Center (32), the geriatric unit at Fort Logan (22) and an assisted living residence on the Western Slope (32) that had primarily served people with mental illness;
- Monitor the quality of care in nursing facilities and assisted living residences to ensure that the reductions in the Medicaid reimbursement rates do not harm residents. The projected state deficit for FY 10-11 of \$1.3 billion makes this even more of a priority;
- Participate in planning changes to the Medicaid Hospital Back-Up program with the goal of revising regulations and improving reimbursement methodologies to provide adequate and appropriate care placement options to residents with high acuity; and
- Promote placement of residents with disabilities who are currently living in nursing facilities into less restrictive, community based treatment programs and facilities—with particular attention to the unmet needs of people with a major mental illness or a traumatic brain injury.

Colorado Legal Assistance Developer Recommendations for legislative changes:

- Provide additional consumer protections in state and federal law for seniors whose exempt income from Social Security is still being subject to garnishment in violation of federal law;
- Work for amendments to the Uniform Power of Attorney Act to include the requirement of a signed Acknowledgement by the Agent of the duties imposed by the Act;
- Continue to work for implementation of a public guardianship program in Colorado to serve the needs of seniors and younger persons with disabilities who lack family members to serve as their guardian and lack funds to pay for a private guardian; and
- Work for passage of the Elder Justice Act in Congress, which will provide additional resources to local communities to combat elder abuse and financial exploitation.

Colorado Long-Term Care Ombudsman Recommendations for legislative change:

- Create a pay-for-performance Medicaid reimbursement system for assisted living residences similar to HB 08-1114, which created pay-for-performance in nursing facility Medicaid reimbursement;
- Require operators or administrators of assisted living residences to be licensed by the state and increase educational and training requirements for assisted living staff; and
- Authorize the Board of Nursing to create a career ladder for certified nursing assistants (CNAs) to increase the skills, professionalism and stability of the CNA work force.

Statewide Contact Information

REGION	LEAD OMBUDSMAN	LEGAL ASSISTANCE DEVELOPER	AREA AGENCY ON AGING
1-Logan,Morgan,Phillips, Sedgwick,Washington,Yuma	Sandy Baker 970-867-9409 Ext. 234	Mark Earnhart, Esq. 970-322-4135	Sandy Baker 970-867-9409 Ext. 234
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