

Office of the Auditor General  
Performance Audit Report

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**Michigan Long-Term Care Ombudsman  
Program**

Health and Aging Services Administration  
Michigan Department of Health and Human Services

May 2022

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State of Michigan Auditor General  
Doug A. Ringler, CPA, CIA

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The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general may make investigations pertinent to the conduct of audits.

*Article IV, Section 53 of the Michigan Constitution*

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Office of the Auditor General

## Report Summary

### *Performance Audit*

### *Michigan Long-Term Care Ombudsman Program (MLTCOP)*

### *Health and Aging Services Administration (HASA)*

### *Michigan Department of Health and Human Services (MDHHS)*

**Report Number:**  
**391-0571-21**

**Released:**  
**May 2022**

HASA is Michigan's State unit designated to operate a long-term care (LTC) ombudsman program. MLTCOP was established to help address the quality of care and quality of life experienced by residents of licensed LTC facilities such as nursing homes, homes for the aged, and adult foster care facilities. MLTCOP is responsible for conducting routine visits to observe conditions and speak privately with residents, family members, and staff and advocating for residents by investigating complaints and supporting legislation, regulations, and policies. For fiscal year 2020, HASA expended \$1.7 million for MLTCOP. As of March 2021, MLTCOP funded the State Long-Term Care Ombudsman and 4 support staff and 17 local paid ombudsmen who supervised 19 volunteer ombudsmen.

Audit Objective			Conclusion
Objective 1: To assess the sufficiency of HASA's oversight of MLTCOP.			Not sufficient
Findings Related to This Audit Objective	Material Condition	Reportable Condition	Agency Preliminary Response
MLTCOP did not visit most of the LTC facilities during the 31-month audit period. In addition, for the LTC facilities that the ombudsmen did visit, the percentage of facilities for which all 4 required quarterly visits were completed ranged from 0% to 46% depending on the fiscal year and facility type ( <a href="#">Finding 1</a> ).	X		Agrees
HASA needs to monitor MLTCOP's complaint investigation process. MLTCOP did not: <ul style="list-style-type: none"><li>Establish investigation timeliness performance standards.</li><li>Maintain sufficient documentation to support closing 27% of cases reviewed.</li><li>Document the complaint intake date for 22% of cases reviewed.</li><li>Document resident or guardian involvement or consent for 26% of cases reviewed (<a href="#">Finding 2</a>).</li></ul>	X		Partially agrees

<b>Findings Related to This Audit Objective (Continued)</b>	<b>Material Condition</b>	<b>Reportable Condition</b>	<b>Agency Preliminary Response</b>
HASA needs to improve its oversight of background checks of ombudsmen. MLTCOP had not conducted or maintained background check documentation for 80% of volunteer ombudsmen reviewed ( <a href="#">Finding 3</a> ).	X		Agrees
HASA should improve its oversight of MLTCOP's conflict of interest process. MLTCOP did not obtain 39% of required disclosure of interest forms for ombudsmen and 18% of required disclosure of interest forms for ombudsman organizations reviewed ( <a href="#">Finding 4</a> ).		X	Agrees

<b>Audit Objective</b>			<b>Conclusion</b>
Objective 2: To assess the effectiveness of select security and access controls over OmbudsManager.			Moderately effective
<b>Findings Related to This Audit Objective</b>	<b>Material Condition</b>	<b>Reportable Condition</b>	<b>Agency Preliminary Response</b>
Regarding security and access controls, we identified issues related to deactivating users and oversight of vendor-hosted system controls ( <a href="#">Finding 5</a> ).		X	Partially agrees

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**Doug A. Ringler, CPA, CIA**  
Auditor General

May 10, 2022

Ms. Elizabeth Hertel, Director  
Michigan Department of Health and Human Services  
South Grand Building  
Lansing, Michigan  
and  
Mr. Robert C. Schlueter, Chair  
Commission on Services to the Aging  
South Grand Building  
Lansing, Michigan

Dear Ms. Hertel and Mr. Schlueter:

This is our performance audit report on the Michigan Long-Term Care Ombudsman Program, Health and Aging Services Administration, Michigan Department of Health and Human Services.

We organize our findings and observations by audit objective. Your agency provided preliminary responses to the recommendations at the end of our fieldwork. The *Michigan Compiled Laws* and administrative procedures require an audited agency to develop a plan to comply with the recommendations and to submit it to the State Budget Office upon completion of an audit. Within 30 days of receipt, the Office of Internal Audit Services, State Budget Office, is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

Doug Ringler  
Auditor General



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# AUDIT OBJECTIVES, CONCLUSIONS, FINDINGS, AND OBSERVATIONS

## MLTCOP OVERSIGHT

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### BACKGROUND

The Health and Aging Services Administration (HASA) is responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all State activities related to the Michigan Long-Term Care Ombudsman Program (MLTCOP).

HASA provides funding for services delivered to Michigan's residents who are 60 years of age or older or their spouses through the Michigan Advocacy Program (MAP) and designated ombudsman organizations\*, including local area agencies on aging (AAAs) and their grantees. The designated ombudsman organizations host and pay local ombudsmen; however, MAP hosts the State Long-Term Care Ombudsman (SLTCO) who manages MLTCOP, including oversight of all paid and volunteer ombudsmen (see supplemental information).

Included within its responsibilities, MLTCOP provides residents of licensed long-term care (LTC) facilities\* such as nursing homes, homes for the aged, and adult foster care facilities with access to ombudsman services through non-complaint related (quarterly) visits, complaint-related visits, virtual visits, and telephone calls.

### AUDIT OBJECTIVE

To assess the sufficiency of HASA's oversight of MLTCOP.

### CONCLUSION

Not sufficient.

### FACTORS IMPACTING CONCLUSION

- Material conditions\* related to HASA ensuring improvement of LTC facility visitation processes, the monitoring of complaint investigations, and the oversight of background checks (Findings 1, 2, and 3).
- Reportable condition\* related to HASA improving oversight of MLTCOP's conflict of interest process (Finding 4).
- HASA conducted MLTCOP annual on-site programmatic assessments covering fiscal years 2019 and 2020.
- HASA ensured MLTCOP submitted annual reporting information for the National Ombudsman Reporting System (NORS) and the legislatively required reports.

\* See glossary at end of report for definition.

## FINDING 1

### Improved monitoring of LTC facility visits needed.

At least 88.8% of LTC facilities were not visited each fiscal year.

HASA needs to ensure MLTCOP improves its LTC facility visitation processes to provide consistent advocacy services to the vulnerable individuals residing in all LTC facilities and reduce the risk of unreported resident issues.

Section 712(a)(3)(D) of the Older Americans Act of 1965\* requires MLTCOP to ensure residents have regular, timely, private, and unimpeded access to ombudsman services. Also, the Michigan Department of Health and Human Services' (MDHHS's) grant agreement with MAP explains the purpose of MLTCOP is to provide advocacy and information to individuals in need of long-term supports and services, particularly those living in nursing homes, homes for the aged, and adult foster care facilities. Further, in consideration of the U.S. Department of Health and Human Services Administration for Community Living (ACL) guidance and NORS reporting elements, HASA's operating standards for service programs require non-complaint related quarterly visits to each LTC facility.

Our review of MLTCOP's logs of in-person and virtual visits from October 1, 2018 through April 15, 2021 disclosed MLTCOP ombudsmen:

- a. Did not visit all LTC facilities, based on the listing of facilities active as of June 15, 2021, as follows:

Facility Type	Total Active	Number (Percentage) of Facilities Not Visited <sup>1</sup>		
		Fiscal Year 2019	Fiscal Year 2020	October 1, 2020 Through April 15, 2021
Adult foster care facility	4,054	4,020 (99.2%)	4,028 (99.4%)	4,053 (100.0%)
Home for the aged	310	248 (80.0%)	287 (92.6%)	309 ( 99.7%)
Skilled nursing facility*	448	7 ( 1.6%)	62 (13.8%)	425 ( 94.9%)
Total	4,812	4,275 (88.8%)	4,377 (91.0%)	4,787 ( 99.5%)

<sup>1</sup> We acknowledge facilities may have opened, closed, transferred ownership, or changed names from October 1, 2018 through June 15, 2021. However, MLTCOP did not maintain an active facility list by fiscal year.

- b. Did not conduct all 4 required quarterly visits at:

- (1) Any of the adult foster care facilities during fiscal years 2019 through 2021.
- (2) 309 (99.7%) homes for the aged during fiscal year 2019 or at any of the 310 homes during fiscal years 2020 and 2021.
- (3) 241 (53.8%) skilled nursing facilities during fiscal year 2019 or at any of the 448 skilled nursing facilities during fiscal years 2020 and 2021.

\* See glossary at end of report for definition.

We acknowledge the limitations MLTCOP faced during the COVID-19\* pandemic, especially the ban on physical access to LTC facilities from March 14, 2020 through June 29, 2020. Additional challenges mentioned by HASA included continued access barriers for ombudsmen at the facility- and local-level beyond June 29, 2020 and the availability of personal protective equipment (PPE). During the pandemic, MLTCOP indicated it utilized a telephonic and virtual platform in lieu of in-person visits, when possible, and increased telephone and/or e-mail communications regarding general MLTCOP information and available assistance options. Also, HASA indicated MLTCOP did not have a sufficient number of ombudsmen to visit all three types of facilities and, therefore, focused on skilled nursing facilities because those residents displayed the highest need.

We consider this finding to be a material condition because of the significant exception rates and the importance of providing regular advocacy services to the vulnerable populations in LTC facilities.

## RECOMMENDATION

We recommend that HASA ensure MLTCOP improves its LTC facility visitation processes.

## AGENCY PRELIMINARY RESPONSE

MDHHS provided us with the following response:

*MDHHS agrees.*

*MDHHS takes its responsibility to provide consistent advocacy services to the vulnerable individuals residing in all LTC facilities seriously. MDHHS is committed to reducing the risk of unreported resident issues and ensuring the health, safety, and welfare of all LTC residents. MDHHS/MLTCOP responded to all complaints made at all LTC facility types (e.g. adult foster care, homes for the aged, and skilled nursing facilities) prior to and during the pandemic within the required timelines.*

*During the pandemic, MLTCOP was unable to conduct "all 4 required quarterly visits" in fiscal years 2020 or 2021 due to ongoing visitation restrictions that began in the second quarter of fiscal year 2020 and continued through the first and second quarters of fiscal year 2022 due to high county and facility risk levels. Despite changes or flexibilities in MDHHS guidance, there were still restrictions implemented in August 2020 due to regional and/or county risk level. Also, access was limited at the facility level for congregate settings due to COVID spread. Based on the protocols for in-person visits that were developed and reviewed by the Community Health Emergency Coordination Center, in-person visits were only permitted when it was necessary and allowed based on county risk levels. With restricted access in any quarter, it impedes the ability to meet this requirement.*

\* See glossary at end of report for definition.

*In addition, window visits and telephonic visits could not be counted as in-person or virtual visits.*

*Ombudsmen were instructed to resume pre-pandemic visitation schedules in March 2022 when COVID cases began to decrease.*

*In addition, further clarification has been received from ACL indicating that "regular access as a visit to long-term care facilities in all four quarters" is not a standard nor a requirement, it is just guidance and suggests each state set their own standard. ACL does not have a national standard since that would be unrealistic given the extreme variables among states. With this guidance from ACL, MDHHS will evaluate approaches to address the resource constraints and update the operating standard language, under the Non-Complaint Related Facility Visits through the State Commission on Services to the Aging to be reflective of the capabilities within Michigan.*

**AUDITOR'S  
COMMENTS TO  
AGENCY  
PRELIMINARY  
RESPONSE\***

MDHHS's response that MDHHS/MLTCOP responded to all complaints within the required time lines, refers to the requirement to provide an initial response to a complainant within 1 to 7 days. That topic is discussed in Finding 2, for which no issues were reported. However, as noted in Finding 2, MLTCOP had not established timeliness performance standards related to closing complaint investigations.

Also, MDHHS indicates that MLTCOP was unable to conduct all 4 required quarterly visits due to ongoing visitation restrictions that continued through the first and second quarters of fiscal year 2022. Although confusion likely existed and testing and/or PPE was not available or limited toward the beginning of the pandemic, an MDHHS epidemic order effective June 30, 2020, expressly clarified "visitation restrictions do not apply to representatives of the Michigan Long Term Care Ombudsman program." In addition, an August 20, 2020 memorandum from the SLTCO to all LTC facilities announced in-person visitations would resume effective immediately. Further, visitation restrictions placed on families and friends of LTC facility residents by MDHHS epidemic orders were, for the most part, removed by April 2021; yet as mentioned in MDHHS's response and contrary to the SLTCO's August 2020 announcement, MLTCOP ombudsmen were not instructed to resume their in-person visitations until March 2022.

Therefore, our finding stands as written.

\* See glossary at end of report for definition.

## FINDING 2

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### Complaint investigation oversight needed.

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HASA needs to monitor MLTCOP's complaint investigation process to better serve and help protect the health, safety, welfare, and rights of the vulnerable individuals residing in LTC facilities.

In accordance with Section 305(a)(1)(C) of the Older Americans Act of 1965, HASA is responsible for the identification, investigation, and resolution of complaints submitted to MLTCOP. Also, MLTCOP's Policies and Procedures Manual requires an ombudsman investigating a complaint to:

- Provide an initial response to a complainant within 1 to 7 days based on the potential risk the complaint poses to the resident.
- Discuss the complaint with the resident or his/her representative to ensure the resident's perspective and wishes regarding resolution of the complaint are understood and informed consent to investigate is given.

In addition, MLTCOP management implemented a quarterly review process in fiscal year 2019, including a tracking report to identify complaint investigations that have been open for more than 90 days as of the review date and informal follow-up with the assigned ombudsmen.

We noted:

- a. HASA, in conjunction with MLTCOP, had not developed performance standards (targets) for its ombudsmen regarding how long it should take to complete complaint investigations, depending on the nature and potential risk of the complaint. MLTCOP management's identification of complaints open longer than 90 days is of little value for complaints relating to abuse, neglect, or eviction (involuntary discharge by an LTC facility).
- b. MLTCOP management did not perform its quarterly tracking report review during fiscal year 2020. Also, because the report was only designed to identify complaint investigations open for more than 90 days as of the review date, complaint investigations could exceed 90 days and either never be reviewed or not be reviewed until the subsequent quarterly review. Consider the following scenarios:
  - An investigation open for 60 days as of the first quarterly review date, and closed 50 days thereafter, would not be identified for follow-up by MLTCOP management even though it had been open a total of 110 days.
  - An investigation open for 89 days as of the first quarterly review date would not be identified for

follow-up by MLTCOP management unless it was still open at the time of the following quarterly review, at which time it would then be open for 179 days.

- c. MLTCOP did not perform an aging analysis of complaint investigations. MLTCOP had 4,149 cases (7,891 complaints) open at any time from October 1, 2018 through April 30, 2021. Based on the complaint open date, we determined MLTCOP:
- (1) Had 350 complaint investigations that, as of April 30, 2021, had been open for an average of 95 days; including 16 complaint investigations that had been open for more than 365 days.
  - (2) Closed 3,619 complaint investigations in an average of 65 days during fiscal year 2019.
  - (3) Closed 2,545 complaint investigations in an average of 53 days during fiscal year 2020.
  - (4) Closed 1,377 complaint investigations in an average of 53 days from October 1, 2020 through April 30, 2021.

- d. For 38 of the 4,149 cases, MLTCOP did not:

Sufficient documentation to support case closure not maintained for 27.0% of closed cases reviewed.

- (1) Maintain sufficient documentation to support closing 10 (27.0%) of the 37 closed cases.
- (2) Document the complaint intake date for 8 (22.2%) of the 36 cases that MLTCOP opened after October 1, 2018.
- (3) Document resident or guardian involvement or consent in case resolution for 9 (25.7%) of the 35 cases requiring consent.

HASA had not designed processes to monitor and evaluate the efficiency\* and effectiveness\* of MLTCOP's handling of complaints.

We consider this finding to be a material condition based on the significance of the exception rates, HASA and MLTCOP's inability to evaluate the efficiency and effectiveness of all complaint investigations, and the potential safety risk to the vulnerable individuals residing in LTC facilities.

## RECOMMENDATION

We recommend that HASA establish and implement processes to monitor and evaluate MLTCOP's complaint investigation process.

\* See glossary at end of report for definition.

**AGENCY  
PRELIMINARY  
RESPONSE**

MDHHS provided us with the following response:

*MDHHS partially agrees.*

*MDHHS takes its responsibility to monitor MLTCOP's complaint investigation process for its vulnerable LTC population seriously and is always looking for opportunities to improve its monitoring processes. MLTCOP prioritizes cases related to health, safety, and welfare.*

*MDHHS does not believe there should be a requirement to close cases within a specific time frame, as this could affect the investigation's thoroughness and encourage closure before all issues are resolved. MLTCOP has an established 90-day benchmark to monitor and evaluate the progress of cases. There is no federal requirement for cases to close within a certain time frame. Prior to the pandemic, the Assistant State Long-Term Care Ombudsman for Quality Assurance identified cases that were open greater than 90 days and made phone calls to the local ombudsmen to review case activity and progress. Based on the finding above, MDHHS falls below this 90-day threshold on average. Every complaint has a referral code, verification, and disposition code; and prior to closing a case, the ombudsman is instructed to ask permission from the resident to close the case as well. This process was put on hold during the pandemic due to competing critical priorities. During the first quarter of fiscal year 2022, this process was further enhanced by ensuring one-on-one calls were appropriately documented.*

*MDHHS agrees that proper documentation should be maintained for journal entries. MLTCOP provided training to the ombudsmen to reiterate the importance of including documentation within the case notes as to why a case was closed, how to document the complaint intake date separately from the first action date within the OmbudsManager system, and the importance of including documentation for consent. Training for these items was complete on September 15, 2021 and was incorporated into the case review process starting with the cases from the first quarter of fiscal year 2022.*

*With the start of a new grant agreement on April 1, 2022, MDHHS has incorporated a review of cases in the MLTCOP quarterly review process to monitor and evaluate complaint investigations, including documentation of case closures, complaint intake and first action dates, consent, and quality assurance reviews for these items, as well as cases open greater than 90 days.*

**AUDITOR'S  
COMMENTS TO  
AGENCY  
PRELIMINARY  
RESPONSE**

MDHHS's response that it does not believe there should be a requirement to close cases within a specific time frame seems to contradict its contention that it is always looking for opportunities to improve its monitoring processes. It is not the intent of our finding that MLTCOP close a case that has not been thoroughly investigated, and we acknowledge that some complaints will take additional time to close. A timeliness standard for closed cases



could include an exception process similar to Children's Protective Services investigations which are required to be completed within 30 days unless extenuating circumstances exist.

Also, MLTCOP's 90-day benchmark, as cited in MDHHS's response, is not a performance standard, but rather a quarterly monitoring review of case investigation activity, which as noted in parts a. and b. of the finding, contains design deficiencies. We contend that timeliness cannot be meaningfully evaluated in absence of timeliness performance standards.

Therefore, our finding stands as written.

### FINDING 3

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**Improved monitoring of background checks needed.**

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HASA needs to ensure MLTCOP conducts background checks of all MLTCOP ombudsmen to help protect the vulnerable individuals residing in LTC facilities from potential abuse and exploitation.

Part II, Section S of MDHHS's grant agreement with MAP requires paid and volunteer ombudsmen to pass the following background checks prior to providing ombudsman services:

- Michigan Department of State Police Internet Criminal History Access Tool (iCHAT)
- Michigan Sex Offender Registry
- National Sex Offender Registry
- MDHHS Central Registry

In addition, updates to HASA's operating standards for service programs approved by the Commission on Services to the Aging in August 2020 required AAAs to update criminal background checks for all employees and volunteers hired prior to October 1, 2020 by December 30, 2020. Thereafter, AAAs must update criminal background checks every 3 years. These requirements were subsequently incorporated into State law by Public Act 28 of 2021.

We reviewed MLTCOP's records for 8 (3 paid ombudsmen and 5 volunteer ombudsmen) of the 61 ombudsmen who were active at some time from January 1, 2019 through April 15, 2021. We noted MLTCOP had not:

- a. Conducted and/or maintained documentation of 10 (50.0%) of the 20 required initial background checks for 4 (80.0%) volunteer ombudsmen, as follows:
  - (1) All 4 of the required background checks for 2 (40.0%) volunteer ombudsmen.
  - (2) The MDHHS Central Registry background check for 2 (40.0%) volunteer ombudsmen.
- b. Updated background checks for any ombudsmen to identify subsequent offenses.

MLTCOP did not conduct and/or maintain required background checks for 80.0% of volunteer ombudsmen we reviewed.

MLTCOP indicated it did not complete background checks for the 2 volunteer ombudsmen who were in place when the program transitioned to MAP in fiscal year 2017 as it believed the background checks were done by the AAAs. MLTCOP also indicated it did not have a process to periodically update background checks.

We consider this finding to be a material condition because of the significant exception rates and the potential risk of abuse and exploitation of the vulnerable individuals residing in LTC facilities.

**RECOMMENDATION**

We recommend that HASA ensure MLTCOP improves its process for conducting background checks.

**AGENCY  
PRELIMINARY  
RESPONSE**

MDHHS provided us with the following response:

*MDHHS agrees.*

*MDHHS takes its responsibility to ensure MLTCOP conducts background checks of all MLTCOP ombudsmen to help protect the vulnerable population in LTC facilities seriously. In fiscal year 2022, MLTCOP completed background checks on all existing staff and volunteers and will continue to do so as required by State law. New ombudsmen, paid and volunteer, have the required background checks completed prior to the start of designation training. MDHHS has included a review of this process in its regular grant monitoring starting in fiscal year 2022.*

## FINDING 4

### Improved oversight of conflict of interest process needed.

HASA should improve its oversight of MLTCOP's conflict of interest process to ensure ombudsmen and ombudsman organizations maintain their ability to fairly represent and advocate for LTC facility residents, both in fact and appearance.

MDHHS's grant agreement with MAP requires MAP to ensure local ombudsman staff and volunteers are retained in accordance with MLTCOP policies which require ombudsmen and ombudsman organizations to complete annual disclosure of interest forms. Also, for identified conflicts, MLTCOP's policy requires:

- Ombudsmen and ombudsman organizations to submit a remediation plan to the SLTCO within 30 days.
- The SLTCO to review and respond to the remediation plan within 30 days and report identified conflicts of interest to ACL through NORS.

We reviewed conflict of interest documentation covering fiscal years 2019 through 2021 for 8 of the 61 ombudsmen and 4 of the 14 ombudsmen organizations that were active at some time from January 1, 2019 through April 15, 2021. As of April 30, 2021, MLTCOP had not obtained:

- a. 7 (38.9%) of the 18 required disclosure of interest forms for 4 ombudsmen.
- b. 3 (60.0%) of the 5 required remediation plans for 2 ombudsmen.
- c. 2 (18.2%) of the 11 required disclosure of interest forms for 1 ombudsman organization.
- d. 1 (11.1%) of the 9 required remediation plans for 1 ombudsman organization. Also, the SLTCO had not reviewed and responded to 2 (25.0%) of the remaining 8 ombudsman organizations' remediation plans within 30 days.

HASA did not have policies or procedures to monitor MLTCOP's conflict of interest process. Also, MLTCOP indicated it had not conducted conflict of interest processes during fiscal year 2020 because of competing priorities during the COVID-19 pandemic.

## RECOMMENDATION

We recommend that HASA improve its oversight of MLTCOP's conflict of interest process.

## AGENCY PRELIMINARY RESPONSE

MDHHS provided us with the following response:

*MDHHS agrees.*

*MLTCOP has ensured that all ombudsmen and ombudsman organizations (host agencies) have completed the required disclosure of interest forms and remediation plans as appropriate. New paid and volunteer ombudsmen joining the program in fiscal year 2022 completed conflict of interest screening and remedy, when appropriate, prior to the start of any designation training. All forms were reviewed and signed by the SLTCO within 30 days of submission. MDHHS has included a review of this process in its regular grant monitoring starting in fiscal year 2022.*

## SELECT SECURITY AND ACCESS CONTROLS

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### BACKGROUND

Security\* controls are the management, operational, and technical controls designed to protect the availability\*, confidentiality\*, and integrity\* of a system and its information.

Access controls\* limit or detect inappropriate access to computer resources, thereby protecting the resources from unauthorized modification, loss, and disclosure. For access controls to be effective, they should be properly authorized, implemented, and maintained.

MLTCOP uses OmbudsManager\*, a Web-based software, to house ombudsman training, outreach, facility visit, case, complaint, and investigation records. Because of the sensitivity of the information stored in OmbudsManager, including names and other personal information related to complaints, access is limited to the SLTCO and their support staff and paid ombudsmen at AAAs.

OmbudsManager is hosted by a third-party service organization (TPSO).

### AUDIT OBJECTIVE

To assess the effectiveness of select security and access controls over OmbudsManager.

### CONCLUSION

Moderately effective.

### FACTORS IMPACTING CONCLUSION

- Access levels were appropriate for the 4 OmbudsManager user accounts we reviewed.
- System controls limited users' access to their designated region and assigned level for the 2 ombudsmen we observed.
- Reportable condition related to improving security and access controls over OmbudsManager (Finding 5).

\* See glossary at end of report for definition.

## FINDING 5

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### Security and access controls over OmbudsManager need improvement.

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MDHHS should improve security and access controls over OmbudsManager. Malicious destruction or inadvertent loss of data would negatively impact MLTCOP's ability to perform required interactions with LTC facility residents and resolve resident complaints.

The State of Michigan Financial Management Guide (Part VII, Chapter 1, Section 1000) requires oversight of a TPSO's internal control system when those services have a material effect on the department's operations and reporting, including completion of a system assessment and review of System and Organization Controls (SOC) reports\*. Also, State of Michigan Technical Standards 1340.00.020.01 and 1340.00.020.03 require user access to be removed/disabled within 72 hours of an employee's departure and MDHHS to maintain documentation supporting the initial request for user access and the deactivation of access when no longer required.

Our review of security and access controls over OmbudsManager, including 9 user accounts that were inactive as of April 30, 2021, disclosed MDHHS and MLTCOP had not:

- a. Documented its understanding or evaluation of the system's and agency's controls designed to protect the OmbudsManager data.
- b. Reviewed the SOC reports for OmbudsManager. SOC reports are internal control reports of a TPSO that provide valuable information to enable users to assess and address the risks associated with an outsourced service, including system security, availability, processing integrity, confidentiality, and privacy.
- c. Maintained documentation to support the account deactivation date for the 9 (100.0%) inactive user accounts. Although MLTCOP provided documentation to support none of these users had logged into OmbudsManager after they no longer had ombudsman responsibilities, the risk of unauthorized access remained until user accounts were deactivated.

MDHHS indicated it had not designated anyone to perform an assessment of OmbudsManager or review the SOC reports. Also, the TPSO indicated OmbudsManager does not have an audit log that documents the deactivation date of user accounts.

## RECOMMENDATION

We recommend that MDHHS enhance security and access controls over OmbudsManager.

\* See glossary at end of report for definition.

**AGENCY  
PRELIMINARY  
RESPONSE**

MDHHS provided us with the following response:

*MDHHS partially agrees.*

*MDHHS does not agree that there was a significant risk of unauthorized access, as the user accounts were deactivated within the OmbudsManager system and thus their login capabilities no longer existed. The system does not timestamp when accounts are deactivated. The system is a nationally operated third-party system to which MLTCOP is unable to make changes. Due to the inability to make a system change, MLTCOP has since implemented a form process for a separation checklist that is completed when deactivating an account. The separation checklist includes the deactivation of access to the ombudsman database, which is initialed and dated by the individual completing the deactivation and has a separate line indicating the individual's separation date.*

*MDHHS has identified an individual to review SOC reports and complete the system assessment form that documents the evaluation of system controls performed by the SOC auditors in addition to the complementary user entity control considerations. MDHHS has begun this process for fiscal year 2022.*

**AUDITOR'S  
COMMENTS TO  
AGENCY  
PRELIMINARY  
RESPONSE**

MDHHS's response stating that the system does not timestamp when accounts are deactivated appears to acknowledge that it could not support when the user accounts were deactivated. Therefore, MDHHS likely could not ensure user access was promptly removed when the user no longer had MLTCOP responsibilities. We contend the risk of unauthorized access exists whenever there is a gap between the date an ombudsman no longer has MLTCOP responsibilities and when the SLTCO disables their user account.

Also, while disagreeing, MDHHS's response cites implementation of a process to mitigate the control weakness.

Therefore, our finding stands as written.



## SUPPLEMENTAL INFORMATION

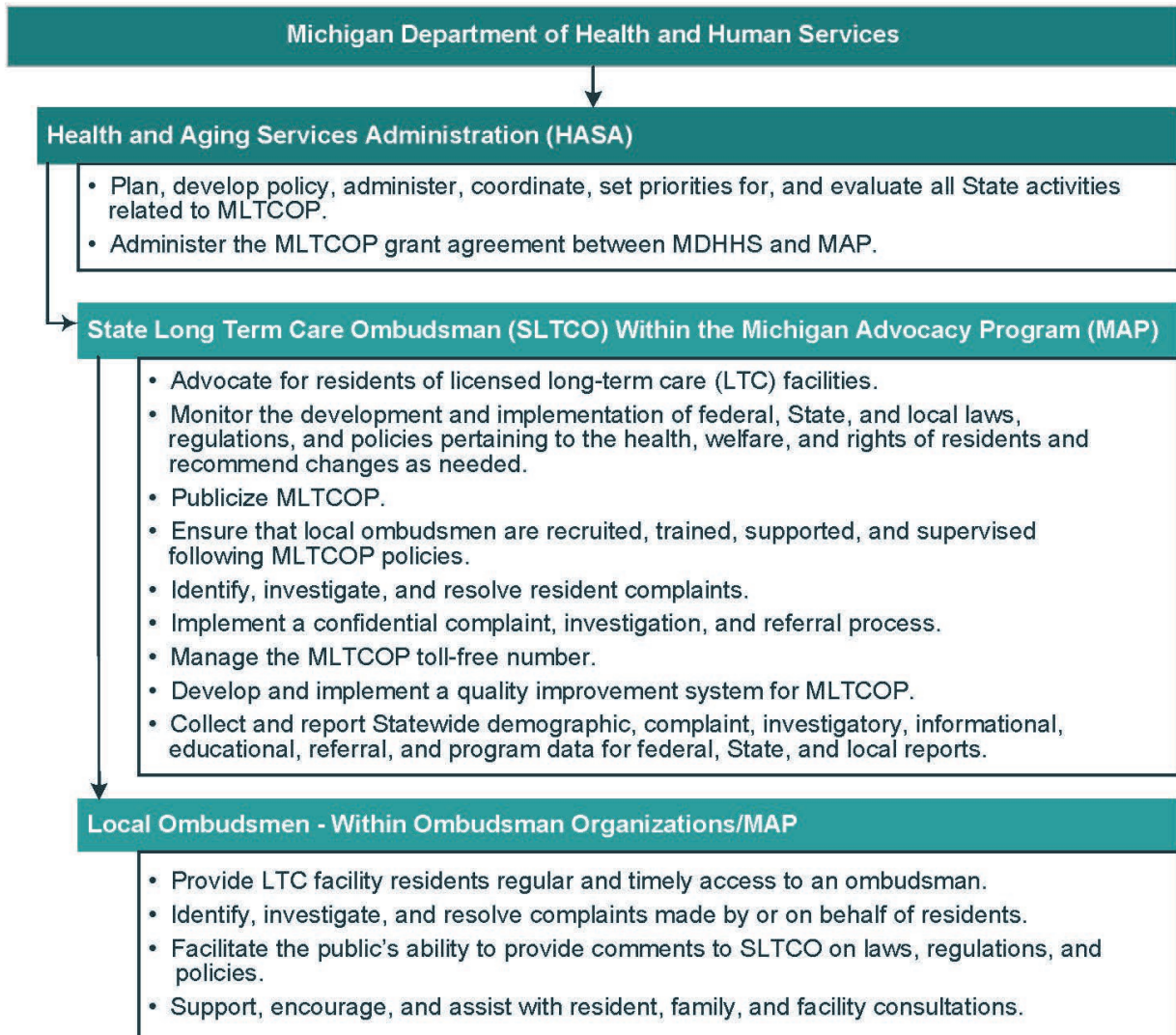
UNAUDITED

### MICHIGAN LONG-TERM CARE OMBUDSMAN PROGRAM (MLTCOP)

Michigan Department of Health and Human Services

#### MLTCOP Structure and Responsibilities

As of April 30, 2021



Source: The OAG prepared this information based on the Older Americans Act of 1965, Public Law 89-73, and the MLTCOP grant agreement between MDHHS and MAP.

## PROGRAM DESCRIPTION

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In accordance with the Older Americans Act of 1965, the Older Michiganians Act of 1981\*, and Executive Order No. 2021-14, effective December 14, 2021, HASA, within MDHHS, is Michigan's State unit designated to operate an LTC ombudsman program. Prior to December 14, 2021, the former Aging and Adult Services Agency (AASA), within MDHHS, was Michigan's designated State unit. Effective March 21, 2022, MDHHS renamed HASA as the Behavioral and Physical Health and Aging Services Administration.

MLTCOP primarily operates through MAP, a subrecipient that employs an SLTCO and coordinates the local ombudsmen through ombudsman organizations (see supplemental information for the MLTCOP structure and responsibilities).

MLTCOP was established to help address the quality of care and quality of life experienced by residents of licensed LTC facilities such as nursing homes, homes for the aged, and adult foster care facilities. The duties and responsibilities for MLTCOP include:

- Identifying, investigating, and resolving complaints made by or on behalf of residents.
- Providing services to assist residents in protecting their health, safety, welfare, and rights.
- Ensuring residents have regular, timely, and private access to the MLTCOP services.
- Providing administrative and technical assistance to MLTCOP designated ombudsman organizations.
- Providing training for representatives of MLTCOP.
- Analyzing, commenting on, and monitoring development and implementation of federal, State, and local laws, regulations, and other governmental policies and actions, pertaining to the health, safety, welfare, and rights of the residents, with respect to the adequacy of LTC facilities and services in the State.
- Representing the interests of the residents before governmental agencies and seeking administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents.

For fiscal year 2020, HASA expended \$1.7 million for MLTCOP. As of March 2021, MLTCOP funded the SLTCO

\* See glossary at end of report for definition.

and 4 support staff and 17 local paid ombudsmen (who supervised 19 volunteer ombudsmen) hosted by ombudsman organizations.

## AUDIT SCOPE, METHODOLOGY, AND OTHER INFORMATION

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### AUDIT SCOPE

To examine the records and processes of HASA and MLTCOP. We conducted this performance audit\* in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As part of the audit, we considered the five components of internal control (control environment, risk assessment, control activities, information and communication, and monitoring activities) relative to the audit objectives and determined all components were significant.

### PERIOD

Our audit procedures, which included a preliminary survey, audit fieldwork, report preparation, analysis of agency responses, and quality assurance, generally covered October 1, 2018 through April 30, 2021.

### METHODOLOGY

We conducted a preliminary survey of MLTCOP. During our preliminary survey, we:

- Interviewed HASA and MLTCOP management and staff regarding their responsibilities and procedures.
- Examined applicable federal and State laws, the grant agreement between MDHHS and MAP, MLTCOP processes, and published annual reports.
- Analyzed MLTCOP revenue and expenditure data.
- Reviewed training records for paid ombudsmen to verify ombudsmen received required training.

### OBJECTIVE 1

To assess the sufficiency of HASA's oversight of MLTCOP.

To accomplish this objective, we:

- Analyzed MLTCOP LTC facility populations, the Department of Licensing and Regulatory Affairs lists of LTC facilities as of June 15, 2021, a Centers for Medicare and Medicaid Services listing of skilled nursing facilities as of April 29, 2021, and MLTCOP records of LTC facility visits from October 1, 2018 through April 15, 2021 to determine if MLTCOP visited all facilities quarterly.

\* See glossary at end of report for definition.

- Analyzed data for the 7,891 complaints (4,149 cases) open at any time from October 1, 2018 through April 30, 2021 to determine the number of days complaints remained open.
- Reviewed MLTCOP records for 38 of the 4,149 cases noted in the preceding bullet to determine completeness of complaint investigation documentation. We judgmentally selected 1 of the 38 cases to ensure representation of cases which remained open longer than 1 year. Our result for the 1 judgmentally selected case could not be projected into the entire population.
- Reviewed MLTCOP records for 8 of 61 ombudsmen who were active at some time from January 1, 2019 through April 15, 2021 to determine whether MLTCOP completed required background checks.
- Completed background checks for the 29 ombudsmen, active as of July 12, 2021, who granted consent for MLTCOP to provide their personally identifiable information to us. We also obtained background check support from MLTCOP, with run dates ranging from December 23, 2019 through July 6, 2021, for the 4 ombudsmen who did not grant their consent.
- Reviewed MLTCOP's records for 8 of 61 ombudsmen and 4 of 14 ombudsman organizations to verify completion of annual disclosure of interest forms and submission of conflicts of interest remediation plans and to assess the timeliness of the SLTCO's review of remediation plans. We randomly and judgmentally selected the 8 ombudsmen to ensure representation of active paid ombudsmen, inactive paid ombudsmen, active volunteer ombudsmen, and inactive volunteer ombudsmen. Therefore, our results could not be projected to the entire population.
- Reviewed training documentation for 8 of 36 volunteer ombudsmen who were active at any time from January 1, 2019 through April 15, 2021 to determine whether ombudsmen completed training.
- Replicated select fiscal year 2020 MLTCOP activity presented in reporting to NORS and the Legislature.
- Examined 3 of the 10 quarterly complaint reviews performed by MLTCOP during the audit period.
- Reviewed quarterly programmatic reports submitted by the SLTCO to HASA covering October 1, 2018 through March 31, 2021.
- Examined MLTCOP annual on-site programmatic assessments covering fiscal years 2019 and 2020.

Unless otherwise indicated, our samples were randomly selected to eliminate bias and enable us to project the results to the respective populations.

## **OBJECTIVE 2**

To assess the effectiveness of select security and access controls over OmbudsManager.

To accomplish this objective, we:

- Reviewed all TPSO SOC reports covering December 1, 2017 through March 11, 2021 and inquired as to whether MDHHS, HASA, or the Michigan Department of Technology, Management, and Budget (DTMB) reviewed them.
- Inquired as to whether MDHHS or DTMB performed a Security Plan and Assessment related to OmbudsManager.
- Reviewed the appropriateness of user access for 4 of the 32 user accounts, with active access to OmbudsManager at some time during the audit period, and the 9 inactive user accounts requiring access deactivation during the audit period. Our sample was randomly selected to eliminate bias and enable us to project the results to the entire population.
- Observed user access capabilities for 2 of the 32 user accounts with active access to OmbudsManager at some time during the audit period to determine whether access was restricted by designated region. Our sampled user accounts were judgmentally selected based on risk and the SLTCO's determination of ombudsman availability. Therefore, our results could not be projected to the entire population.

## **CONCLUSIONS**

We base our conclusions on our audit efforts and any resulting material conditions or reportable conditions.

When selecting activities or programs for audit, we direct our efforts based on risk and opportunities to improve State government operations. Consequently, we prepare our performance audit reports on an exception basis.

## **AGENCY RESPONSES**

Our audit report contains 5 findings and 5 corresponding recommendations. MDHHS's preliminary response indicates it agrees with 3 of the recommendations and partially agrees with 2 of the recommendations.

The agency preliminary response following each recommendation in our report was taken from the agency's

written comments and oral discussion at the end of our fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and the State of Michigan Financial Management Guide (Part VII, Chapter 4, Section 100) require an audited agency to develop a plan to comply with the recommendations and to submit it to the State Budget Office upon completion of an audit. Within 30 days of receipt, the Office of Internal Audit Services, State Budget Office, is required to review the plan and either accept the plan as final or contact the agency to take additional steps to finalize the plan.

## PRIOR AUDIT FOLLOW-UP

Following is the status of the reported findings from our June 2012 performance audit of the Office of Services to the Aging's Community Services Division and State Long Term Care Ombudsman, Department of Community Health (391-0645-10):

Prior Audit Finding Number	Topic Area	Current Status	Current Finding Number
1	Monitoring of AAA Subcontractors	Not in scope of this audit.	
2	Monitoring of AAA Criminal History Background Check Procedures	Not in scope of this audit.	
3	Monitoring of AAA Plans and Assessments	Not in scope of this audit.	
4	Monitoring of In-Service Training.	Not in scope of this audit.	
5	Monitoring of Local LTC Ombudsman Activity	Rewritten*	1 and 2

Note: The status of prior audit Findings 1 through 4 was followed up and reported on in our October 2019 performance audit report on the Aging and Adult Services Agency, Michigan Department of Health and Human Services (391-0645-18). The status of the material condition from our October 2019 performance audit was followed up on and reported in our October 2021 follow-up report on prior audit recommendations (391-0645-18F).

## SUPPLEMENTAL INFORMATION

Our audit report includes a description of the MLTCOP structure and responsibilities presented as supplemental information. Our audit was not directed toward expressing a conclusion on this information.

\* See glossary at end of report for definition.

## GLOSSARY OF ABBREVIATIONS AND TERMS

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AAA	area agency on aging.
AASA	Aging and Adult Services Agency.
access controls	Controls that protect data from unauthorized modification, loss, or disclosure by restricting access and detecting inappropriate access attempts.
ACL	Administration for Community Living.
auditor's comments to agency preliminary response	Comments the OAG includes in an audit report to comply with <i>Government Auditing Standards</i> . Auditors are required to evaluate the validity of the audited entity's response when it is inconsistent or in conflict with the findings, conclusions, or recommendations. If the auditors disagree with the response, they should explain in the report their reasons for disagreement.
availability	Timely and reliable access to data and information systems.
confidentiality	Protection of data from unauthorized disclosure.
COVID-19	The disease caused by a new coronavirus called SARS-CoV-2. It is a potentially severe illness often characterized by fever, coughing, and shortness of breath. The World Health Organization first learned of the new virus in December 2019.
DTMB	Department of Technology, Management, and Budget.
effectiveness	Success in achieving mission and goals.
efficiency	Achieving the most outputs and the most outcomes practical with the minimum amount of resources.
HASA	Health and Aging Services Administration.
integrity	Accuracy, completeness, and timeliness of data in an information system.
LTC	long-term care.



<b>LTC facility</b>	As defined in the Older Michiganians Act, one or more of the following: <ul style="list-style-type: none"> <li>• Nursing home.</li> <li>• Home for the aged.</li> <li>• Adult foster care facility.</li> <li>• County medical care facility.</li> <li>• Hospital LTC unit.</li> </ul>
<b>MAP</b>	Michigan Advocacy Program.
<b>material condition</b>	A matter that, in the auditor's judgment, is more severe than a reportable condition and could impair the ability of management to operate a program in an effective and efficient manner and/or could adversely affect the judgment of an interested person concerning the effectiveness and efficiency of the program. Our assessment of materiality is in relation to the respective audit objective.
<b>MDHHS</b>	Michigan Department of Health and Human Services.
<b>MLTCOP</b>	Michigan Long-Term Care Ombudsman Program.
<b>NORS</b>	National Ombudsman Reporting System.
<b>Older Americans Act of 1965</b>	Federal law that provides grants to the states for community planning and service programs for the aging.
<b>Older Michiganians Act of 1981</b>	Public Act 180 of 1981, which created the Commission on Services to the Aging, AASA, and AAAs.
<b>OmbudsManager</b>	A Web-based software used to house training, outreach, facility visit, case, complaint, and investigation records related to the work of the MLTCOP.
<b>ombudsman organization</b>	An entity that is either an AAA, or a local nonprofit agency operating as a grantee of an AAA, that provides local LTC ombudsman services.
<b>performance audit</b>	An audit that provides findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analysis to assist management and those charged with governance and oversight in

using the information to improve program performance and operations, reduce costs, facilitate decision-making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability.

**PPE**

personal protective equipment.

**reportable condition**

A matter that, in the auditor's judgment, is less severe than a material condition and falls within any of the following categories: a deficiency in internal control; noncompliance with provisions of laws, regulations, contracts, or grant agreements; opportunities to improve programs and operations; or fraud.

**rewritten**

The recurrence of similar conditions reported in a prior audit in combination with current conditions that warrant the prior audit recommendation to be revised for the circumstances.

**security**

Safeguarding an entity's data from unauthorized access or modification to ensure its availability, confidentiality, and integrity.

**skilled nursing facility**

A hospital LTC unit, nursing home, county medical care facility, or other nursing care facility, or a distinct part thereof, certified by the Department of Licensing and Regulatory Affairs to provide skilled nursing.

**State Long-Term Care Ombudsman (SLTCO)**

The individual who heads the MLTCOP and is responsible to personally, or through representatives, fulfill the functions, responsibilities, and duties set forth in the Older Americans Act of 1965.

**System and Organization Controls (SOC) report**

Designed to help organizations that provide services to user entities build trust and confidence in their delivery processes and controls through a report by an independent certified public accountant (CPA). Each type of SOC report is designed to meet specific user needs:

- SOC 1 (Report on Controls at a Service Organization Relevant to User Entities' Internal Control Over Financial Reporting) - Intended for user entities and the CPAs auditing their financial statements in evaluating the effect of the service organization's controls on the user entities' financial statements.
- SOC 2 (Report on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy) - Intended for a broad range of users that need information and assurance about a service

organization's controls relevant to any combination of the five predefined control principles.

There are two types of SOC 1 and SOC 2 reports:

- Type 1 - Reports on the fairness of management's description of a service organization's system and the suitability of the design of the controls to achieve the related control objectives included in the description, as of a specified date.
- Type 2 - Includes the information in a type 1 report and also addresses the operating effectiveness of the controls to achieve the related control objectives included in the description, throughout a specified period.
- SOC 3 (Trust Services Report for a Service Organization) - Intended for those needing assurance about a service organization's controls that affect the security, availability, or processing integrity of the systems a service organization employs to process user entities' information, or the confidentiality or privacy of that information, but do not have the need for or the knowledge necessary to make effective use of a SOC 2 report.
- SOC for Cybersecurity - Intended to communicate relevant information about the effectiveness of an organization's cybersecurity risk management programs.

**TPSO**

third-party service organization.











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