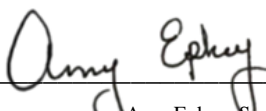


PERFORMANCE AUDIT OF 2021 OAG LONG
TERM CARE OMBUDSMAN

DEPARTMENT OF HEALTH AND HUMAN
SERVICES

AUDIT RESPONSE

Approved: 
Amy Epkey, Senior Deputy Director
Department of Health and Human Services

Date: September 12, 2022



AUDIT REPORT SUMMARY

DEPARTMENT: Behavioral and Physical Health & Aging Services
Administration

AUDIT PERIOD: October 1, 2018 through April 30, 2021

REPORT DATED: May 10, 2022

DISPOSITION OF AUDIT RECOMMENDATIONS

CITATIONS COMPLIED WITH	CITATIONS TO BE COMPLIED WITH	CITATIONS DHHS DID NOT AGREE WITH
	Finding 1 (12/1/2023)	
Finding 2		
Finding 3		
Finding 4		
Finding 5		

Audit Response
Performance Audit
2021 OAG Long Term Care Ombudsman
Department of Health and Human Services
October 1, 2018 through April 30, 2021

Recommendation 1: Improved monitoring of LTC facility visits needed

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

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.

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.

Recommendation 2: Complaint investigation oversight needed

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

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.

Recommendation 3: Improved monitoring of background checks needed

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

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.

Recommendation 4: Improved oversight of conflict of interest process needed.

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

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.

Recommendation 5: Security and access controls over OmbudsManager need improvement.

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

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.