

## DHS Responses to Public Comments Regarding Long-Term Care Ombudsman Program

**Luke Mattingly, CEO/President, CareLink**

**Comment:**

Page 1 – typo in line for Chapter 300 “Designation and Certification and Grievance Processes”

**Response:**

We will edit this accordingly. Please see the revised rule.

**Comment:**

Page 4 – Home and Community Based Services – is it possible to add older adults as a targeted population in this definition?

**Response:** Medicaid has defined “Home and Community Based Services” as opportunities for Medicaid beneficiaries to receive services in their own home or community rather than institutions or other isolated settings. These programs serve a variety of targeted populations.

**Comment:**

Page 11 – Section 204 (C)(3) Is the OSLTCO-approved monitoring tool one that that SLTCO provides to AAAs? Or Does the AAA have to develop a monitoring tool and submit to the SLTCO for approval?

**Response:** The monitoring tool has been created by the SLTCO and approved by the ACL.

**Comment:**

Page 12 – Section 204 (D) (1) – Please clarify which AAA staff are to attend OSLTCO-sponsored trainings and meetings. Is this the regional ombudsman, their supervisor, or someone from upper management?

**Response:**

The AAA staff that attends the OSLTCO-sponsored trainings and meetings is the regional Ombudsman representative. Section 204(D)(1) is revised to state: “Promote the attendance of the AAA regional ombudsman representative to attend OSLTCO-sponsored trainings and meetings pertaining to the Program.”

**Comment:**

Page 19 – Section 305 (E)(2) What is considered a reasonable time to fill a vacant Ombudsman Representative staff position? Who determines the reasonable time frame?

**Response:** We will revise the wording to state: “Failure to fill a vacant Ombudsman Representative staff position within 45 days of vacancy” based on the DHS Administrative

Procedures Manual Chapter 801. This is the same policy as the state unit on aging when fulfilling the State Ombudsman position.

**Comment:**

Page 20 – Section 307 (A) Typo – “An provider agency”

**Response:** We will make this correction. Please see the revised rule.

**Holly Johnson, Senior Assistant Attorney General, Medicaid Fraud Control Unit, Office of Arkansas Attorney General Leslie Rutledge**

**Comment:**

Pursuant to the directions outlined for public comments in the March 22, 2020, Arkansas Long Term Care Ombudsman Program Policies Memorandum, the Medicaid Fraud Control Unit offers the following response to the proposed rule revisions:

Under Section 203, State Long-Term Care Ombudsman (SLTCO) Responsibilities, Part E.9., I just wanted to note that the State Attorney General’s Office is such an entity based on its statutory authority to ensure the well-being of long-term care facility residents.

**Response:** The rule has been revised to add the State Attorney General’s Office to the list in Section 203(E)(9).

**Comment:**

Under Section 305, Withdrawal of Designation of Ombudsman Programs, what constitutes a “reasonable time” (days, e.g.) under part E.2. pertaining to the failure to fill a vacant ombudsman representative staff position?

**Response:** We will revise this to say: “Failure to fill a vacant Ombudsman Representative staff position within 45 days of vacancy” based on the DHS Administrative Procedures Manual Chapter 801. This is the same policy as the state unit on aging when fulfilling the State Ombudsman position.

**Comment:**

Under Section 306, Process for Withdrawal of Designation of an Ombudsman Program Provider Agency, what are the “reconsideration procedures” referenced in A.1.?

**Response:** In response to your question, we will add to Section 306(A)(1) the following: “a) Designation is not withdrawn until reasonable notice and opportunity for a hearing is provided;

- b) Notification of the right to appeal and the appeal procedures are included in the letter notifying the provider agency of a decision to withdraw designation; and,
- c) Hearings are conducted by the Appeals and Hearing Units of Arkansas Department of Human Services. “

**Comment:**

Under Section 602, Legal Counsel for the OSLTCO, Part B.1., there is no time-frame for when the SLTCO or designee shall advise the Department of Human Services Secretary and the Office of Chief Counsel of the legal action or threatened legal action. Under Part B.2., there is no time-frame for when the SLTCO will submit a written request.

**Response:**

We will add “as soon as possible” to Part B.1 and Part B.2, as follows:

Part B.1: ~~“~~“The SLTCO or designee shall as soon as possible...”

Part B.2: ~~“~~“When appropriate, the SLTCO will as soon as possible...”

**Comment:**

Under Section 603 B., for an Ombudsman Representative to obtain legal representation, there is no time-frame under No. 1. for when the representative shall advise the SLTCO of a legal action or threatened legal action. Under B.2.a., there is no time-frame for when the SLTCO will submit a written request.

**Response:**

We will revise the wording to include “as soon as possible,” as follows:

No. 1: “The Ombudsman Representative shall as soon as possible advise...”

B.2.a: “The SLTCO will as soon as possible submit...”

**Comment:**

Under Section 702, Procedures for Reporting Interference or Retaliation, will the OSLTCO have a certain time-period to conduct an investigation under Part B? Will there be a time-frame for SLTCO’s written report under Part C.1.a.?

**Response:**

In response to this input, we will make the following revisions:

Add the verbiage “within 10 days” to Part b, as follows: ~~“”~~“The OSLTCO shall review the information provided and within 10 days conduct ...”

Add the verbiage “within 14 days” to Part C.1.a., as follows: ~~“”~~“The SLTCO shall submit within 14 days a written report.”

**Comment:**

Under Section 903, Disclosure of Information, Part F.1., is there a time-frame for the OSLTCO's response once a written request is made? Under No. 4, will there be a time-frame for the release of requested information?

**Response:**

There is no time frame for the OSLTCO's response once a written request is made. There is no timeframe for the release of requested information.

**Comment:**

Under 1006 Complaint Referral, No. 2, I would recommend adding the Arkansas Attorney General's Office to Part b given its statutory authority to ensure the well-being of residents. For example, (i.e., Arkansas Department of Health, the Office of Long-Term Care, and the Arkansas Attorney General's Office).

**Response:** The rule has been revised to add "the Arkansas Attorney General's Office" to Section 1006(A)(2)(b).