

OMBUDSMEN AND ADULT PROTECTIVE SERVICES PROGRAM COMPARISON

Variable	Adult Protective Services (APS)	Long Term Care Ombudsman (LTCO)
Statutory Authority	<p>APS county programs are mandated to prevent or remedy, abuse, neglect or exploitation of adults who are unable to protect their own interests.</p> <p>APS intervention requires the consent of the adult, unless an adult is determined by a court to lack adequate capacity for decision-making.</p> <p>There is no mandate or authorization for APS services to provide ombudsman services.</p> <p>Citations: “Protective Services for Adults at Risk of Mistreatment or Self-neglect” C.R.S. 26-3.1-101-106; Volume of General Information and Policies (12 CCR 2509-1) (12 CCR 2509-1) 7.0.2 [7.000.2]; and Title 45, CFR, Subtitle C, Section 2351.</p>	<p>LTCO programs are mandated to assist residents of long term care facilities in protecting their health, safety, welfare, and their rights as residents of long term care facilities, and in the assertion of their civil, human, and legal rights.</p> <p>LTCO intervention requires the consent of the resident*, including the reporting of abuse, neglect, and exploitation to APS. No person may legally interfere with an ombudsman’s performance of duties and functions.</p> <p>There is no mandate or authorization for ombudsmen to provide APS services.</p> <p>Citations: Older Americans Act (OAA, Sect. 712(a)(3)(B), Colorado Long term Care Ombudsman Program Act, C.R.S. 26-11.5 ff; C.R.S. 26-11.5-109-110; C.R.S. 26-3.1-101; C.R.S. 26-11.5-108(2) and 42 USCS 3058g.</p> <p>* Throughout this document, “resident” means the resident or the resident’s legal designee.</p>
Population Served	<p>County APS programs provide services to all at-risk adults in their respective counties. At-risk adults are defined by statute as individuals 18 years of age or older who are susceptible to abuse, neglect, or exploitation because they are unable to perform or obtain services necessary for their health, safety, or welfare, or lack sufficient capacity to make or communicate responsible decisions regarding their person or affairs.</p>	<p>LTCO provide services to residents of long term care facilities and assisted living residences who are age 60 or older. Per the LTCO Policies and Procedures Manual (standard 11b), complaints may be acted upon for younger residents where such action will benefit, and not significantly diminish the capacity to serve, the older residents.</p>

In FY 03-04, thirty-two percent of APS referrals in Colorado were on adults under age 60. Approximately 14% of Colorado APS referrals are on clients in nursing homes or assisted living facilities. Place of residence is not a statutory consideration in protecting at-risk adults.

As of September 2003 there were 240 nursing homes with 20,597 beds and 516 assisted living residences containing 13,513 beds. There were 10,587 complaints acted upon in FFY 2003.

Program Purpose

In general terms, the mission of the APS program is to detect, prevent, and stop mistreatment of at-risk adults who are unable to protect themselves.

In general terms, the mission of the LTCO is to advocate for and empower residents of facilities to preserve their rights to health, safety, and welfare.

County APS programs receive and respond to reports of abuse, neglect, and exploitation. APS program staff conduct investigations of abuse, neglect (including self-neglect), and exploitation and provide protective services.

Ombudsmen identify, investigate, and resolve complaints on behalf of residents, and represent the interests of residents to seek administrative, legal, and other remedies.

Ombudsmen ensure that residents receive needed care and timely access to LTCO services.

Services

The focus of adult protective services is on the individual at-risk adult and is targeted toward resolving and preventing future mistreatment. APS caseworkers are not authorized to assess facility compliance or address general facility practices (unless concerns are in relation to a particular resident).

The focus of ombudsman services is on the individual resident and may be targeted toward facility processes and policies.

County APS caseworkers:

- Conduct investigations
- Provide case management
- Provide counseling
- Arrange, coordinate, deliver, and monitor services, such as medical care for physical or mental health needs and services to protect from mistreatment

Long term Care Ombudsmen:

- Advocate for residents of long-term facilities
- Resolve resident issues to bring about positive changes at local, state, and national levels that improve the quality of resident care
- Visit residents of nursing homes at least once a month

	<ul style="list-style-type: none"> • Assist with applications for public benefits • Refer individuals to community service providers • Initiate probate proceedings • Provide community awareness education and provide training to professional groups that work in conjunction with APS programs 	<ul style="list-style-type: none"> • Visit residents of assisted living residences at least quarterly • Resolve resident complaints • Participate on Resident and Family Councils • Participate in the survey process with the Department of Public Health and Environment (the licensing entity) • Provide training to family members, facility staff, the community, citizens groups, and the media
Administrative Structure	<p>Adult Protective Services programs are located in the county departments of social services, as determined by state statute.</p> <p>Statewide oversight: The Colorado Department of Human Services provides oversight and supervision of county programs.</p>	<p>The local LTCO programs are supervised and administered by Area Agencies on Aging (AAAs).</p> <p>Statewide oversight: The Office of the Colorado (State) Long Term Care Ombudsman (CLTCO) provides certification, training, technical assistance and monitoring of the local programs. The CLTCO is operated via a contractual agreement between the Colorado Department of Human Services and the Legal Center for People with Disabilities and Older People.</p>
Staffing	<p>APS caseworkers are required to have a Bachelor's degree in a human services field. County caseworkers are trained to conduct investigations. Child Welfare caseworkers assist with APS program needs, especially in rural areas.</p> <p>APS staff is not trained or certified to act as ombudsmen.</p>	<p>Ombudsmen are trained and certified by the CLTCO. There are no established degree requirements. Ombudsmen are often volunteers, and are not trained to conduct APS investigations or provide APS services.</p>
Funding Source	<p>The APS program is primarily funded by Title XX funding through the federal Social Services Block Grant.</p>	<p>The Long Term Care Ombudsman program is primarily funded by the Older Americans Act through the</p>

	Some additional state and local funding is used to provide APS services.	Administration on Aging (AoA) and the Division of Aging and Adult Services. Additional funding is provided by state and local sources.
Conflict of Interest	The federal mandate for ombudsmen requires client consent to report mistreatment. This significantly differs from the Colorado APS mandate that requires county agencies to report mistreatment to entities such as law enforcement, and encourages the exchange of information between coordinating service entities.	The individuals who carry out the duties of the LTCO program must be free from conflict of interest. The ombudsman must be seen as independent, and free to take action on behalf of residents. All actions taken by LTCO are dependent upon client consent.
Collaborative Agreements, Community Participation	County agencies have collaborative agreements with local law enforcement agencies regarding abuse investigations and other client related issues. Similar cooperative agreements and protocols have been established between community providers and the social service agencies. APS mandates that reports are made to law enforcement agencies, and encourages community teams and cooperative agreements.	AAAs and their LTC ombudsman programs are monitored and encouraged to conduct coordinated activities with many community agencies, including Single Entry Points, law enforcement authorities, disability advocacy groups, community centered boards, centers for independent living, mental health agencies, long term care advocacy groups, and other programs.
Recommendation of Professional Associations	The National Adult Protective Services Association (NAPSA) recommends that the preferred structure for providing APS services is through Departments of Social Services. The 1993 AoA Symposium, “Coordination Between Long Term Care Ombudsman and Adult Protective Services Programs and Related Issues”, cautioned against housing both APS and Ombudsman programs in the same structure because of conflicting program purposes and scope.	The National Association of State Long term Ombudsman Programs (NASOP) recommends that LTCO programs be housed in a location that allows them to independently advocate for residents and be free of conflicts of interest. Advocacy is a foundational principle of the Older Americans Act; independence is a hallmark of the LTCO program within the Older Americans Act.