



LTC OMBUDSMAN PROGRAM-FISCAL AND PROGRAMMATIC FAQs

The Coronavirus Aid, Relief, and Economic Security Act (CARES ACT)

April 17, 2020

These fiscal FAQs are provided in response to the Coronavirus Aid, Relief, and Economic Security (CARES) Act funding, P.L. 116-136, specific to the Long-Term Care Ombudsman program. For general fiscal FAQ's please see [AoA-Fiscal FAQs Updates FINAL 4-8-2020 0](#)

Updates include:

- CARES Act Funding
 - Purpose and use of funding
- Programmatic Questions Related to the CARES Act

Purpose and Use of CARES Act Funding

Funds expended from the CARES Act are to respond to the Coronavirus Emergency by providing Older Americans Act services related to the response. Ombudsman programs must expend funds on allowable Older Americans Act activities as defined by the Older Americans Act and State and local policy.

Related Questions:

1. Will ACL allocate the funds in accordance with the funding formula?
 - ACL distributes CARES Act funds to States as required by the population-based formula prescribed in the Older Americans Act.
2. What does it mean to obligate the funds and for how long can we utilize the funds?
 - Funds were appropriated to remain available until September 30, 2021, to prevent, prepare for, and respond to Coronavirus. A State must submit final financial reports and liquidate funds by December 30, 2021.
3. If the major disaster ends, is the CARES Act funding no longer available?
 - It is prudent to assume that even after the major disaster or public health emergency has concluded there will still be expenses related to the coronavirus response, such as costs associated with in-person visits to residents and purchasing of personal protective equipment, for example.

4. Can the state Ombudsman determine the use of these funds?
 - Effective use of CARES Act funds requires that the state Ombudsman coordinate closely with the State Unit on Aging and local Ombudsman entities, where applicable, to determine distribution and use of funds.
 - The Long-Term Care Ombudsman Program regulation found at 45 CFR 1324.13 (f) Fiscal management affirms, “The Ombudsman shall determine the use of the fiscal resources appropriated or otherwise available for the operation of the Office. Where local Ombudsman entities are designated, the Ombudsman shall approve the allocations of Federal and State funds provided to such entities, subject to applicable Federal and State laws and policies. The Ombudsman shall determine that program budgets and expenditures of the Office and local Ombudsman entities are consistent with laws, policies and procedures governing the Ombudsman program.”

5. In what ways can the Ombudsman program use these funds?
 - Funds expended from the CARES Act are to respond to the Coronavirus Emergency. Ombudsman programs will seek to expand their virtual presence to residents and their families and continue to promote the health, safety welfare and rights of residents in the context of COVID-19. Funds must be expended on allowable Older Americans Act activities as defined by the Older Americans Act and State and local policy. Below are examples of COVID-19 specific use of funds for consideration; these do not replace existing fiscal requirements.
 - Purchase of equipment and associated technologies that will allow for remote work and enhance Ombudsman presence in facilities while they cannot physically visit during to COVID crisis.
 - This may include reimbursement of expenses related to remote work; such as
 - purchase of laptops,
 - smart phones,
 - electronic tablets,
 - iPads and
 - similar products including:
 - Software to facilitate video conferencing and virtual meetings;
 - Purchase of hardware and software to develop equipment lending libraries to facilitate resident complaint handling and development of virtual resident and family councils.
 - Costs associated with community outreach including, advertising, postage, printing of brochures and similar educational materials.
 - Paying for staff extended hours, or hiring of additional staff, including associated personnel costs. Note: this funding is time-limited.
 - Training costs related to COVID-19 including additional costs associated with advertising, recruiting, certifying or providing continuing education (both remote and in-person) to current and prospective representatives of the Office.
 - Funds for travel once personal visits to facilities resume.
 - Acquiring personal protection equipment and supplies for program use, as appropriate, once in-person visits resume.

Programmatic Questions related to the CARES Act

The CARES Act states: “That the State Long-Term Care Ombudsman shall have continuing direct access (or other access through the use of technology) to residents of long-term care facilities during any portion of the public health emergency relating to coronavirus beginning on the date of enactment of this Act and ending on September 30, 2020, to provide services described in section 712(a)(3)(B) of the OAA:”

1. What does “continuing direct access” mean as described in the CARES Act?
 - The Older Americans Act at 712(b)(1)(A), provides that Long-Term Care Ombudsmen and their representatives have “private and unimpeded” access to long-term care facilities and residents. Ombudsman programs must consider the term “continuing direct access” in the context of a historic pandemic that has limited freedom of movement and rights for all members of society. Ombudsman programs must evaluate how they can provide continuing direct access in light of the following limitations:
 - Ombudsman programs are not emergency medical or clinical first responders.
 - Many states and localities have instituted “shelter in place” mandates that provide few exceptions for travel.
 - State and local governments have ordered staff to work from home.
 - Personal risk and health considerations of representatives of the Office.
 - CMS guidance – March 13, 2020 Ref: QSO-20-14-NH, provides residents the continued right to access the Ombudsman program. In-person access is restricted, except for very unusual circumstances, such as end of life care.
 - CMS visit prioritization – CMS has instructed state survey agencies to limit their work in nursing homes to those of Immediate Jeopardy (IJ) level and targeted infection control. CMS imposed this limitation for the protection of residents and state survey staff.
 - Availability and use of Personal Protective Equipment (PPE). This type of equipment is essential for onsite visits to facilities during the COVID crisis. It protects the safety of all within the facility and of everyone with whom a visitor interacts after leaving a facility. However, PPE is currently in very short supply in long-term care facilities. Protection of residents necessitates that facility staff have priority use of this equipment.
 - Ombudsman programs are successfully adapting to the crisis and resolving complaints over the phone. . This is a temporary mitigation to keep everyone safe and diminish risk of community spread of COVID-19.
 - If a visit must occur consider the following:
 - Pre-determine the circumstances that would genuinely require a visit; and determine if those complaints should go to the survey agency, public health or law enforcement.
 - Policies and procedures for state Ombudsman approval for an in-person visit.
 - Recognition that the facility can still turn the program away and the need for a back-up plan to resolve the complaint without a visit.
2. What are some technology options to stay connected to staff and volunteers?
 - ACL does not endorse any type of software platform; see resources available on the National Ombudsman Resource Center and The National Council on Aging websites. The National Council on Aging (NCOA) has developed a detailed overview of remote video communication options titled, Tools for Reaching a Remote Audience. NCOA provides pros and cons for each tool, including Facebook Live, Google Hangouts, Zoom and several others. Links to additional information are included in the document. This resource is a convenient first stop for people wanting to connect to each other remotely and also includes information about tools that can be used for meetings and presentations.

3. Will the program have additional reporting requirements?
- The CARES Act funds have been issued under a separate grant award number; therefore, funds must be accounted for separately from the regular issuance of Title VII Older Americans Act funding. States are required to continue maintaining appropriate records and documentation to support the charges against the Federal awards. Additional information will be coming out very shortly on programmatic reporting requirements.
 - It is critical that Ombudsman programs document all activities, cases and complaints in accordance with the National Ombudsman Reporting System (NORS) data collection requirements and that this data is routinely entered into the states' reporting software. For further guidance on NORS data collection and COVID-19 see <https://ltombudsman.org/uploads/files/support/nors-fags-covid.pdf>

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