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| *State of Idaho* **Idaho Commission on Aging** | | | |
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Idaho Long Term Care State Ombudsman Program

BOISE ID (October 23, 2020)

**Visitation of Long-Term Care Facilities**

On March 30th, 2020, the office of the State Long-Term Care (LTC) Ombudsman Program (LTCOP) enacted a “No In Person Visitation” guidance for all LTC Ombudsmen and directed Ombudsmen to refrain from entering long term care facilities unless specific authorization was obtained from the State Long-Term Care Ombudsman due to restrictions related to COVID-19.

With CDC guidance given September 17, 2020, Ref: QSO-20-29-NH for Nursing Home Visitation, the Ombudsman program is responding by authorizing in-person visitation, by local Ombudsmen, to resume in all facilities in the state.

Beginning October 23, 2020 and with the following direction, all Ombudsmen are authorized to do in facility visitation to fulfill the requirements set forth in The *Older Americans Act (OAA), Title VII, Chapter 2, Sections 711/712* and 45 CFR § 1324.13. Federal Regulation require the Ombudsman program provide services to assist residents in protecting their health, safety, welfare, and rights.

Since March Ombudsmen have been using other means than in-person visitation to investigate complaints on behalf of residents of LTC facilities.

Until there is a cure, vaccine, a viable treatment or the COVID public threat has subsided, there remains a risk of COVID-19 transmission for Ombudsmen, LTC residents and staff. Each Ombudsman must determine whether to make in-person visits, taking into consideration their personal health.

Ombudsmen are expected to make an unannounced visit to the facility. While in the facility the Ombudsman will visit residents, provide education to residents and staff, provide consultation and address complaints brought to the ombudsman while adhering to social distancing. When appropriate it is expected that telecommunication be used to increase accessibility to residents, families, and facility staff.

Ombudsmen will take all precaution and will comply with facility screening procedures upon entering facilities. Ombudsmen will notify facility administration or attending staff that they are entering the facility. Ombudsmen will not visit residents who have a confirmed or presumptive COVID-19 diagnosis. LTC Ombudsmen will provide their own PPE, wear PPE correctly and practice social distancing. We encourage residents, providers, and Ombudsmen to meet outdoors when appropriate.

**Long-Term Care Ombudsmen authority to facility Access**

* **LTC Ombudsman access to facilities and residents.**

**All LTC Ombudsmen must have private, unimpeded access to LTC facilities and residents. 42 USC § 3058g(b)(1)(A); 42 USC § 1396r(c)(3)(A). Ombudsmen must have access to all LTC facilities and residents at any time deemed necessary and reasonable to effectively carry out LTC Ombudsman duties, which include:** Any time during a facility’s regular business day, regular visiting hours, or other period the facility is open to the public; and any other time access may be required by the particular condition to be investigated or monitored. 45 CFR §1324.11(e)(2)(i); IC- 67-5009; IDAPA 15.01.03.

* + - **Residents’ rights to private access by LTC Ombudsman.**Residents must have regular, timely, private, and unimpeded access to LTC Ombudsman services.  42 USC § 3058g(a)(3)(D); 45 CFR §1324.13(a)(4); Residents must receive timely responses from LTC Ombudsmen to complaints and requests for information.  42 USC § 3058g(a)(3)(D); 45 CFR §1324.13(a)(4); IC- 67-5009; IDAPA 15.01.03. Facilities must allow LTC Ombudsmen to meet privately with residents in order to build relationships, provide information, investigate complaints, and render advice.
    - **LTC Ombudsman access to resident rosters and representatives’ contact information**: LTC Ombudsmen also have authority to access resident names and room number, and contact information for resident representatives.  Consent from individual residents or their representatives is not needed to access this information.  45 CFR 1324.11(e)(2)(iii); 45 CFR 1324.11(e)(2)(vii).
    - **LTC Ombudsman access to records of individual residents:**LTC Ombudsmen must have access to review all files, records, and other information concerning a resident if the resident or resident’s representative provides the LTC Ombudsman written consent, or if the resident is unable to communicate consent to the review but has no legal representative.  42 USC § 3058g(b)(1)(B); 45 CFR §1324.11(e)(2)(iv); IC- 67-5009;IDAPA 15.01.03.
    - **Unlawful interference.**It is unlawful for facilities to interfere with the work of LTC Ombudsmen or the right of residents to have access by LTC Ombudsmen. 42 USC § 3058g(j); 45 CFR §1324.15(i).

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