

Commonwealth of Pennsylvania Department of Aging

Office of the State Long-Term Care Ombudsman Program

Annual Report—FY 2009-10



**Pennsylvania Ombudsmen's mission is to
"advocate for those who can't, support those who can, and ensure
all long-term care consumers live with dignity and respect."**

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PA Office of the State Long-Term Care Ombudsman

The Pennsylvania Office of the State Long-Term Care Ombudsman (State Office) is comprised of the State Ombudsman, a division chief, aging services specialists and includes regional ombudsmen coordinators (ROCs). The state office supports and assists Pennsylvania's local ombudsmen and volunteers in partnership with 52 area agencies on aging (AAA).

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Executive Summary

The purpose of this report is to summarize the activities outcomes of Pennsylvania's State Long-Term Care Ombudsman program for the period of July 1, 2009 through June 30, 2010.

An ombudsman is a trained, state-certified individual who assists recipients of long-term care services resolve issues that affect their quality of life and quality of care. The term "ombudsman" is a Swedish word that means "citizen representative." Certified ombudsmen visit facilities and provide residents with information on their rights as consumers, assist them in exercising those rights, pursue remedies to their problems, and advocate for the enforcement of quality standards in the delivery of services. Pennsylvania ombudsmen also serve older consumers who receive home-and-community-based services.

The Long-Term Care Ombudsman program, as authorized under the Older Americans Act, is an integral part of the Pennsylvania Department of Aging (PDA). The State Long-Term Care Ombudsman program advocates for individuals who receive long-term care services and represents a public and private network of dedicated employees and volunteers at the local, regional and state levels. The program also monitors local Area Agencies on Aging (AAA), provides statewide trainings to 349 staff and 306 volunteers and during this fiscal year, and provides ongoing technical assistance to local agencies.

The ombudsman program operates in close partnership with the 52 local Area Agencies on Aging, which cover all 67 counties in the commonwealth. This program provides free and confidential assistance to older adults who express concerns about their long-term care services. Ombudsman services are used by older residents of approximately 2,700 long-term care facilities with approximately 158,889 beds.

The program continually strives to be proactive, have a visible presence at all facilities at the local level, and be accessible to consumers who receive long-term care services. In Pennsylvania, our vision is simple: "Advocate for those who can't, support those who can, and ensure all long-term care consumers live with dignity and respect."

Program Highlights (Compared to FY 2008-09)

- 7.4% **increase** in training for facility staff (380 to 408)
- 7.4% **increase** in information and consultations to facilities (3,254 to 3,496)
- 12.5% **decrease** in the number of cases opened (1,145 to 1,002)
- 12.6% **increase** in facility coverage visits (2,365 to 2,664)
- 13.4% **increase** technical assistance to Ombudsman and volunteers (8,752 to 9,928)
- 14.1% **decrease** in complaints received (2,260 to 1,941)
- 21.9% **increase** in work with resident and family councils (904 to 1,102)

Purpose & Organization

The Older Americans Act, which established the ombudsman program in every state, is required to do the following:

- Investigate and resolve long-term care resident and consumer complaints.
- Monitor the development and implement actions for federal, state and local long-term care laws and policies.
- Provide information to public agencies on issues of older residents in long-term care facilities.
- Provide volunteer training, and development and recruitment for the ombudsman program.
- Maintain a statewide reporting system for complaints in long-term care facilities.
- Protect the confidentiality of residents' records, complainants' identities and ombudsman files.

The program's purpose is to advocate, support, educate and empower consumers while being impartial, resident directed, and confidential supporters who are committed to advocating on behalf of recipients living in our state.

Our ombudsmen are federally mandated, legally based and state certified via standardized trainings to actively advocate and give voice to individuals receiving long-term living services, in both the community and facility-based settings. Pennsylvania ombudsmen champion the right of these consumers to achieve the highest quality of life and care wherever they reside. Our ombudsmen are comprised of staff, volunteers and trained resident volunteers who serve through the Pennsylvania Empowered Expert Residents program (PEER). All involved are united through an impassioned commitment to maintain a visible presence, listen, educate, investigate, mediate and empower long-term care service recipients.

Legislative History

Older Americans Act (OAA; Federal Legislation, 1965)

The OAA established the Long-Term Care Ombudsman program as a focal point for complaints from nursing home facility residents, and below are excerpts taken from the amendments made in the following years (visit www.aoa.gov for full review act):

- 1978** Law requiring states to establish and operate a long-term care ombudsman program to cover nursing homes, and to:
- Investigate and resolve complaints on behalf of nursing home residents.
 - Monitor the development and implementation of federal, state and local long-term care laws and policies.
 - Provide information to public agencies on issues and problems for older residents of long-term care facilities.
 - Provide training, development and recruitment of volunteers for the ombudsman program.
- 1981** Law to include board and care (personal care and domiciliary care homes).
- 1987** Law requiring states to create an Office of the State Long-Term Care Ombudsman and enveloped all regional programs by:
- Expanding the complaint definition.
 - Mandating availability of legal counsel for advice, consultation and representation.
 - Mandating training for staff and representatives of the State Office.
 - Mandating states to provide immunity to ombudsmen for the good faith performance of their duties.
 - Mandating states to make it unlawful to interfere with an ombudsman or to retaliate against a resident or complainant, providing appropriate sanctions for their due protection.
- 1992** An amendment emphasizing the value and role of local ombudsman programs, and it also included:
- Established the State Ombudsman's role as leader of the statewide program to advocate and be the agent for system-wide change.
 - Ombudsmen shall have access to long-term care facilities and residents must have regular and timely access to an ombudsman when a complaint involves a guardian not acting in the resident's best interest.
- 2000** Increased funding and required coordination with local law enforcement.
- 2006** Extended responsibilities of the aging network to encourage Home and Community-Based Services and added "assisted living facility" to the definition of long-term care facility.

Public Law 1244 (1989 PDA Reauthorization, PA State Legislation)

This law connected the ombudsman program to individuals rather than buildings; thereby expanding the ombudsman's investigative and advocacy roles to non-institutional settings.

Nursing Home Reform Law (1987 OBRA, Federal Legislation)

This law provided new tools and statutory support for the ombudsmen in their daily advocacy work.

- Required facilities to provide all residents the name, address and telephone number of the local ombudsman as part of the notice of appeal rights when a home transferred or discharged a resident
- Provided the ombudsman program and its representatives immediate and unlimited access to residents and their records as allowed by the resident
- Required states to notify the ombudsman program of any findings of non-compliance with any requirement of the law
- Required state surveyors, through federal survey procedures, to confer with ombudsmen on any complaints lodged against the facility in conjunction with their survey preparation, and to invite ombudsmen as observers at on-site exit conferences

Standards & Responsibilities of the Program

Reporting

- Any person who has a complaint or question regarding long-term care services on behalf of an older person can contact their local Long-Term Care Ombudsman or the Office of the State Long-Term Care Ombudsman.
- Complainants are encouraged to attempt problem solving without the direct intervention of an ombudsman. The ombudsman provides information and assistance for consumers to pursue remedies for their problems.
- If the ombudsman finds that the older person may be in jeopardy and benefit from intervention, based on the information presented, the ombudsman may proceed as the complainant.

Investigations

- All complaints are investigated or referred to other agencies, as appropriate.
- Ombudsmen must obtain consent from the consumer, or the consumer's legal representative, before proceeding with an investigation.
- Only individuals who have completed the required *Ombudsman Tier II* (Advanced) training and have been designated as certified representatives of the Pennsylvania State Long-Term Care Ombudsman program can conduct investigations.

- A complaint is verified when it has been determined that the complainant has a valid concern and that some resolution to the complaint is needed.
- In instances where a complaint alleges abuse, neglect, exploitation or abandonment, it is referred to the local Adult Protective Services Unit for investigation.

Access to Facilities, Residents & Records

- An ombudsman can enter a facility at any time as necessary to advocate on behalf of a resident as long as they have completed trainings provided by the State Long-Term Care Ombudsman Office. A state-issued identification badge is provided to all certified ombudsmen to be displayed at all times when visiting a facility.
- The ombudsman's authority to access facilities and residents is made possible by federal law and state regulations.
- Individuals who reside in private homes and deny access to the ombudsman, may be considered a potential for imminent danger and may be referred to the Adult Protective Services Unit for investigation.

Confidentiality

- Information and records acquired by an ombudsman are kept confidential per federal and state laws.
- The identity of the older person and the complainant is not disclosed, unless consent is provided by the resident or their legal representative, or via a court order.
- Complainants may choose to remain anonymous.
- Individuals filing a complaint with or providing information to the ombudsman are protected from retaliation and reprisals.
- Ombudsman files are kept locked and separated from other agency files.

Resolution

- Once a complaint has been verified, the ombudsman, with the resident's consent, works with all parties, such as facility staff, family members and regulatory agencies in seeking a resolution.
- Complaints are considered to be resolved when the circumstances have been remedied to the satisfaction of the consumer.
- Not all complaints are resolved to the satisfaction of all parties.

Enforcement

- Ombudsmen do not have direct authority to require action by a facility or other providers of long-term care services. Ombudsmen work with licensing agencies for effective enforcement.

Local Ombudsman Program Activities

Local ombudsmen act as a resource on long-term care issues, monitor legislative regulations and policies, and serve as advocates for consumers impacted by long-term care issues. Listed below are some of the activities performed by both staff and volunteer ombudsmen during this fiscal year:

- Provided 3,468 consultations to personnel and providers of long-term care facilities. This included presentations on ombudsman services, long-term care services, and complaint process.
- Responded to 10,091 requests for information and consultations from consumers. Most frequent areas of requests were ombudsman services, complaint process, accessing long-term care services.
- Conducted 2,664 facility coverage visits to long-term care facilities.
- Participated in 831 surveys of nursing facilities.
- Attended 1,064 resident and 38 family council meetings.
- Provided 750 educational sessions to groups in the community.
- Participated in 20 media interviews and prepared 40 press releases.
- Pennsylvania is divided into five regions, and quarterly regional meetings are held to discuss state and national trends, licensing agency presentations, and an opportunity to networking for both paid and volunteer ombudsmen. The Office of the State Long-Term Care Ombudsman Office attends all meetings.

Below is a chart showing trends of the above categories from the past three years:

Program Activity	FY2008	FY2009	FY2010	↑
Consultations to Personnel and Providers	3,630	3,223	3,468	7.6%
Information & Consultations to Individuals	10,609	10,255	10,091	-1.6%
Facility Coverage Visits	2,340	2,363	2,664	12.7%
Participation in Facility Surveys	664	1,490	831	-44.2%
Resident/Family Councils	737	904	1,102	21.9%
Community Education	692	928	750	-19.2%
Media Interviews	19	25	20	-20.0%
Press Releases	58	66	40	-39.4%

The goals in the following fiscal year are to strengthen collaborative relationships with other licensing agencies and to increase community education.

High Risk Facility Activities

Efforts continue to provide systems collaboration, and the State Long-Term Care Ombudsman Office receives Act 13 notices under the Older Adults Protective Services Act (OAPSA). In collaboration with licensing agencies, the State Office coordinates communications to local ombudsmen impacting resident health and safety issues, and increased demand for more visibility in high-risk facilities. OAPSA, which became effective on July 1, 1988, was amended in 1997, with the addition of the mandatory abuse reporting requirement by administrators and/or employees of facilities as defined by the Act. This means that both administrators and/or employees are required to report any suspected abuse of a recipient of care to the AAAs. If the *suspected abuse* involves sexual abuse, serious physical injury, serious bodily injury or a suspicious death, a mandatory report must be made to law enforcement, the Department of Aging, and the local AAA (please visit the Department's web site). In 09-10, 534 Act 13 notices were reported to the Department of Aging.

The State Office also receives reports from licensing agencies as well as other entities. These reports include correspondence, utility terminations, sanctions notices, facility closures, immediate jeopardy or alerts pending licensure enforcement actions or other significant situations in a long-term care facility where follow-up action is likely. It may also include warnings on issues that may be placing one or more residents at risk of serious harm or death if not quickly corrected. Alerts also include the Pennsylvania Emergency Management Agency (PEMA),

Bankruptcy Actions

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 went into effect on October 17, 2005. One of the provisions of this law is for the appointment of a patient advocate when a health care business files for bankruptcy. If the health care business provides long-term care services, the State Long-Term Care Ombudsman may be appointed by the U.S. Trustee's Office as the "*patient care ombudsman*." The role of the *patient care ombudsman* is to monitor the quality of patient care and represent the interests of the residents. In Pennsylvania, there were 13 cases under bankruptcy proceedings comprised of personal care and nursing home facilities during this fiscal year. The local ombudsmen were required to maintain a visible presence in the facilities by making weekly visits to the residents in the facility. Also, in collaboration with licensing agencies, the ombudsman provided support so that residents could continue to receive a high quality of care and report any issues for resolution. Under the law, the State Office is required to submit 60-day reports until the court decides the case is closed.

Volunteer Ombudsmen

Volunteer ombudsmen are trained members of the community who work through their local Area Agencies on Aging or ombudsmen subcontractor. Once they complete training, volunteers are certified as ombudsmen with all the authority and responsibility granted under the long-term care ombudsman program. Their goal is to advocate for and inform consumers who live in long-term living facilities on a person-to-person basis. These community volunteers significantly expand the outreach and accessibility of the ombudsman program. During this fiscal year, volunteers responded to consumers in over 2,700 long-term care

facilities in their respective communities. A total of 185 volunteers completed *Ombudsman Tier I* (Basic) trainings and 57 volunteers completed *Ombudsman Tier II* (Advanced) training to investigate complaints. The number of volunteers has grown from 1,102 in FY2008-09 to 1,392 in FY2009-10. Volunteers have donated over 22,000 hours to the ombudsman program.

A Volunteer Ombudsman Spotlight

Allan Vollmer always wanted to help people—and it didn't matter how, where or when he did it. He simply wanted to be a voice to others.

Allan completed PEER training in December, 2006 while living at Trinity Mission of Shenandoah Heights. He was a "natural", recruiting other residents to participate in the PEER program, attending resident council meetings, presenting in-services to members of the Trinity Mission staff, and visiting with newly admitted residents to inform them of their rights. Allan's goal was to return to his own home in Tamaqua. After almost two years, his dream came true.

In 2009, Allan contacted his local ombudsman expressing his willingness to be a volunteer. He completed the Ombudsman Tier I basic training and was soon making regular visits at the Tamaqua Older Adult Day Living Center—the first volunteer in Schuylkill county in an Older Adult Daily Living Center. The clients at the center welcomed him and made him feel part of the group. He also continues to visit Trinity Mission where some of his old friends still reside.

In February, 2010, Allan was re-admitted to Trinity Mission of Shenandoah Heights. He planned to attend the annual enrichment conference where he would present his unique perspective on becoming a volunteer. Unfortunately, Allan passed away in March 2010, and although he is no longer with us, we recognize his accomplishments and his passion for helping others. Allan, like many of the residents we serve, confirms the importance the ombudsman program plays in advocating for individuals who live in a long-term care facility.

A Special Group of Volunteers Pennsylvania's Empowered Expert Residents (PEER) Program

The PEER program, which was implemented in 2002, is the first of its kind in the nation. The PEER program trains residents from long-term care facilities: nursing and personal care homes, as well as domiciliary and adult day care centers to be advocates and work with staff and other residents to enhance the quality of care and life for their fellow peers. Self-resolution and consumer empowerment are themes consistently emphasized in statewide trainings. The PEER program equips residents with knowledge that enables them to be part of the solution.

During this fiscal year, the PEER program has expanded from 37 to 51 out of the 67 counties, and over 1,400 residents have been trained to date. Our goal is to continue to expand the program to every county in the state. For updated information, please visit the Department of Aging's web site at www.aging.state.pa.us and click the Advocacy (Ombudsman) button.

The uniqueness of the PEER program is motivated and supported by residents. Annually, all across the state, PEERs nominate an individual or group who made a positive impact on their daily living. These nominations are submitted through local ombudsmen to the State Office. The PEER Day, sponsored by the Department of Aging, is a day where PEERs come together to celebrate and recognize their accomplishments. One grand award is presented as the **PEER Award**, and in the fiscal year 09-10, the award went to Ann Balzer in Lycoming County.

Ann started PEER classes while a resident at Manor Care North in July 2007. After completing

three classes, she had some health issues and was unable to finish the entire program. When the next PEER classes began in October of the same year, Ann again enrolled and so did her friend Katherine. Even though Ann only needed to make up the last two classes, she chose to attend them all in order to accompany Katherine, who is visually impaired. As a PEER at Manor Care North, Ann gave each new resident a gift bag, which included booklets and a PEER brochure, and contained promotional Manor Care items that Ann asked the facility to contribute. Ann later moved



to Sycamore Manor, and organized the Sycamore PEERs to do the same thing. Each new resident receives a gift bag containing some gift items like pocketsize tissues, pen, tablet, along with the booklets. Ann continues to add to the welcome package. Many times, PEERs provide much needed information to new residents of facilities – information that otherwise may not be provided. It was Ann’s idea to supply “helpful tips from the PEERs” which provides information, that in Ann’s words, “no one told me when I first came and it took a long time to find out”. Tips on little things like navigating the city bus stops at Sycamore and how to make a hair appointment at the beauty shop were included. The bag is now adorned with a ribbon with all the PEERs names and room numbers attached. Ann organizes the group to pack more bags regularly so they are ready for new residents. When Sycamore was planning a health fair, it was Ann that arranged for PEERs to have a table.

Ann delivers cards to other residents on their birthday with a special note from the PEERs. She always attends Resident Council meetings and has advocated for hall phones that are lower on the walls so residents can reach them, a bathroom shelf that can be reached from a wheel chair, and other ideas. She is always putting herself in someone else’s place and trying to anticipate what will make their life better. PEER is a perfect match for Ann’s Good Samaritan nature and she always does her good deeds in the name of PEERs.

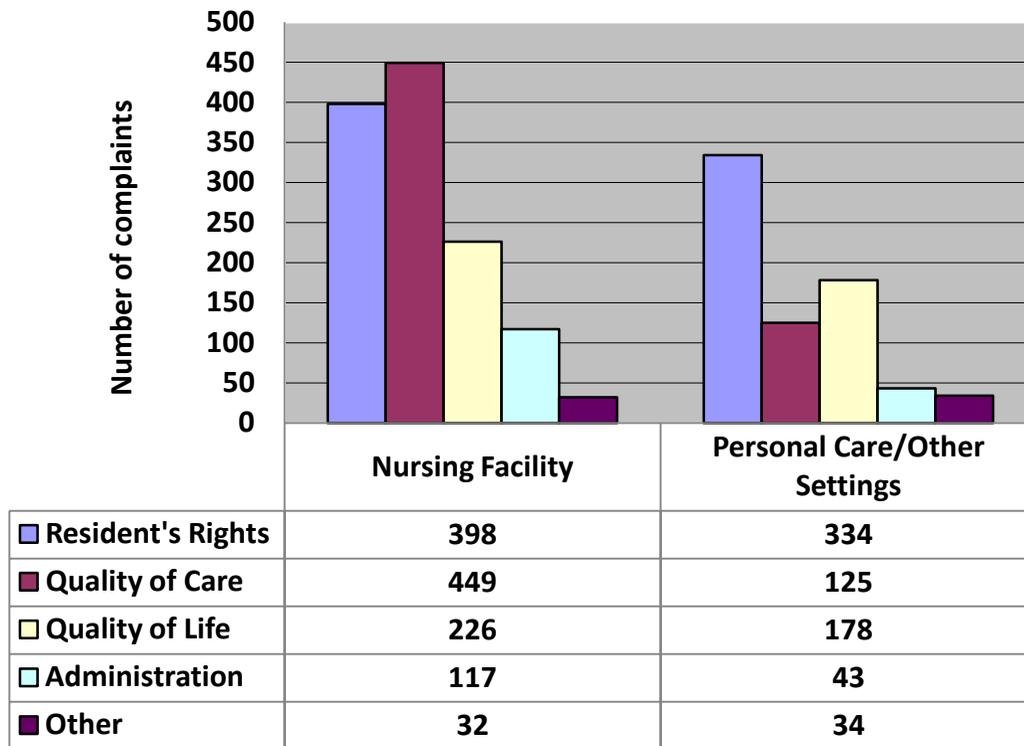
“Making a Difference” One Consumer at a Time

A local ombudsman received a telephone call from a woman stating she had contacted ten different social service agencies and no one was able to help her. Her 85 yr. old grandmother was a patient at a local hospital’s skilled nursing facility. The consumer needed a facility that would provide long-term vent care and on-site dialysis. The hospital had planned to discharge the consumer to the first available bed, which was located in Illinois. The consumer had lived in Pennsylvania her entire life and a move to Illinois would be detrimental to her health.

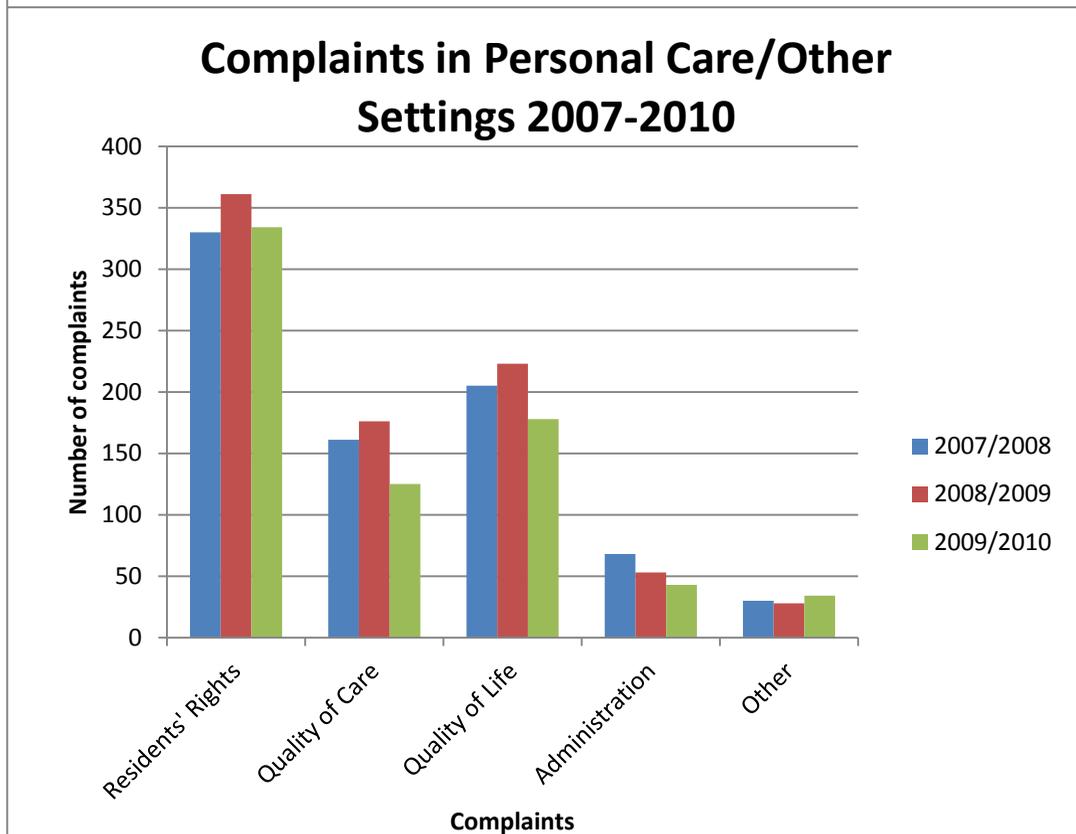
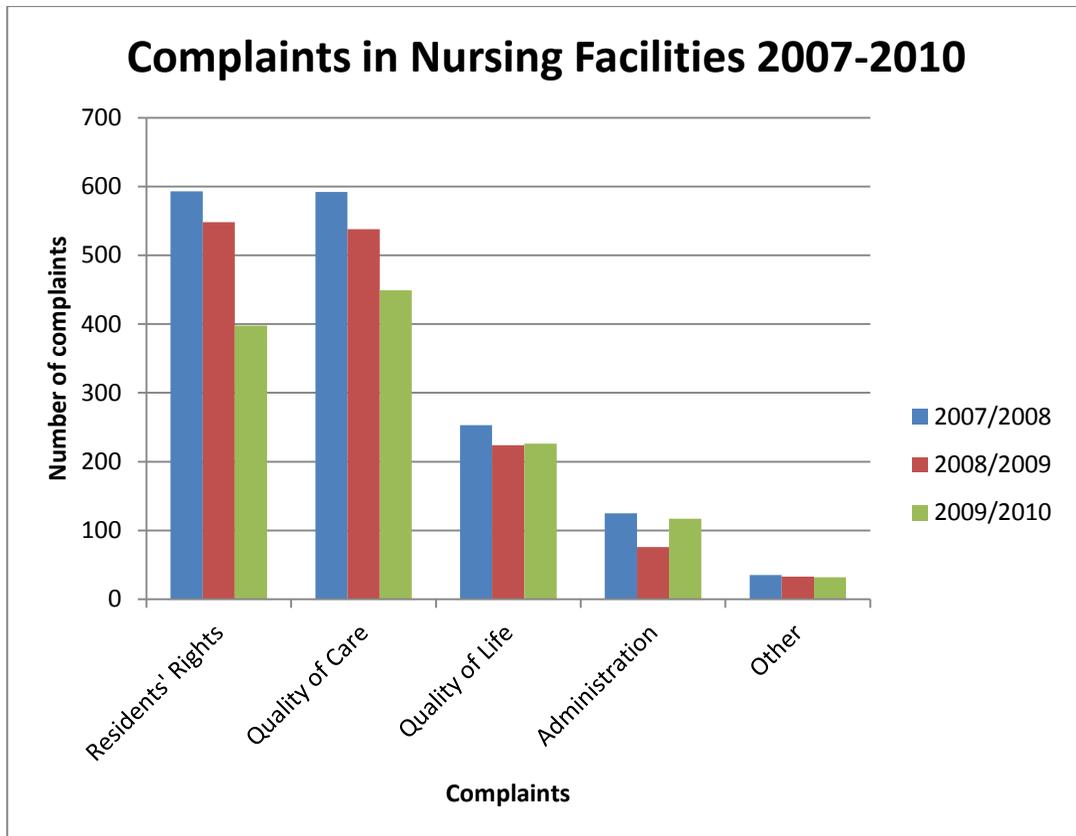
The ombudsman contacted 85 facilities in the tri-state area, and due to the consumer’s insurance, none of the facilities would admit the consumer. The local ombudsman assisted the granddaughter with the filing of a Medicare appeal with Quality Insights of Pennsylvania, and through their support the appeal was finally granted. The resident was able to remain at the hospital’s skilled nursing facility, surrounded by her family and friends.

What Kind of Complaints Do Ombudsmen Receive?

When a complaint is received, it is coded using one of the required federal codes that serve to classify long-term care complaints into five major categories (see chart below).



How do Complaints Compare?



Most Frequent Types of Complaints

The five (5) most frequent types of complaints reported in long-term care facilities are listed in the following tables.

Nursing Facilities

Type of Complaint	Number of Complaints	% of All Nursing Facility Complaints
Failure to respond to requests for assistance	75	6.1%
Discharge/eviction – planning, notice, procedure	74	6.0%
Dignity, respect – staff attitudes	68	5.6%
Exercise choice and/or civil rights	49	4.0%
Food Service – quantity, quality, variation, choice, condiments, utensils	49	4.0%

Personal Care/Other Settings*

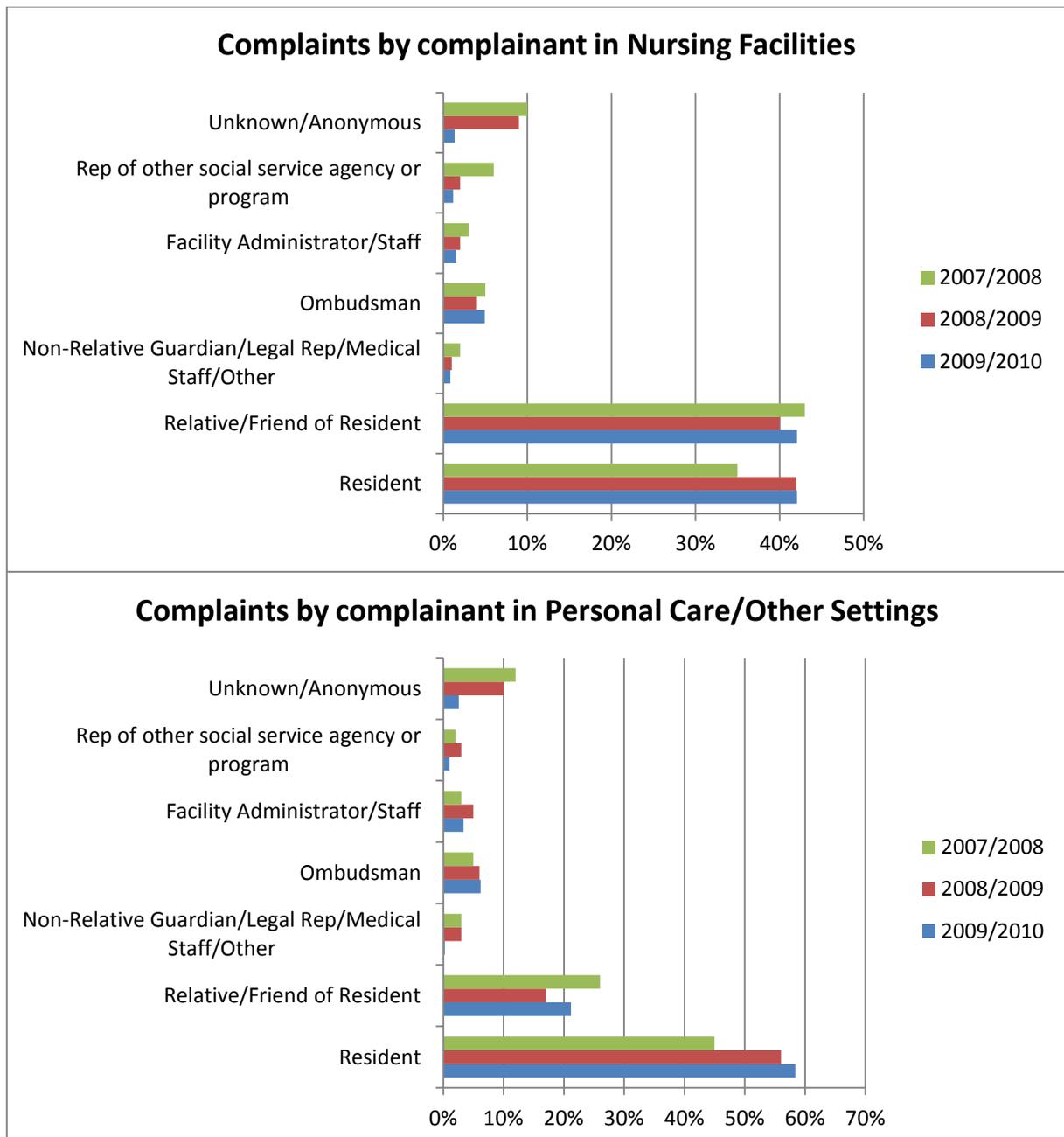
Type of Complaint	Number of Complaints	% of All Personal Care/Other Settings* Complaints
Personal Funds – mismanaged, access denied, deposits and other money not returned	51	7.1%
Dignity, respect – staff attitudes	47	6.6%
Food Service – quantity, quality, variation, choice, condiments, utensils	41	5.7%
Personal property lost, stolen, used by others, destroyed	38	5.3%
Exercise choice and/or civil rights	38	5.3%

*Other settings include: adult daily living centers, continuing care retirement communities, home care services, hospitals, hospice settings, public and congregate housing units, and shelters.

Who Can Make a Complaint?

Anyone with a concern may make a complaint on behalf of a consumer receiving long-term care services. The identity of the consumer and the complainant are not disclosed by the ombudsman because the conversations, information and records acquired by an Ombudsman are kept confidential and protected by federal and state laws. When complaints are received, ombudsman determines the appropriate method of response such as additional training for the individual or facility staff and increased visible presence in the facility.

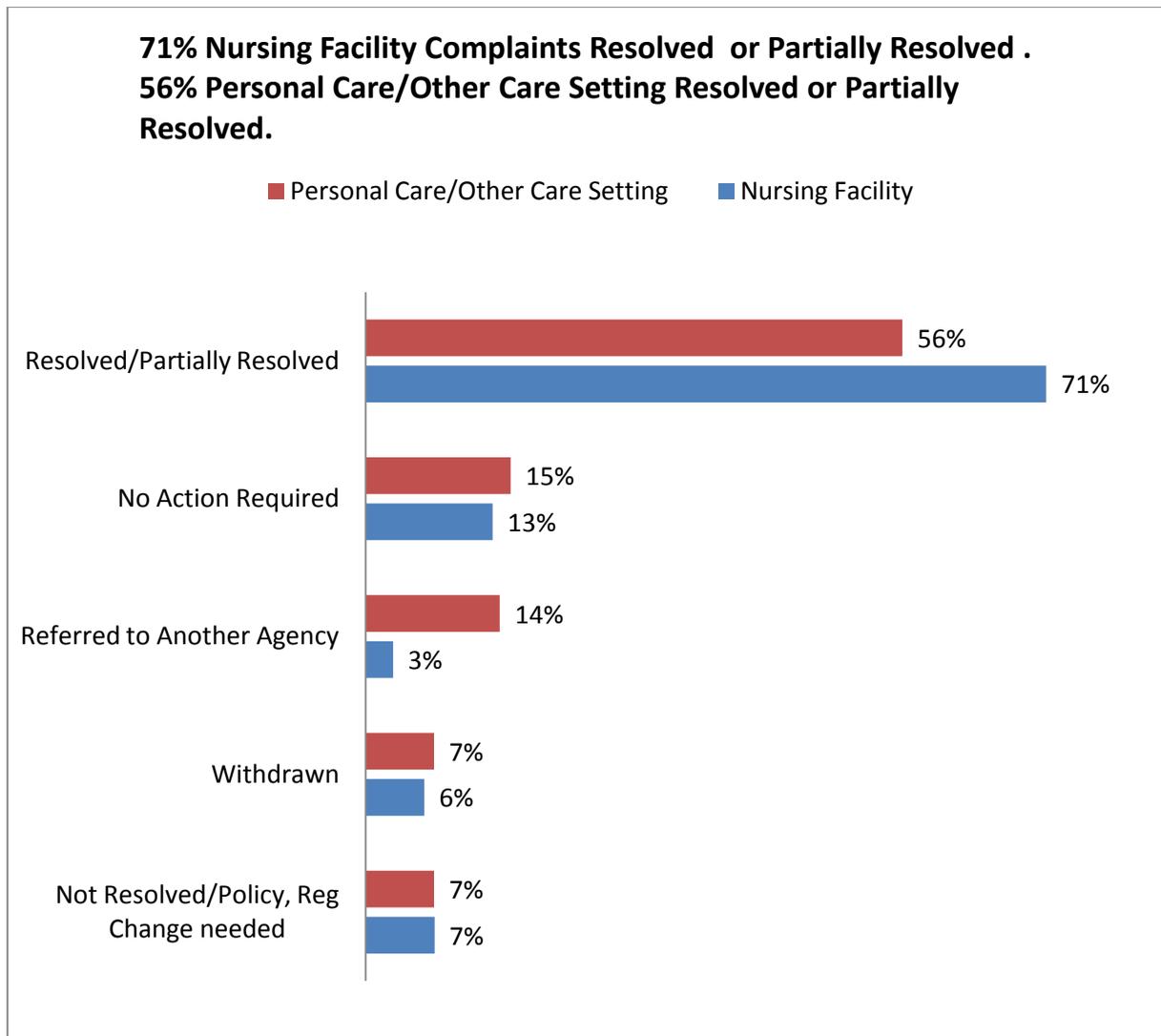
During this fiscal year, 42% of nursing home facilities and 58% of personal care/assisted living/other setting* complaints were received from residents, family or friends of residents as demonstrated on the chart below.



Complaint Resolution

Percentage of average total complaints resolved during this fiscal year totaled 65%. The federal definition of “resolved” complaint include the complaint was addressed to the satisfaction of the resident or complainant. The resolution rate include: resolved and partially resolved complaints.

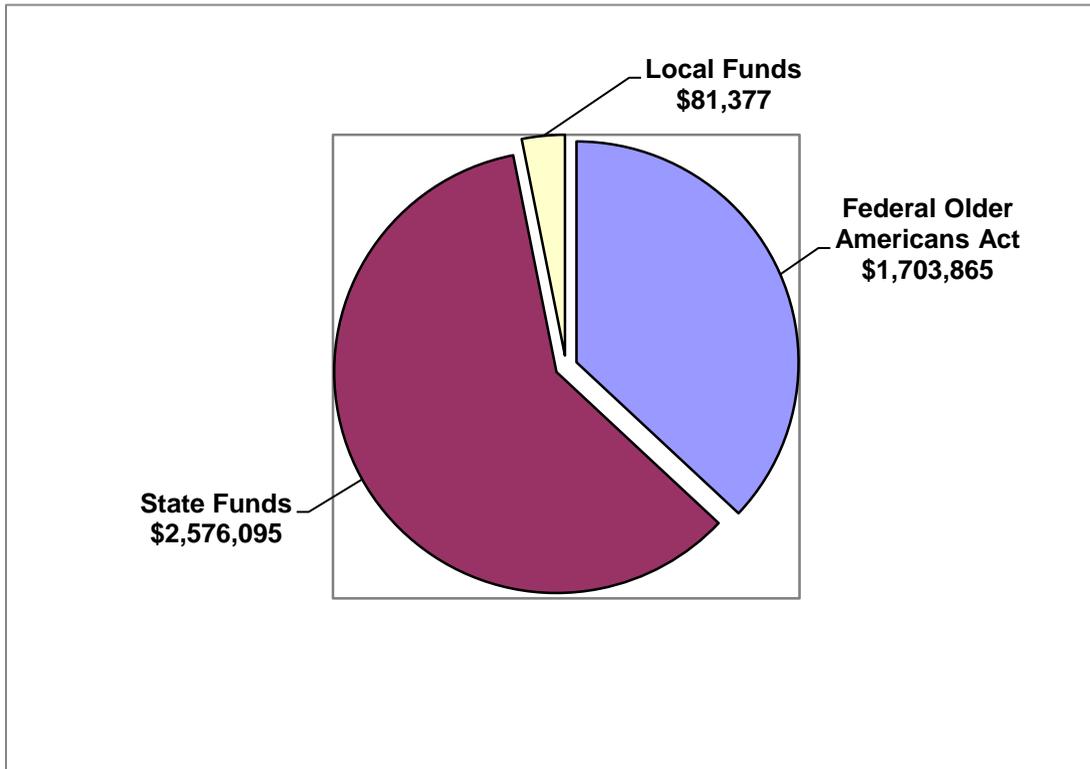
Disposition of Complaints



*Other settings include: adult daily living centers, continuing care retirement communities, home care services, hospitals, hospice settings, public and congregate housing units, and shelters.

Funding Levels

The below chart demonstrates the various funding streams that support the ombudsman program. The combined funding for this fiscal year was approximately \$4.5 million.



Summary

In summary, we will continue to advocate and give voice to older consumers of long-term care services, whether delivered in the community or in a facility. We will continue to champion the rights of these consumers in achieving the highest quality of life and care wherever they reside. As a network of local ombudsmen, volunteers, and PEER residents; we are all united through an impassioned commitment to listen, educate, investigate, mediate, and empower through a visible presence.” We will continue to be accessible to all consumers who receive long-term care services. We would also like to recognize the invaluable support and time made by our area agencies on aging, volunteers, PEERs, community based organizations, and advocate organizations in helping the ombudsman program advocate for individuals living in our great commonwealth.

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