
45 C.F.R. § 1324.21

Conflicts of interest.

The State agency and the Ombudsman shall consider both the organizational and individual conflicts of interest that may impact the effectiveness and credibility of the work of the Office. In so doing, both the State agency and the Ombudsman shall be responsible to identify actual and potential conflicts and, where a conflict has been identified, to remove or remedy such conflict as set forth in paragraphs (b) and (d) of this section.

(a) *Identification of organizational conflicts.* In identifying conflicts of interest pursuant to section 712(f) of the Act (42 U.S.C. 3058g(f)), the State agency and the Ombudsman shall consider the organizational conflicts that may impact the effectiveness and credibility of the work of the Office. Organizational conflicts of interest include, but are not limited to, placement of the Office, or requiring that an Ombudsman or representative of the Office perform conflicting activities, in an organization that:

- (1) Is responsible for licensing, surveying, or certifying long-term care services, including facilities;
- (2) Is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities;
- (3) Has any ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a long-term care facility;
- (4) Has governing board members with any ownership, investment, or employment interest in long-term care facilities;
- (5) Provides long-term care to residents of long-term care facilities, including the provision of personnel for long-term care facilities or the operation of programs which control access to or services for long-term care facilities;
- (6) Provides long-term care services, including programs carried out under a Medicaid waiver approved under section 1115 of the Social Security Act (42 U.S.C. 1315) or under subsection (b) or (c) of section 1915 of the Social Security Act (42 U.S.C. 1396n), or under a Medicaid State plan under section 1905(a) or subsection (i), (j), or (k) of section 1915 of the Social Security Act (42 U.S.C. 1396d(a); 42 U.S.C. 1396n(i)-(k));
- (7) Provides long-term care coordination or case management, including for residents of long-term care facilities;
- (8) Sets reimbursement rates for long-term care facilities;
- (9) Sets reimbursement rates for long-term care services;
- (10) Provides adult protective services;
- (11) Is responsible for eligibility determinations for the Medicaid program carried out under title XIX of the

Social Security Act (42 U.S.C. 1396-1396v);

(12) Is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities;

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