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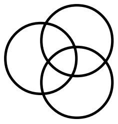

Office of the Ombudsman for
Mental Health and Mental Retardation

1998 / 1999 Biennium Report to the Governor on Agency Activities

Ombudsman Overview of Activities

Case Management System

The 1998-99 Biennium presented the Ombudsman's Office with a number of challenges and opportunities. In our previous report, we updated you on the pending implementation of a new computer based case management system. This system has improved our ability to store and retrieve information on-line and has eliminated many of the manual filing tasks that take up valuable time in a public agency. Improving our computer system has also allowed us to address problems and improve security. During 1999 the system was accessed and open cases were eliminated. Work in the Office was delayed, including the development of this report. We are glad to be back on track.

Thank you – Department of Revenue

The Office was able to identify the probable source of deletions and ways to recover the lost data. However, it took a great deal of time and assistance from outside sources. I wish to thank the **Department of Revenue**, who loaned the Ombudsman technical staff time and assistance (Revenue uses some of the same database programs used by the Ombudsman Office). This type of interagency cooperation helps to improve the efficiency and effectiveness of government services. As a result of the lessons learned during that process the Ombudsman initiated an internal process where all of the existing security issues are being revisited and are being revised as necessary. The Office is also participating in a Security Impact Analysis (SIA) with the assistance of the Department of Administration, InterTechnologies Group.

Medical Reviews

In 1999 this Office was faced with the retirement of a 30-year state employee. Glenda Bode, R.N., Medical Review Coordinator, retired leaving the Office with a big hole to fill. Glenda was known and respected in the system for many years and will be missed by her fellow staff. Glenda's retirement provided an opportunity to look at the Medical Review function of the Office, examine its needs and improve the process. Jo Zillhardt, R.N., C., a former Patient Representative at Anoka Metro Regional Treatment Center, joined our Office and accepted the challenges of developing new and better ways of doing business.

Data Privacy and the Media

One of the factors affecting how the Medical Review Subcommittee will function in the future was shaped by another event that the Office faced this biennium. In the past, the records created by this Office during a death review were considered to be private data on decedents. The Minneapolis Star Tribune disputed that data classification and filed suit in District Court to compel the Ombudsman to make public information it created as a part of its review after a person had died. There were a number of differing opinions between the Ombudsman, the Minneapolis Star Tribune, the Department of Human Services, the Attorney General and the Governor's Office. In the end the court ruled that the information was public and the Office provided the requested information to the requesting media. However, this has created discussions within the Office on how we collect and summarize information contained in our death reviews. These discussions will continue as the process is evaluated.

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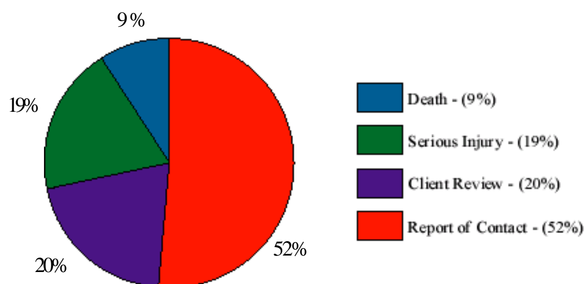
Mission

. . . Promoting the highest attainable standards of treatment, competence, efficiency and justice for persons receiving services for mental health, developmental disabilities, chemical dependency, or emotional disturbance.

Client Services Overview

During the biennium Minnesota has continued to de-institutionalize and down size state operated regional treatment centers and services. Many clients have made excellent progress and found enriched lives living in community settings. Others have found difficulty finding structured residential services, support programs, and community treatment options. Activity levels for Client Advocates have been steady and generally consistent with years past. The majority of client centered work in this Office falls on the Client Advocate. During the biennium approximately 7,000 citizen issues have been served. Fifty-two percent were contacts with persons receiving services, families, the public, program and agency professionals, policy makers and political leaders (state & federal). These contacts can be characterized as requests for information and referral, professional consultation, and resolving issues that require small amounts of time to complete. For example: a citizen held on a 72 hour hold order, under the Minnesota Commitment and Treatment Act (M.S.253.B), finds him/herself in the hospital after 72 hours. Usually contact with the hospital will open communication and typically resolve the issue. The next 20% of contacts dealt with client reviews which can extend into days, months or even years in rare cases. Typically in a client review the Client Advocate will need to use a variety of communication tools, personal visits and review client records to resolve an issue. Due to the large geographic regions served by Client Advocates, personal visits and record reviews can be time consuming. Increasingly we are looking toward technology to assist with communication and ultimately resolving issues. The remaining 19% of contacts fall in the area of serious injuries. Serious injuries fall into three general categories of review: injuries that are clearly explainable and can be closed without further review; injuries that have missing information and need telephone contact in order to gather information; and serious injuries that trigger "red flags" and may require a facility visit and record review. Again, large geographic regions can produce time challenges for our staff.



Of the disability groups we serve, persons with mental illness and developmental disability accounted for approximately 2,500 and 2,000 contacts respectively. The next highest population served is the mentally ill and dangerous with approximately 600 contacts over the biennium. The

Type of Issue	FY 98	FY 99	Biennium Total	Percentage
Abuse/Neglect	157	224	381	4.42%
Civil/Criminal	146	110	256	2.97%
Data Privacy	76	47	123	1.43%
Death	280	339	619	7.17%
Dignity & Respect	2	167	169	1.96%
Education	76	83	159	1.84%
Financial	176	54	230	2.67%
Financial/Insurance	0	20	20	0.23%
Financial/Public Benefits	74	75	149	1.73%
Housing	120	94	214	2.48%
Information	57	248	305	3.54%
Judicial Commitments	104	150	254	2.94%
Legal	154	113	267	3.09%
Licensing Violations	0	22	22	0.25%
Managed Care	29	25	54	0.63%
Medical Issues	184	162	346	4.01%
Placement	433	325	758	8.79%
Psychotropic Meds	160	140	300	3.48%
Public Policy	58	53	111	1.29%
Restraint/Seclusion	70	41	111	1.29%
Restrictions	158	169	327	3.79%
Serious Injury	639	763	1,402	16.25%
Special Review Board	259	154	413	4.79%
Staff/Professional	235	219	454	5.26%
Treatment	661	523	1,184	13.72%

Report of Contacts by Disability Groups

"Other" category of approximately 1,000 contacts reflects contacts which do not fit the legal definition of client. These include the general public, family members, legislators, policy makers, facility staff and other professionals. The last population that requires special notice is the increase in service to the psychopathic personality and sexually dangerous persons at St. Peter Security Hospital and the Minnesota Psychopathic Personality Treatment Center at Moose Lake. In FY 98 we had 58 contacts in comparison to 109 in FY 99. This population is growing at an alarming rate and places demands and challenges on public resources as well as our office staff that need to be addressed over the course of the next biennium.

Based on 1995 DHS data, less than one percent of the total Medicaid and MinnesotaCare eligible children and adolescent population were referred for possible mental health services.

Early and Periodic, Screening, Diagnosis and Treatment

The Ombudsman Office completed a comprehensive review of Minnesota's Early and Periodic, Screening, Diagnosis, and Treatment (EPSDT) Program in 1998. In June of 1999, a public report was released. The report is entitled Why Do We Wait? and provided recommendations to the Department of Human Services (DHS) to improve the administrative and service delivery of the program. This report is available on our website at http://www.ombudmhmr.state.mn.us.

The EPSDT program is a comprehensive and preventative health care program for Medicaid-eligible individuals up to age 21. The program provides mental health screening, diagnostic, and treatment services as well as outreach and assistance to families. To better understand how the EPSDT program operated and functioned, Ombudsman staff interviewed about 20 different organizations and agencies.

The thrust of the review was to compare data on the number of Medicaid-eligible children and adolescents with research data of a similar population on the prevalence of mental health concerns. Based on 1995 DHS data, less than one percent of the total Medicaid and MinnesotaCare eligible children and adolescent population were referred for possible mental health services. The literature review indicated that 25-30 percent of a similar children and adolescent population experienced mental health problems. The DHS noted that about 20 percent of the Medicaid-eligible children and adolescents received mental health evaluations without going through the EPSDT screenings. However, the age and progression of their mental health concerns is unknown.

As a result of the report, the Office proposed recommendations to DHS. The recommendations are intended to improve the outcome of the EPSDT program and better serve the mental health needs of Medicaid-eligible children and adolescents. By improving the outreach, the mental health-screening protocol, and data-collection system of the program, more children and adolescents will be identified earlier for mental health concerns. Currently, DHS and the Ombudsman Office are working together with community members in recommending mental health screening instruments for EPSDT providers. In addition, the State Advisory Council on Mental Health is pursuing the data collection issues as outlined in the report.

Demonstration Project for Persons with Disabilities

The Department of Human Services is in the process of developing a Demonstration Project for Persons with Disabilities, which will move Disabled Medicaid recipients from a fee for service model to a managed care model that will be administered by counties. This Office has been directed by the Legislature to develop and administer an external advocacy program for this demonstration project.

The demonstration project is currently on hold as Olmsted County and Southern Minnesota Health Initiative (Blue Earth, Freeborn and Sibley), the two implementation sites, withdrew from the demonstration project. The Department of Human Services is currently working with Hennepin County and Itasca County, who are both currently considered planning counties, to implement this demonstration project.

Civil Commitment Training and Resource Center

The Supreme Court Advisory Task Force on Civil Commitment recommended in their task force report that a statewide Civil Commitment Training and Resource Center (Center) be created to provide interdisciplinary training and information regarding the civil commitment process and related topics. This Office was asked to implement the training and resource center.

In 1998, the Office worked with the Attorney General's Office and the University of Hamline Law Center to develop comprehensive training for judges, attorneys, case managers and families. Over 800 professionals and consumers were trained on the changes in the Civil Commitment Act.

In 1999, the Center developed a substitute decision-maker training kit for the training of substitute decision-makers. The kit includes a training videotape and supplementary manual.

The Center also provided specialized commitment training for various groups throughout the State of Minnesota, including case managers, mental health providers and mental health consumers. The seminars provided step-by-step overview of civil commitment in Minnesota, with special emphasis on the 1997/98 amendments. In addition, a comprehensive manual was developed that provided detailed information on civil commitment, amendments, annotated outlines of statutory provisions, model forms, advocacy tips and more. These materials are updated on an annual basis.

The focus of the Center will be on consumers and their families, but the Office can assist anyone who wants more information regarding civil commitment.

Lost Innocence

In the early 1980's Ken (name changed to protect the client's identity) was an average young teen, growing up in a small town. One day his mother found out about a minor sexual situation Ken had with his sister. Ken's mother went to discuss this matter with her clergy, who in turn called county social services and started a series of events that escalated until the family was torn apart. Parental control was lost and Ken was trapped in the mental health system through all of his adolescent and most of his young adult life. His journey spanned from the age of 14 until the age of 29.

Ken admits he was no angel, but important questions remain. Was he diagnosed as mentally ill? Should he have been kept in an institution or should his issues have been handled in the community?

Ken was admitted to a state institution due to his difficulties in school, acting out behavior and unspecified sexual conduct with his younger sisters. Well meaning professionals wanted to treat his troubled "personality." Ken continued to act out in the institution and three years later he was committed as mentally ill and dangerous. However, the records did not show him to be diagnosed as mentally ill nor did it have a finding of "clear and present danger to the public," which is required by law.

A review of the records shows a consistent pattern of documentation beginning in 1985 showing that Ken had no major mental illness. However, the Special Review Board denied Ken release mulitiple times. In 1997, with the assistance of this office, his denial was appealed to a Three Judge Panel, who ordered Ken's immediate release.

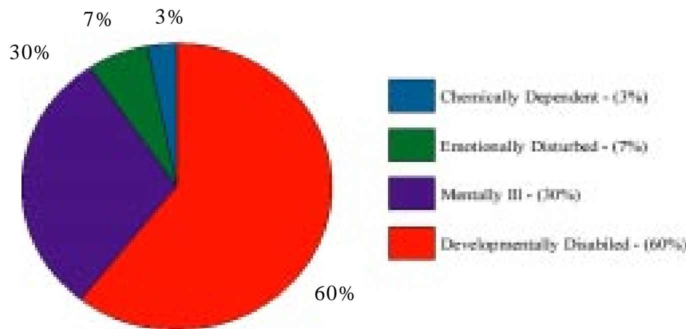
Ken's story does not end with his discharge. He is faced with rebuilding his life without the normal nurtured path to adult responsibilities. Even the county that placed him in the institution 14 years earlier now said they could offer him little assistance since he did not qualify for services because he did not have a mental illness.

Despite the odds, Ken is living on his own, has a full time job, and has learned to drive. We hope that telling Ken's story will serve as a learning tool to help avoid a similar occurrance.

Medical Review Subcommittee

The Medical Review Subcommittee (MRS) is empowered under MN Stat. 245.97, Subd. 5, and meets on a regular basis throughout the year to review deaths and serious injuries of clients that meet established indicators.

Type of Death	FY 98	FY 99	Biennium Total	Percentage
Accident	9	15	24	4.09%
Homicide	3	1	4	0.68%
Natural	196	264	460	78.36%
Suicide	17	30	47	8.01%
Undetermined	19	33	52	8.86%



The Medical Review Subcommittee does not do an in-depth review of all cases that have been reported. As mentioned above, there are established indicators used to determine when a reported death needs to be prepared for review by the MRS. The purpose of the MRS reviews is to seek opportunities to improve the care delivery system. The MRS does not have a punitive focus and avoids duplication of agencies such as OHFC and DHS Licensing that do detailed investigations and have sanction authority. If the MRS finds a situation that needs that kind of investigation a referral is made to the appropriate agency or agencies or licensing board(s). The MRS will work collaboratively with the referral agency or board but will avoid duplication of effort.

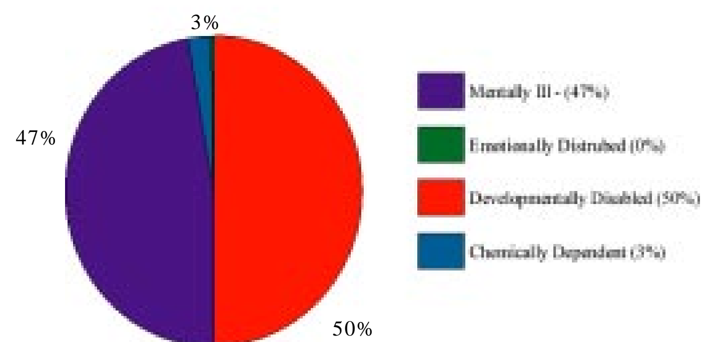
The purpose of the MRS reviews is to seek opportunities to improve the care delivery system.

In looking for opportunities to improve the care delivery system the MRS looks not only at the individual cases but also for patterns and trends. If patterns or trends appear the MRS uses that opportunity to make recommendations to the delivery system. These recommendations may come in the form of a Medical Update. These are available on our website at http://www.ombudmhmr.state.mn.us.

Medical Updates are mailed to over 4,000 agencies, facilities and programs at least twice each year. The summer alert covers such topics as Heat Stroke and Swimming Safety. The Winter Alert includes information on Hypothermia and Frostbite. While some topics that may seem obvious, persons with disabilities have unique and added needs that caregivers need to be made aware of. The MRS shares what is has learned in an attempt to assist providers so that they can avoid the same or similar problems.

(Continued on Page Six - MRS)

Type of Serious Injury	FY 98	FY 99	Biennium Total	Percentage
Burns	40	39	79	5.85%
Complication of Medical Treatment	8	3	11	0.81%
Dental Injury	22	10	32	2.37%
Dislocation	15	16	31	2.30%
Eye Injury	15	6	21	1.56%
Frostbite	4	1	5	0.37%
Head Injury	15	8	23	1.70%
Ingestion of Harmful Substance	15	22	37	2.74%
Internal Injury	1	2	3	0.22%
Laceration	12	21	33	2.44%
Major Fracture	232	173	405	30.00%
Minor Fracture	274	229	503	37.26%
Multiple Fracture	52	40	92	6.81%
Near Drowning	1	1	2	0.15%
Other	39	34	73	5.41%



(MRS - Continued from Page Five)

There were 265 deaths reported to the Medical Review Coordinator in FY 98 and 322 deaths reported in FY 99. This total of 587 deaths compares with 530 deaths reported in the previous biennium. There were 1,759 serious injuries reported in the 1998/1999 biennium. This compares with 1,425 serious injury reports from the previous biennium. The increase in reported death and serious injury reports is in part due to increasing outreach by the Office and improved compliance with reporting requirements by the providers.

(Ombudsman Overview - Continued from Page One)

Children Updates

In our last report we informed our readers about two upcoming areas of work for the Office. As reported, the legislature expanded the authority of the Ombudsman to included local school districts and the Department of Children Families and Learning. This was due to the number of special needs children and their issues coming forward along with the belief that children can be better served if systems cooperate. Both social services and the education system affect many children with mental health or developmental needs. This Office hopes to assist families when their lives are affected by multiple systems that often have different goals and missions. As a result of that, we have seen an increase in issues related to Individual Education Program Plans (IEPs) and difficulty families face when trying to access appropriate services and education for their children. We anticipate that the need will continue to grow.

Also previously reported was the work of this Office along with the Association for Retarded Citizens (ARC) and others to improve the Maltreatment of Minors Act. I am pleased to report that positive changes were made to the law. Previous to the changes in the law, allegations of maltreatment that occurred in a school setting were not investigated unless it became a criminal matter. Since many of the complaints of maltreatment came from families of children with special needs, this Office was concerned that no one may be reviewing these cases. The types of concerns in question did not rise to a criminal level but could be neglect of a child's special needs or abuse in response to a situation that may have been a manifestation of their disability. As a result of the changes, allegations of maltreatment in schools are reported to the Department of Children, Families and Learning for review.

Future Challenges

Use of Resources: The Office will continue to face the challenge of serving four diverse and vulnerable populations in more settings, within the existing resources. This will cause the Office to further prioritize and refine those issues that will receive attention. As the populations becomes more dispersed, the potential increases for clients to fall through the cracks in the system. This places a great deal of stress on the Client Advocates who work for this Office. The Client Advocates take very seriously their role in assisting these citizens and monitoring the systems that affect the lives of citizens with mental and developmental disabilities.

Public Policy: Despite more research and information, persons who suffer from mental illness are still blamed for manifestations of the disability, sometimes by the very systems trained to understand and treat them. Public policy focuses on de-institutionalization and client centered services but the funding and the service delivery systems have a long way to go before we can hope to realize the vision of the public policy.

Written by an adult reflecting on their childhood of abuse

When so young, I felt an easy dare
Then one day, I felt the real scare
When looking at the sky so blue
I finally realized what was so true
I was not to be so prized
but only to be despised
I only wished someone cared
And didn't feel to be so scared.

Anonymous