



## Assistance for Health Care Consumers: Key Provisions of State Laws

Laws in a number of states ensure that residents have counseling and assistance regarding health insurance and access to health care. These consumer health assistance programs vary in scope: they can assist uninsured residents in locating coverage; they can assist private insurance consumers and/or Medicaid consumers when they encounter problems with their health plans; and some offer specialized assistance to a group of consumers, such as people using or seeking mental health services.

The tables in this report are an index of some key provisions in state consumer health assistance laws. Table 1 shows which populations state-authorized consumer health assistance programs are designed to serve and whether state laws address certain issues that may strengthen a consumer health assistance program. These issues include the following:

- **Staff expertise/staff appointments:** Does the law ensure that staff has appropriate expertise to counsel consumers regarding insurance and health care or ensure that the program can contract with experts as needed? How are staff appointed or selected?
- **Notification by health plans and notification by Medicaid agencies:** Does the law ensure that consumers get information about the program at times that they may most need assistance? For example, if the program helps consumers appeal denials of care, must insurers list the program's contact information on denial notices? If the program assists Medicaid beneficiaries, does the Medicaid agency notify Medicaid applicants or enrollees about the program?

Table 1

WHO IS SERVED?

DOES THE LAW ADDRESS . . . ?

State and State Program(s)	Medicaid Consumers	Privately Insured Consumers	Uninsured	Other <sup>1</sup>	Staff Expertise	Staff Appointments	Notification by Health Plan	Notification by Medicaid Agency	Access to Records	Report to Public and/or Legislature
<b>California</b> Med-Cal Ombudsman	x			Med-Cal managed care	no	no	yes	yes	yes	no
Office of Patient Advocate	x	x		Managed care consumers	yes	yes	2	yes	yes	yes
Named Non-profits <sup>3</sup>	n/a	n/a	n/a	See note 3	n/a	n/a	n/a	n/a	3	n/a
Mental Health Advocacy	x	x	x	Consumers using public facilities, services, programs	yes	no	no	no	yes	no
<b>Colorado</b> Managed Care Ombudsman	x			Medicaid managed care consumers	no	no	no	no	no	no
<b>Connecticut</b> Ombudsman Program	x	x		Managed care consumers	yes	yes	4	no	yes	yes
<b>District of Columbia</b> Health Care Ombudsman	x	x	x	Health plan enrollees, uninsured residents	yes	no	yes	no	yes	yes
<b>Florida</b> Statewide Managed Care Ombudsman	x	x		Managed care consumers	yes	no	no	no	no	yes
<b>Georgia</b> Consumer Insurance Advocate		x		Consumers using state-regulated insurance products	yes	yes	no	no	yes	yes
<b>Illinois</b> Off. of Consumer Health Insurance, Uninsured Ombudsman Program		x	x	Health care consumers (see note 5)	no	no	no	no	no	yes
<b>Indiana<sup>1</sup></b> Senior Health Insurance Information Program	x	x		Persons planning for long-term care; includes Medicare info	no	no	no	no	no	no
<b>Kentucky</b> Medicaid Managed Care Ombudsman	x			Medicaid managed care, primary care case management enrollees	no	no	no	no	no	no
<b>Maine</b> Consumer Health Care Division		x	x	Those covered or needing coverage	yes	yes	yes	no	yes	yes
<b>Maryland</b> Medicaid Ombudsman	x		x	Medicaid, uninsured	yes	no	no	yes	yes	yes
Health, Education and Advocacy Unit	x	x	x	All health care consumers	no	no	yes	no	yes	yes
<b>Massachusetts</b> Managed Care Ombudsman Office of Patient Protection		x		Managed care consumers	no	no	yes	no	no	yes

(Notes to Table 1 on page 4)

Table 1 (cont'd)

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State and State Program(s)	WHO IS SERVED?				DOES THE LAW ADDRESS . . . ?					
	Medicaid Consumers	Privately Insured Consumers	Uninsured	Other <sup>1</sup>	Staff Expertise	Staff Appointments	Notification by Health Plan	Notification by Medicaid Agency	Access to Records	Report to Public and/or Legislature
<b>Minnesota</b> Ombudsman for Managed Health Care	x			Required enrollees in publicly-funded plans	no	yes	yes	yes	yes	no
Ombudsman for Mental Illness/ Mental Retardation	x	x	x	Mental health consumers (see note 6)	yes	yes	no	no	yes	yes
<b>Montana</b> Mental Health Ombudsman	x	x	x	Mental health consumers (see note 7)	no	yes	no	no	yes	yes
<b>New Jersey<sup>1</sup></b> Managed Health Care Consumer Assistance Program	x	x		Managed care consumers	no	no	no	no	yes	yes
<b>New York</b> Managed Care Consumer Assistance	x	x		Managed care consumers	no	no	no	no	no	no
<b>Nevada</b> Office of Consumer Health Assistance	x	x	x	Consumers and injured employees (see note 8)	yes	yes	yes	no	yes	yes
<b>North Carolina</b> Managed Care Patient Assistance	x	x		Managed care enrollees	yes	yes	yes	no	no	yes
<b>Oregon</b> Office of Medical Assistance	x			Oregon Health Plan enrollees	no	no	no	yes	no	no
<b>Puerto Rico</b> Office of the Advocate for Patients Beneficiaries of the Health Reform Organic Act	x	x	x	Patients of private and public agencies; health insurance consumers	yes	yes	no	no	yes	yes
<b>Rhode Island</b> Office of Health Care Advocate		x	x	Advocate for public for quality, affordable care	yes	yes	no	no	yes	no
<b>Texas<sup>1</sup></b> Consumer Assistance Program for Health Maintenance Org.	x	x		HMO consumers (except Medicare)	yes	no	no	no	no	no
Office of Public Insurance Counsel	x	x		Insurance consumers (see note 9)	yes	yes	no	no	yes	yes
Medicaid Support Services	x			Medicaid managed care	no	no	no	no	no	yes
<b>Utah</b> Office of Consumer Health Assistance		x	x	Those covered or needing coverage	no	no	no	no	yes	no
<b>Vermont</b> Office of Health Care Ombudsman	x	x	x	Health insurance consumers	yes	no	no	no	yes	yes
<b>Virginia</b> Office of the Managed Care Ombudsman		x		Managed care enrollees	no	no	no	no	yes	yes
Ombudsman for State Employees		x		Covered state employees	no	yes	no	no	yes	yes

(Notes to Table 1 on page 4)

## Table 1 Notes

Besides the programs listed in this chart, some additional states have established health assistance programs in attorney general's offices under the authority granted under general consumer protection laws, and some states have established programs to assist Medicaid consumers under contracts without specific legislation. In California, Kentucky, and Oregon statutes broadly reference Medicaid consumer assistance and the issues noted in this chart are addressed in regulations. Whom programs actually assist may differ somewhat from this chart. For example, programs with sufficient resources may respond to needs to serve additional people, or programs with insufficient resources may limit their services.

<sup>1</sup> We did not include a column about serving Medicare consumers in this chart. Under federal law, all states have a Senior Health Insurance Assistance Program (SHIP) to serve Medicare consumers. A few states, such as Indiana, New Jersey, and Texas, also explicitly mention counseling of Medicare consumers in state laws.

<sup>2</sup> Health plans provide the Department of Managed Care's phone number which handles individual complaints through its HMO Help Center.

<sup>3</sup> California law does not establish consumer health assistance programs in the named nonprofits but does give these existing programs some protections regarding confidentiality of records and protects plans from any disciplinary actions that might arise from communicating with nonprofits regarding a complaint.

<sup>4</sup> Connecticut law does not require health plans to provide notice but instead requires employers to post notice regarding the availability of the Managed Care Ombudsman.

<sup>5</sup> Although these particular offices do not have access to records, the Department has access to records when investigating a complaint against a licensed insurer.

<sup>6</sup> The Minnesota Ombudsman for Mental Illness/Mental Retardation assists people treated for mental illness, mental retardation, chemical dependency, or emotional disturbance in licensed facilities or programs.

<sup>7</sup> The Montana Mental Health Ombudsman assists individuals with regard to the need for public mental health services, including individuals in transition from public to private services.

<sup>8</sup> Nevada provides assistance regarding workers compensation, industrial insurance, and prescription drug plans as well as health care and health plans.

<sup>9</sup> As shown, Texas has a Public Insurance Counsel in addition to the Consumer Assistance Program. The Public Insurance Counsel represents consumers' interests concerning insurance rates, rules, forms, and other matters while the Consumer Assistance Program assists HMO consumers with complaints and appeals.

- **Access to records:** Does the law ensure that consumer health assistance programs, when authorized to represent or to assist a consumer, can get access to relevant records? For example, if the program is helping with disputes about care denials, staff may need to review records from the consumer's health plan and health care providers. If it is helping with Medicaid issues, staff may need information about whether the consumer is currently covered by Medicaid or about why the consumer lost Medicaid coverage. Under federal law, it is clear that health care insurers and providers *can* provide this type of information to a program authorized to represent a consumer, but it may take a state law in order to *require* insurers or providers to cooperate with a consumer health assistance program.
- **Report to public and/or legislature:** Does the law require the program to report to legislators or the public? Consumer health assistance programs receive valuable information about problems consumers face in the health care system. The data they maintain and the trends they see may be very helpful to policymakers and community organizations seeking to improve the health care system and to protect consumers. Laws requiring regular reports ensure that programs can and will communicate their findings and that they will not be subject to political pressure that may prevent them from doing so.

Table 2 shows whether programs are located in government agencies or whether government agencies contract with nonprofits to provide health assistance. It also provides citations to state laws.

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**Table 2**

State	Program	Law Cite	Location Within Government	Location Outside Government	Department That Houses Program or Issues Contract
California	Medi-Cal Ombudsman	California Code of Regulations <sup>1</sup> , Title 22 Division 3, Subdivision 1, Chapter 4.1, Articles 2, 6, and 7	x		Department of Health
	Office of Patient Advocate	Health and Safety Code 1368.02	x	2	Department of Managed Care
	Named non-profits <sup>3</sup>	Health and Safety Code 444.20-444.24		x	n/a
	Mental Health Advocacy	Welfare and Institutions Code Section 5500-5550	x	x	State Dept of Mental Health contracts with nonprofit for protection and advocacy; local mental health director appoints or contracts with county patients' rights advocate and Office of Patients Rights as liaison to State Dept of Mental Health.
Colorado	Managed Care Ombudsman	CO Statutes, Title 26, Article 4, Part 1, Subpart 2, 26-4-117		x	Department of Human Services contracts
Connecticut	Ombudsman Program	CT Statutes Chapters 698 § 38a-47; 700c §38a-478n; and 706b §38a-1040 through 1050	x		Office of the Ombudsman is in Dept of Insurance for administrative purposes only
District of Columbia	Health Care Ombudsman	Bill 15-137 (enacted by Council 12/04 and awaiting Congressional review)		x	Department of Health contracts with nonprofit; if no qualified nonprofit, can operate directly.
Florida	Statewide Managed Care Ombudsman Committee and District Managed Care Ombudsman	Florida Statutes Chapters 641.60-641.75	x		Agency of Health Care Administration houses volunteer statewide and district ombudsman committees
Georgia	Consumers' Insurance Advocate	GA Code 33-57-1 through 33-57-8	x		Governor's Office of Consumer Affairs
Illinois	Office of Consumer Health Insurance	Illinois Compiled Statutes Chapter 215, 134/90	x		Department of Insurance
	Uninsured Ombudsman Program	Illinois Compiled Statutes Chapter 20, 1405	x		Department of Insurance
Indiana	Senior Health Insurance Information Program	Indiana Code 12-15-39.6-6(b) and 12-15-39.6-7(b)	x	x	Department of Insurance contracts with local agency on aging, area agency on aging, or other nonprofit.
Kentucky	Medicaid Managed Care Ombudsman	907 Kentucky Administrative Regulations 1:705 <sup>4</sup>	x	x	Cabinet for Health Services can operate program directly or by contract

**Table 2 (cont'd)**

State	Program	Law Cite	Location Within Government	Location Outside Government	Department That Houses Program or Issues Contract
Maine	Consumer Health Care Division	Title 24A, Maine Insurance Code, Chapter 56A. Health Plan Improvement Act, subchapter 1 §4321	x		Bureau of Insurance
Maryland	Medicaid Ombudsman	Article Health §15-101 and 15-103	x	5	Department of Health and Mental Hygiene and local health departments
	Health Education and Advocacy Unit	Article Commercial Law- § 13-4A-01 through 03; Article Insurance - §15-10A-02, 15-10A-07and §15-10D-02; Also Insurance Title 2,§ 2-203.1 and Insurance Title 14, §14-503.	x		Attorney General's Office. In addition, there is a Consumer Education and Advocacy program within the Insurance Administration.
Massachusetts	Managed Care Ombudsman Office of Patient Protection	MA general laws, Title XVI, Chapter 111, Section 217; Title XXII, Chapter 176O	x		Department of Public Health
Minnesota	Ombudsman for Managed Health Care	Statutes Chapter 256B.031 and 256B.69	x		Department of Human Services <sup>6</sup>
	Ombudsman for Mental Illness/ Mental Retardation	Statutes Chapter 245: 245.91-245.97	x		Office of the Ombudsman (appointed by Governor)
Montana	Mental Health Ombudsman	MT Code Section 2-15-210 and 53-21-166	x		Attached to the Office of the Governor for administrative purposes
New Jersey	Managed Health Care Consumer Assistance Program <sup>7</sup>	Title 26:2S-5 and 26:2S-19 et seq. and 26:2J-23(c)	x	x	Established in the Department of Health and Senior Services; operated by nonprofits on an interim basis
New York	Managed Care Consumer Assistance	Established through an appropriations act	x	x	Attorney General and nonprofits
Nevada	Office of Consumer Health Assistance	Revised Statutes 1999, Title 18, Chapter 223.5-223.580; and 695G.230-695.G.310	x		Office of the Governor
North Carolina	Managed Care Patient Assistance Program	NC General Statutes § 143-730, 58-50-61, 58-50-62, 58-50-80	x		In "an existing state agency or department designated by the governor" (currently attorney general)
Oregon	Office of Medical Assistance	OAR 410-141-0407 <sup>8</sup>	x		Department of Human Services
Puerto Rico	Office of the Advocate for Patients Beneficiaries of the Health Reform Organic Act	Laws of Puerto Rico Annotated Title Three, Chapter 70	x		Independent office
Rhode Island	Office of Health Care Advocate	Title 42 State Affairs and Government, Chapter 42-9.1	x		Department of Attorney General

**Table 2 (cont'd)**

State	Program	Law Cite	Location Within Government	Location Outside Government	Department That Houses Program or Issues Contract
Texas	Consumer Assistance Program for Health Maintenance Organizations	TX Insurance Code Title 1, Article 3.70-3D		x	Commissioner of Insurance contracts
	Office of Public Insurance Counsel	TX Insurance Code Title 5, Chapter 501 et seq.	x		Independent office appointed by Governor
	Support Services for Medicaid Recipients	TX Government Code Chapter 531.0213		x	Health and Human Services Commission "may contract" with a nonprofit and does currently
Utah	Office of Consumer Health Assistance	Utah Code Section 31A-2-216	x		Commissioner of Insurance establishes Office
Vermont	Office of Health Care Ombudsman	VT Statute Annotated, Title 8, Chapter 107, Subchapter 1A, §4089i and j		x	Department of Banking, Insurance, and Securities and Agency of Human Services establish by contract with a nonprofit
Virginia	Office of the Managed Care Ombudsman	VA Code Title 38.2	x		Bureau of Insurance
	Ombudsman for state employees	VA Code §2.2-2818	x		Department of Human Resource Management

**Note:** Some additional states have established health assistance programs in attorney's general offices under general consumer protection acts and some states have established programs to assist Medicaid consumers under contracts without specific legislation.

- <sup>1</sup> California's Medi-Cal Ombudsman is established by regulation. Law provides only general authority to regulate Medi-Cal managed care.
- <sup>2</sup> Section 1348.9 of the California Health and Safety Code provides for outside organizations to receive witness fees if they make substantial contributions on behalf of consumers to the adoption of regulations, orders, or decisions made by the Department of Managed Care.
- <sup>3</sup> Although laws do not establish nonprofit consumer health assistance programs in California, they give them some protections regarding confidentiality of records.
- <sup>4</sup> Established by regulation. Statute gives general authority to develop standards for access and quality.
- <sup>5</sup> In one locality, Baltimore, the local ombudsman is in an independent nonprofit, a quasi-governmental agency. This is not specifically mentioned in the law.
- <sup>6</sup> The Minnesota statute requires the Commissioner of Human Services to designate an ombudsman. Although the statute is not specific about the ombudsman's location, the ombudsman is currently located within the Department of Human Services.
- <sup>7</sup> While laws for a fuller program remain, in recent years only counseling to seniors under 26:2J-23(c) has been funded.
- <sup>8</sup> Established by rule. Statute gives general authority to establish rules for Medicaid managed care.

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