

173-14-19**Case records and reporting of core services.****(A) Reporting:**

- (1) The complaint case record shall include only objective observations of items revealed during the course of the investigation, including the consumer's physical condition, behavior, conversations, and when appropriate to a complex complaint, any data required in ODIS.
- (2) Reporting of advocacy and general-information services shall include only the objective information required in ODIS.
- (3) Representatives shall report all activity in ODIS within six days after the activity is performed.

(B) Records retention: The SLTCO and regional programs shall retain all records for three years after a case is closed.

(C) Access to case records:

- (1) Access to case records and other reports of ombudsman activity contained in ODIS is limited to representatives.
- (2) Information contained in the records maintained by the office and the regional programs shall be released only at the discretion of the SLTCO. Identities of consumers, witnesses, and complainants shall not be released absent a court order.
- (3) If a party outside of the office wants to request a record (either in whole or in part), deposition, or testimony in an administrative or judicial proceeding, the party must make its request to the office or the regional program to be considered.
- (4) When any representative receives a request for a record (either in whole or in part), the representative shall notify the SLTCO in writing or email within three business days. When any representative receives a request for deposition or testimony in an administrative or judicial proceeding, the representative shall notify the SLTCO immediately by telephone.
- (5) Within three business days after notification, the representative shall provide the SLTCO with the written or emailed request in a format prescribed by the SLTCO describing the case involved, the circumstance for the request, and other information as requested.

- (6) The SLTCO or the designee of the SLTCO, in determining whether to release or withhold records, shall review the records requested and discuss the circumstance with the representative.
- (7) As appropriate, according to rule 173-14-16 of the Administrative Code, the SLTCO or the designee of the SLTCO shall secure consent from the consumer.
- (8) The SLTCO or the designee of the SLTCO may consult with legal counsel as needed.
- (9) As necessary, and as requested by the SLTCO, the role of the SLTCO's legal counsel includes the following:
 - (a) Negotiating with the party issuing the request in order to implement the SLTCO determination.
 - (b) Explaining the confidentiality restrictions.
 - (c) Advising the SLTCO on the risks and benefits of disclosure.
 - (d) Taking action to quash the request.
 - (e) Being present during deposition or testimony.
- (10) When an ombudsman advocates for a consumer at an administrative hearing (e.g., discharge hearing, medicare/medicaid appeal hearing) according to an established action plan, the ombudsman may present copies of consumer medical records obtained during the course of the investigation with consumer consent as it is determined necessary to advocate for the consumer and according to ombudsman laws, rules, and policies to protect confidentiality.

Replaces: 173-14-19

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03

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Rule Amplifies: 173.19, 173.20; 42 U.S.C. 3058g; 45 C.F.R. 1321.11, 1324.11, 1324.19

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