



Behavioral Health Ombudsman of Colorado

INTERIM BHOCO REPORT 2/15/2021

The Office of the Behavioral Health Ombudsman of Colorado (BHOCO) was established by Colorado House Bill [18-1357](#) (and House Bill [19-1269](#)) as an independent office to assist Coloradans in accessing behavioral health care.

Since the appointment of the current Ombudsman in August 2019, the office has strived to serve consumers, providers and communities. The office has helped families who had been struggling for months, or sometimes years, to access appropriate care, and we have identified several concerning systemic access and coverage issues and addressed these through the appropriate channels with state agencies. The office also identifies and reports potential parity and coverage violations.

The Office of the Behavioral Health Ombudsman is unique—by design—in that it operates as an [independent office](#) in order to provide a neutral voice in care access, and identify (and objectively convey to all relevant parties) gaps in services and missing points of accountability in all cases that we work on. Importantly, a mechanism was also established by statute that requires certain regulatory agencies to respond to our concerns regarding potential parity and coverage violations.

In recent months, our work has been recognized within the behavioral health community to the extent that we've had state and local agencies/offices, provider groups, and Medicaid Regional Accountable Entities request our assistance on particularly challenging cases. We have heard from some of these groups, of the work we've done:

“amazing help you provide our most vulnerable members”

“you have a magic wand and can make miracles happen”

And families have told us, of the assistance we have provided:

“We have never had that kind of support before”

“I feel like I can breathe because you are working on this case”

“If it weren't for your help who knows what would have happened to my daughter”

The office has accomplished much on behalf of those we have served. In order to fully meet the mission, goals and requirements set by implementing statute, however, it is critical that the office receive sustainable support. Current resource limitations have impacted the office's ability to

address an increasing, and increasingly complex, caseload, and to formalize practices and procedures necessary to objectively meet the long-term mission and goals of this office, including tracking and reporting on both individual and systemic behavioral health access issues.

Recommended Action Steps:

We recognize the dire state of Colorado and the nation in the midst of this global pandemic, and the simultaneous dedication of many stakeholders to fixing the state's dysfunctional behavioral health system. To ensure that the office is able to continue meeting the long-term needs of Coloradans trying to access behavioral health care, the following steps will be critical for the Office of the Behavioral Health Ombudsman of Colorado:

- 1. Sustainable, long-term funding for the work of the Behavioral Health Ombudsman.**
- 2. Ongoing support and recognition for the Office of the Behavioral Health Ombudsman as a distinct office that can continue to deliver the neutrality expected by the public.**

Sustainability Needs:

The Office of the Behavioral Health Ombudsman of Colorado (BHOCO) opened in September 2019, and spent the first 1.5 years in operation:

- Establishing initial policies and procedures for: case intake; behavioral health care access navigation and assistance; and tracking, identification and reporting of possible coverage violations and systemic and long-term behavioral health access issues
- Developing relationships with federal, state and local agencies and liaisons and others
- Assisting individuals, families and providers in accessing behavioral health care
- Helping consumers, providers, groups of providers and others to identify, file or resolve complaints or potential coverage violations
- Identifying and reporting access, parity, coverage and other systemic issues within the state's behavioral health system

Since October of 2019, the Office of the Behavioral Health Ombudsman of Colorado has sought to secure funding to provide sufficient staff and support for this office, which currently has enough funding for one full-time employee, despite an increasing and intensive caseload and a statutory mandate to provide [numerous services](#).

During the first 1.5 years of operation, based on budget availability, the office experienced intermittent periods of time with 1 staff member, 2 staff members, or 2 staff members plus one part time contractor. The office was able to perform the following statutorily required tasks at each staffing level:

1 staff member (Ombudsman or Acting Ombudsman; total 6 months of operation):

At one FTE, a moderate intensity caseload was maintained, an annual report was drafted and released, and relationships and communications with state liaisons and some behavioral health providers, RAEs and other behavioral organizations were maintained. No formalized office processes were established. Response times for case inquiries

typically ranged from 1-5 days for urgent cases to 3+ weeks for non-urgent cases depending on caseload.

2 staff members (Ombudsman and Deputy Ombudsman or PT consultant; total 8 months of operation):

At two FTE, a moderate to high intensity caseload was effectively maintained and expanded, relationships and communications with providers and community partners were expanded, several systemic parity and behavioral health access to care issues were identified, and one report of potential systemic parity violations was drafted and submitted to a state agency. Several office policies and processes were established, including: website design and creation, intake processes and tracking mechanisms, ROI forms, securing of general counsel, and more. Response times for case inquiries generally ranged from 12-24 hours for urgent cases to 2-5 days for non-urgent cases depending on caseload.

3 staff members (Ombudsman and Deputy Ombudsman and 1 PT consultant); total 1 month of operation):

At two FTE plus one PT consultant (at 20 hrs/week), a high intensity caseload was effectively maintained, relationships with providers, RAEs, community partners and others expanded and became more formalized, draft reports of additional potential systemic parity and access issues were initiated, intake procedures were updated, data tracking needs were identified, and multiple additional policies and processes were established or initiated. Response times for case inquiries generally ranged from 12-24 hours for urgent cases to 1-3 days for non-urgent cases depending on caseload.

In order for the Office of the Behavioral Health Ombudsman of Colorado to effectively continue: responding to increasing and increasingly complex and/or high intensity cases in an efficient and timely manner; continue identifying, tracking and reporting to appropriate agencies potential parity and coverage violations in an efficient and timely manner; and continue identifying and reporting to the public on the work of our office and on systemic parity and access issues and possible resolutions to these issues, the office will need more robust and sustainable resources.

Importance of BHOCO as Distinct and Independent Office:

One recent case example--which is reflective of many of the office's cases--highlights the importance of the Ombudsman as a distinct, neutral and independent office that is responsive first and foremost to the needs of people trying to access care. In this case, a family was attempting to secure ongoing, long-term care for their child who was about to be discharged, following a denial of services, from a residential care facility with little to no follow-up services in place.

This family was overwhelmed, and unaware of the role that the state's Medicaid RAEs have in care coordination. Our office assisted this family in connecting with the RAE, and requested a series of care coordination calls to discuss next steps. Over the next weeks and months, these

care calls included, at times, more than *fifty participants*. Participants included care providers, insurers, case managers, state agencies, county agencies, attorneys and others.

It was clear during these calls, and for most of our cases--including for those under both Medicaid and private state or federally regulated insurance plans--that there are many dedicated team members active on any one case. However, each of these participants was typically limited by silos based on funding sources, regulatory powers, or provided services. At numerous times, and on numerous cases, there have been no clear points of accountability or responsibility for identifying and assessing behavioral health needs, finding appropriate care, and/or paying for appropriate care.

These gaps exist both within and outside of the state's Medicaid system, and cross boundaries between complicated funding lines that exist between private coverage versus state, behavioral health coverage versus other health coverage, I/DD coverage, county child welfare services, veterans services, Medicare, and elsewhere.

Our office has the unique role of being able to help families navigate this tangled web of care as a neutral entity. The office does not provide behavioral health services, and we neither regulate nor fund them. This allows an objective assessment of where gaps exist, and the ability to clearly convey these gaps to all parties, including families and services providers. Our ability--as set by statute--to exist outside of existing silos has been key to providing families, providers and others with vital information and potential steps available to them.

We recognize that silos have been widely discussed in behavioral health communities, and addressing these silos was part of the work of the recent Behavioral Health Task Force. The Ombudsman served on the Safety Net Subcommittee, and the office supports the hard work of the Task Force.

As the new Behavioral Health Administration is developed, it will be more imperative than ever to maintain a distinct Ombudsman office. The public relies on the Behavioral Health Ombudsman to be a neutral entity outside of any division or other office.

The Office of the Behavioral Health Ombudsman of Colorado, which serves providers and consumers regardless of insurance coverage and/or where this coverage is regulated, should remain independent, to the extent possible. Much of our work involves identifying and pointing out holes in responsibility or accountability mechanisms between various payors and others within the behavioral health system. For such work to maintain neutrality, integrity and effectiveness, it will best remain distinct and independent from any administration that directly regulates or provides services.