Behavioral Health Ombudsman of Colorado

ANNUAL REPORT FY 2021-2022

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TABLE OF CONTENTS

INTRODUCTION: ABOUT BHOCO

Mission

The Behavioral Health Ombudsman of Colorado (BhoCO) works to improve mental health and substance use care coverage and access in Colorado by investigating concerns and complaints, gathering data, delivering recommendations for reform, and helping those who are seeking care or providing care navigate complicated systems.

Values

Independent - BhoCO operates independently from Colorado's governmental agencies, insurance carriers, and behavioral health providers. We serve the people of Colorado.

Neutral - BhoCO acts as an impartial receiver of concerns, complaints and data, and has a statutory mandate to maintain transparency and report on our work to the public.

Confidential - BhoCO does not disclose identifying information without permission unless it is necessary to address imminent risk of serious harm.

Inclusive - BhoCO believes that this office needs to be available to all residents of Colorado regardless of insurance coverage. We seek to be a safe and accessible space for persons of any ability or identity.

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History

Access to adequate and appropriate behavioral health coverage is critical to ensuring Coloradans receive the preventative and treatment services they need. In many situations, Coloradans who are seeking care do not have the resources and supports in place to spend hours trying to resolve covered health plan benefits and reimbursement methodologies. Additionally, many people are unaware of their rights to parity in coverage.

The Office of the Behavioral Health Ombudsman Office of Colorado (BhoCO) was established by Colorado House Bill 18-1357 and House Bill 19-1269 to work with community based organizations, state agencies, and providers to better serve the behavioral health community, and to educate consumers of their rights to insurance coverage and help them navigate the insurance system. The role of the Ombudsman office, as defined by statute, is to:

- Interact with consumers and health care providers with concerns or complaints to help resolve behavioral health care access and coverage and coverage issues.
- Identify, track and report to the appropriate regulatory or oversight agency concerns, complaints and potential violations of state or federal rules, regulations or statutes concerning the availability of, and terms and conditions of, benefits for mental health conditions or substance use disorders, including potential violations related to quantitative and nonquantitative treatment limitations.
- Receive and assist consumers and providers in reporting concerns and filing complaints with appropriate regulatory or oversight agencies relating to inappropriate care, an emergency procedure under section 27-65-105, a certification for short-term treatment under section 27-65-107, or a certification for long-term care and treatment under section 27-65-109.
- Provide appropriate information to help consumers obtain behavioral health care.
- Develop appropriate points of contact for referrals to other state and federal agencies.
- Provide appropriate information to help consumers or health care providers file appeals or complaints with the appropriate entities, including insurers and other state and federal agencies.

2021-2022 HIGHLIGHTS

Overview and Priorities:

As the global pandemic persisted, Coloradans sought (and continue to seek) a balance of health and safety with a return to schools, offices and elsewhere. Many people, however, were left struggling with ongoing (or new) behavioral health needs, only to face a lack of care options in the state.

According to research from the Kaiser Family Foundation, mental health conditions have been exacerbated by the Covid pandemic nationwide. Here in Colorado, both the percentage of adults with mental health needs and the age-adjusted suicide rates ***exceed*** the national average. At the same time, adults who report needing mental health care—but not receiving it—in Colorado also exceeds the national average. Approximately **one in three people** who reported anxiety or depressive orders **needed—but did not receive—treatment** over a four- week period in one study.[1]

A lack of access to appropriate care continues to be the primary reason for outreach to the Behavioral Health Ombudsman office. Calls come from those who need care, from family members or caretakers of those who need care, and from providers trying to ensure care for people who need it. Calls remained steady over the past year, as the office strived to maintain our own balance of handling cases while also seeking to establish more formal processes and long-term, sustainable funding.

The Ombudsman was focused primarily on three major areas in 2021/22:

1. Case management.
2. Developing long-term formal practices and sustainability plans.
3. Preparing for the new Behavioral Health Administration while ensuring ongoing independence, transparency and integrity from our office.

[1] source: https://www.kff.org/statedata/mental-health-and-substance-use-state-fact-sheets/colorado/

Case Management

As in prior years, the cases the office receives are often complex and require intensive support. As an Ombudsman office, our goal is to be responsive first and foremost to those who are seeking assistance or guidance for themselves or someone else: from individuals with lived experience to family members to health care providers or others. This means ensuring we connect callers with resources where appropriate, help people navigate or obtain care, and report possible coverage concerns or violations.

Over the course of our first three years as an office, we have spent significant amounts of time on navigational components, and continue to identify several key commonalities in many of these cases:

1. There are often already many concerned and diligent care providers and state and local organizations involved in cases that ultimately reach our office. However—in many of the cases, there is a **lack of clear points of responsibility and accountability**, which results in patients dropping out of care or failing to find appropriate care before they reach our office.
2. Even in cases where an entire care team reaches agreement on treatment needs, a **lack of resources** (e.g. available placements or funding sources) often results in insufficient care.
3. Finally, a **gap between short-term crisis stabilization services and ongoing/follow-up care** has been notable in numerous instances and has left us with questions about discharge planning processes in Colorado. Such cases have included: individuals with ongoing behavioral health treatment needs facing discharge into unhoused situations; parents who are told that in order to ensure appropriate longer-term care for their children they may need to relinquish custody; and parents who feel their children are unsafe for discharge (with potential for harm to themselves or others) being told that there are no further options and they may face a neglect charge if they do not comply with the discharge requirements they believe are inappropriate.

2021/2022 Case examples

1. Long-term support needs: A parent with an adult child contacted our office in late 2019 as they struggled to find the individual appropriate and timely mental health support for a diagnosis that required regular injectable medications. Due to a history with substance use and justice system involvement, it was difficult to find any consistent services or identify central points of responsibility. One community mental health provider refused to provide on site services, while another was willing to provide services but was unable to provide necessary medication.

   The Ombudsman office initiated care coordination calls that included multiple parties, the Regional Accountable Entity (RAE), a coordinator from the courts, the Community Mental Health Center (CMHC), and various other entities. Over three years, we participated in many calls to help ensure appropriate care. There were multiple complications, including movement between various substance use treatment facilities, jails, work programs, and housing programs, which added more hurdles to finding safe and appropriate long-term care.

   After three years of case calls, in November 2022, the CMHC, the parent, the individual who needed care and others engaged in the case identified and agreed on a solution with consistent terms and ongoing support. The office is hopeful this will finally ensure long-term and appropriate support.

2. Lack of resources: In spring of 2022 we were contacted by a case manager for a health provider about an individual in their late 70s who was inpatient at a psychiatric facility which was closing and would no longer be able to provide care. For multiple months before our office was contacted, several providers, care coordinators and others looked for safe long-term placement but were unable to locate any facility (psychiatric or nursing home) who would accept the individual, citing age or prior history of unsafe behaviors. During our time working on this case, the individual was denied medical necessity for inpatient care, while care providers simultaneously told our office the individual would not be safe in outpatient care. Our office was also told that if no options were found, the individual faced potential discharge with no housing.

   We joined the case calls a few weeks before the pending discharge, and assertively opposed discharge to an unhoused situation. We asked state agencies to join the calls, including HCPF and CDHS, in hopes that someone could identify an appropriate care plan and placement in time.

Despite the involvement of numerous entities (including diligent work by immediate care providers), no placement was located, and no facility in Colorado was willing or able to take in this individual.

The individual was eventually discharged from psychiatric care onto a medical floor of the hospital, while all entities continued to seek placement upon discharge. Per one of the care providers, long months in the hospital with little hope for finding appropriate placement left the patient feeling depressed.

Sadly, the individual's physical health declined before placement was found, and they died shortly after transferring to hospice care. We grieve for their final days, spent without assurance of a safe home and care.

3. Multiple supports needed: In late 2021 an individual contacted us for help with filing complaints and help with acquiring support services. They were struggling with appropriate supports for housing, physical and behavioral health, and long-term impacts from a traumatic brain injury which made navigating systems more complicated.

   We helped connect the individual with appropriate supports for filing certain complaints, navigating Medicaid benefits, and finding additional resources and information at their request. We made time to go through each step with them as they filed a grievance, and we are now focused on ensuring safe and appropriate housing supports for them. We will continue to work with them as they identify new needs and/or we are able to find additional lines of care support and long-term advocacy for them.

   This case is representative of many calls we receive, where an individual faces not one, but many complications, and is unable to locate one person to help coordinate all of their (related) needs—but sometimes are unable to navigate multiple needs by themselves.

Case Management - Next steps for 2022/23:

We are hopeful that the new Behavioral Health Administration will provide a centralized location to help many of our callers who need multiple and extensive supports. However, we recognize that the BHA may be limited by scope and jurisdiction, and by a potential focus on systemic statewide issues over individual cases. We will work as closely with them as possible to identify what services they will be able to provide. At the same time, the Ombudsman office will continue to strive to ensure that no one in Colorado is left without safe and appropriate care and support.

Strategic Planning

Long-term planning and development of formal tracking systems and intake processes has been an ongoing challenge for the office since it opened in 2019 with one full-time time and one part-time FTE. We were unable to receive additional state funding at that time. Potential outside funding sources were derailed in early 2020 by the onset of Covid-19, leaving the office short-staffed and vitally aware of the need for sustainability planning.

We receive regular questions from the public regarding what this planning might look like, and inquiries about the daily operations and needs of the office. As part of an ongoing commitment to transparency, we have done our best to assemble this information in a few ways.

In February 2021, the office developed initial strategic planning documents identifying both long-term needs and resource shortages. As part of this document, the office identified efficiency and effectiveness parameters of the office based on numbers of full-time staff and related call management practices (see p 2-3, 2021 Interim Report).

Additionally, the office has created a preliminary narrative to provide a "snapshot" of daily operations and cases over a four-month period. It is our hope that this snapshot will serve as a building block for continued long-term planning in the coming year:

Daily Operations:

Day-day-operations vary in focus and complexity, but typically include:

1. Caseload management and navigation
2. Tracking/reporting
3. Identifying and addressing systemic issues
4. Managing the office and establishing practices and procedures

Regarding direct caseload management, the Ombudsman's office addresses cases that range in intensity and duration, thus making it challenging to identify "averages" in numbers or time spent on cases. However, while each case that comes into the office is unique and addressed individually, the office can articulate what a "low intensity" and "high intensity" situation might look like and provide examples of caseload activity.

A "low intensity" case generally has no perceived imminent threat, danger, or harm. These cases also generally can be resolved through limited email and phone calls. These cases generally have fewer than 3 agencies, systems, or

providers involved and it is clear which entities have responsibility or should be involved in the resolution.

“High intensity” cases have high risk and require lengthy communication during each day. These typically require immediate and intensive intervention (multiple calls/emails) to identify appropriate service providers and care coordinators to ensure the safety of the individual or family. These cases may have 3 or more agencies, systems, or providers involved, and we are brought in because there is typically confusion or lack of responsibility about the services needed, mechanisms for payment, or care management/coordination.

A “limited duration” case generally can be resolved within 2 weeks.

Extended duration situations require time to resolve them that extends beyond 2 weeks, and has in some cases lasted over a year.

While caseload varies greatly from week to week, a snapshot of the intensity and duration of cases over a four-month period included the following:

New cases or situations over a four-month period: 67
High intensity and extended duration: 25/67
High intensity and limited duration: 11/67
Low intensity and extended duration: 11/67
Low intensity and limited duration: 20/67

It is notable that 47 of 67 situations that came to the attention of the office during this 4-month period were either high intensity, extended duration, or both. These included young children being discharged from inpatient psychiatric hospitalizations or residential programs with no clear plan in place for their families to support them, adults with mental illness who were homeless, in jail, or without a stable residence, and individuals with life-threatening conditions who were not receiving the mental health care they needed.

The office serves several functions when contacted to provide resolution. Most often the office is contacted to identify critical resources in times of need, and assist in connecting people to these resources when others have not been able to do this. Unlike a “complaint” office, we work on situations to follow them through to resolution and are not direct recipients of complaints.

The office currently uses a spreadsheet that allows for tracking of case information and case updates. We have identified other possible mechanisms to track and analyze more detailed case information that will articulate not only numbers of cases that come to the office, but also the type of response needed, urgency of situation, contacts made (quantity and duration), and case outcomes.

Individual or family cases are just one type of situation the office addresses. The office also receives inquiries from providers or groups of providers, often inquiring about potential parity, coverage or reimbursement issues. In these cases, the office will often connect the provider with the appropriate regulatory

body (based on insurance type) and will sometimes request a response from the agency regarding whether violations have occurred. In some of these cases, multiple providers have approached us with similar issues, and in these cases, we take a more intensive approach, and file a thorough and formal complaint (for example, a 2020 provider rates complaint).

Strategic Planning - Next steps for 2022/23:

In May 2021, legislators passed SB21-137, which includes one-time funding for the Behavioral Health Ombudsman office. With this funding, the office is building on the earlier strategic planning documents to create both formal tracking systems and intake processes in the coming year. As part of this, the office is:

1. Purchasing and developing formalized tracking software and systems, modeled after systems used in other ombudsman offices.
2. Hiring term-limited FTEs and/or consultants to work on these systems, and to help manage cases.

While this funding does not address long-term sustainability, the office hopes that the use of short-term dollars to hire additional staff to manage cases will continue to demonstrate an increase in efficiency, so that the office will be able to ensure longer term resources.

Finally, most case calls to the Behavioral Health Ombudsman office have come through word-of-mouth or referrals. Part of our long-term strategic planning will incorporate marketing of the office so that all Coloradans are easily able to identify and access the office. Additionally, the creation of the new Behavioral Health Administration will likely lead to additional cases (both through referrals and through their website), and the Ombudsman Office will strive to be prepared for these additional needs.

Collaboration with Behavioral Health Administration

We are pleased that the new Behavioral Health Administration is up and running, and have started collaborating with the BHA to create data sharing agreements as required by HB22-1278. We look forward to continuing this collaboration and seeking opportunities to come together to identify systemic issues in the state's behavioral health system.

While engaging in this collaboration, the office will also prioritize maintaining objectivity and independence. 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.

Our office has the distinct role of being able to help families navigate a complex web of care as a neutral entity. We do 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 objectively communicate these gaps to all parties, including families and service providers. Our ability–as set by statute–to exist outside of existing entities has been key to providing families, providers and others with vital information and potential steps available to them. We have been recognized for this neutral and independent role by consumers, providers and others in the behavioral health community, and will work to ensure this continues.

BHA Collaboration - Next steps for 2022/23:

We hope to identify unique opportunities to work with the BHA to identify gaps in service, patterns of access issues and potential violations, and policy concerns that need to be addressed. It is our hope that collaboration will lead to better outcomes for those who need care.

At the same time, it is important that we maintain independence and neutrality in our role as an Ombudsman office. In the coming year, we will look towards national ombudsman standards to help design our formal practices in ways that will maintain the highest of standards as a neutral office.

Additionally, while the BHA was designed to be a single point of contact for many Coloradans seeking behavioral health care within the state, there may be potential for limitations for assistance based on coverage and regulatory oversight (for example, helping Coloradans who have federally regulated insurance plans, or helping Coloradans navigate the intersection between local school districts and behavioral health needs). The Behavioral Health Ombudsman will continue to be available to help all Coloradans, regardless of insurance coverage, access care. We will communicate regularly with the BHA as to how to best ensure that people who need care receive it, and that people who are facing obstacles to care *are never turned away*.

CONCLUSION

The office of the Behavioral Health Ombudsman is thankful to the Colorado State Legislature and the Governor's office, who secured short-term funding for our office to obtain better tracking systems, more formalized processes, and immediate help with significant staffing needs.

We look forward to spending this next year continuing to grow as an office, further define what we need for long-term success, and, most importantly, continue our work on behalf of Coloradans whose behavioral health needs are currently unmet.