

2023/2024

# Annual Report



Behavioral Health Ombudsman of Colorado

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*“The Behavioral Health Ombudsman operates independently from Colorado's governmental agencies, insurance carriers, and behavioral health providers. We serve the people of Colorado.”*

# 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.

# About BHOCO

## 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 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 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.

# 2023-2024 Highlights

## Overview & Priorities

Following depletion of the American Rescue Plan Act (ARPA) funding in December 2023, the Colorado State Legislature approved ongoing funding for the Office of the Behavioral Health Ombudsman to maintain sufficient staff and operations beginning on July 1, 2024. This is the first sustainable funding source since the office opened its doors in 2019, which has provided both the ability to continue working with Coloradans who struggle to access behavioral health care, and the opportunity to thoughtfully implement long-term operational policies and procedures in order to make services and interactions more efficient, effective and accessible.

The Behavioral Health Ombudsman office focused primarily on three priorities in 2023/24:

1. Caseload management and issue identification: Individuals
2. Caseload management and issue identification: Systems, Regulations, Parity and Coverage
3. Long-term strategic and sustainability planning

Over the past year, the office has continued to prioritize the needs of people seeking access to behavioral health services on behalf of themselves or others. Besides direct calls from those needing assistance for themselves or family members, the office continues to receive calls from providers, care managers, and local and state agencies who request assistance on complex cases, often seeking our participation on complicated and urgent care coordination calls.

While there are many agencies and entities in the state that work diligently to provide, fund, or coordinate behavioral health services, they are often limited by statutory or regulatory scope. The ombudsman office is uniquely situated to be able to receive calls from anyone regardless of whether they have commercial state or federally regulated insurance coverage, Medicaid, Medicare, other public benefits, or no coverage at all. And because the office neither provides nor funds direct behavioral health care services, it is not limited by type of funding source, geographical location, facility or service type, or connection to any other state or local system. Our cases often intersect with multiple systems (e.g. health care, education, judicial, housing, or adult or child protection systems), and the office is often asked to help navigate multiple systems on each case and/or facilitate assistance from other entities within these systems.

While the majority of the 250+ new cases over the past year involved individuals who lacked access to appropriate behavioral health-care services and long-term supports, the office also saw an increase in cases involving systemic concerns called in by providers, groups of providers, or other professionals connected to the behavioral health system.

# Highlights 2023-24

## Notable Trends and Issues

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 callers are connected with resources where appropriate, people are able to navigate or obtain care, and possible coverage concerns or violations are reported.

Over the past year the majority of calls to the office have continued to involve individuals who are struggling to access appropriate behavioral health care and wraparound services. These calls often involve lack of access to providers, facilities and/or long-term support services, and/or denial of benefits. Additionally, many calls involve people currently in a facility (residential treatment, acute care, jails, hospitals, assisted living facilities, or elsewhere) who are facing discharge without sufficient long-term support, treatment, or placement. Often, the office works on behalf of individuals who have no options for placement due to a lack of facilities able or willing to accept them. Importantly, many cases also involve support needs in systems outside of direct behavioral health services—such as education, housing, other health care, care for older adults, or home supports such as assistance with cleaning, shopping, transportation or other associated needs that often intersect with—and impact—behavioral health care needs.

Besides individual cases, the office also received more calls in the past year from providers and groups of providers concerned about systemic issues. For example: an emergency room physician called with concerns about a longer average duration of emergency department stays for behavioral health patients compared to other patients. Providers also called with concerns about a lack of clarity in state behavioral health laws, regulations or services (e.g. M1 hold criteria, access to BHA benefits, or oversight processes for certain treatment facilities). And providers called with concerns about billing and reimbursement, credentialing, and other related issues.

While each case is unique, over the past year the office noted several shared, systemic issues across many cases (*please note that inclusion of these issues does not mean these are the only notable issues, and an omission of a previous year's issue does not mean prior concerns have been resolved*):

# Highlights 2023-24

## Trends and Issues (cont.)

1. **Ambiguous single and sustainable points of entry.** This has been (and remains) a top concern since the opening of the Behavioral Health Ombudsman office in 2019. The office has noted increased clarity and accountability by Medicaid RAEs and others regarding care coordination in shared cases over the past several years. However, regardless of insurance type, a lack of streamlined processes and clear and easily navigable single points of entry remains for clients with complex behavioral health and associated needs.

In some cases, one individual may have multiple care coordinators, case managers, and agencies all working on their case—which can be a great asset, but often lacks a clear single point of responsibility and accountability, which ultimately stalls care. And often, whether an individual has one care manager or many, specific services are stalled by silos between systems.

*Case example: In one example, the office received a request for assistance from a provider who was no longer able to provide home health care services due to unsafe conditions in someone's home. Despite a long-term support waiver, and numerous potential behavioral health services and supports available, there was a lack of clarity, responsibility and accountability regarding whose role it was to ensure safe conditions for in-home support services, and to subsequently explore best options for care.*

While the circumstances of this case were unique, the conversation was not. The office routinely hears from entities or agencies that a particular requested service, payment, support, or oversight mechanism is outside of their scope, but agencies are sometimes unsure whose responsibility it is, or disagreements exist regarding such responsibility.

2. **Limited resources, including funding, case management, and providers/facilities.** This was covered extensively in the 2022-23 report [here](#) and remains a notable issue.

In addition to concerns outlined in prior years, the office has noted an increase in calls regarding access to facilities for older adults or others with behavioral health needs needing long-term skilled nursing or assisted living facilities. The office has also noted an increase in calls from those who are unhoused or facing eviction, or about to be unhoused.

# Highlights 2023-24

## Trends and Issues (cont.)

*2023-24 Case example: In multiple cases, the office was contacted by a hospital, care coordinator, case manager or other professional regarding individuals with long-term living needs following discharge from a hospital. Some individuals had been admitted to the hospital for acute behavioral health needs, while some had been admitted for other, non-behavioral health needs. They were facing potential discharge without a place to live, despite having met criteria for skilled nursing or assisted living facilities, due primarily to identified long-term behavioral health needs. In many cases, professionals reached out to numerous potential placements, but admittance was denied based on level of care needed. In some cases, appropriate placements had been identified, but a funding source had not been established. And in other cases, families reached out to report that a loved one had already been discharged without placement and were subsequently living in unsafe settings.*

- 3. Children with High Intensity Support and Service Needs.** The Behavioral Health Ombudsman office continues to encounter a significant number of cases involving children and families struggling with complex and intensive challenges in which there is limited residential treatment availability for youth/children or equally robust and available alternative community-based treatment options. In 2023 the office reported these concerns to the Colorado Department of Health Care Policy and Financing and the Colorado Division of Insurance and continues to look forward to working collaboratively with them to explore this issue, share any relevant data, and look for possible solutions.

These cases underscore a critical gap in the continuum of care for vulnerable populations. In response, the office actively engaged with state agencies throughout 2023 and into 2024 to advocate for increased support and resources. This concern was formally documented in BHOCO's 2023 Annual Report ([link](#)). We acknowledge the state's recent legal commitment to address these pressing issues and anticipate a collaborative partnership to ensure that Colorado's children receive comprehensive behavioral health services.



# Highlights 2023-24

## Trends and Issues (cont.)

A [settlement agreement](#) reached between Disability Law Colorado and the Department of Health Care Policy and Financing (HCPF) in February 2024 resulted from negotiations to improve intensive behavioral health services (IBHS) in Colorado. Under the terms of the agreement, HCPF has identified that they will work to develop a robust implementation plan in the next twelve months to improve the delivery of IBHS to children enrolled in Medicaid and implement that plan over the next five years. The stated goal is to create a delivery model for culturally relevant, family centered, child-driven IBHS services and supports in the most integrated, least restrictive setting. IBHS will include services such as intensive care coordination, intensive in-home and community services, and mobile crisis intervention and stabilization services. The ombudsman office recognizes the potential for more robust care to meet the needs of the families who continue to call our office seeking assistance.

A related issue noted in 2024 is the complexity of provision of and payment for educational services for children and youth who are in out-of-home placements due to the intensity of behavioral health support and services necessary to keep these children and their families safe. BHOCO has identified three trends in this area and has actively been in communication with local and state education entities to find resolution for families needing these services:

1. Children in residential care who will be coming home and the local education authority is unable to enroll or initiate needs assessment or an Individualized Education Program (IEP) until the child is back home
2. Children who have a clinical recommendation and medical necessity determination for in-state out of home placement, however the local education authority determines they are able to serve the child in the district's home school, which is often a geographic impossibility.
3. Out-of-state residential placements that have been determined to be clinically and medically necessary when no in-state options are available, and the local education authority is not in agreement regarding payment for educational services in these placements.

# Highlights 2023-24

## Trends and Issues (cont.)

4. **A gap between short-term crisis stabilization or other services and ongoing behavioral health care for adults** continues to be notable and points to further exploration of obstacles in discharge planning processes and network adequacy in Colorado. This includes individuals noted in (2) above who are sometimes faced with unsafe or unhoused discharge situations directly from facilities. It also includes numerous cases where an individual was released to a home without sufficient long-term support, ongoing treatment, or home-based services in place.

*2023-24 Case example: The office received multiple calls from individuals and providers concerning oversight and discharge planning for certain addiction and sober living facilities in Colorado. In several cases, individuals expressed concerns about tens of thousands of dollars being paid out-of-pocket for treatment only to be discharged with a lack of ongoing support, and believing they were still unwell or worse off.*

5. **Increase in calls from individuals or their family members who express feelings of being unheard or having “nowhere else to go.”** While the office recognizes the complicated and sometimes intangible nature of this sentiment as a systemic, documentable issue for state data-tracking and policy systems, we are committed to remaining a transparent voice for people who reach out.

Over the past year, an increase in calls has been noted from individuals or their family members who indicate that they are not receiving care that works for them. While it's unclear whether there are more individuals who feel this way, or simply an increase in the visibility of the ombudsman office, this is an increasing trend within the office. Individuals indicate that they have reached out to many other entities (state or local agencies, facilities or providers, care coordinators or case managers, or others) yet seek services from the ombudsman office because they feel their concerns are not being addressed or heard.

# Highlights 2023-24

## Trends and Issues (cont.)

These are often complicated conversations with many potential factors: In some cases, there are many people involved in trying to obtain care, but the care is insufficient, unavailable, or not succeeding. In some cases, individuals are reaching out from treatment facilities to express concerns over care they are receiving while in those facilities.

In other cases, individuals reach out to express that they have tried calling agencies or entities they believe should help them, but are not receiving replies in a manner that feels timely or effective. And, in some of the most challenging cases, individuals reach out who feel they have been passed around from agency to agency, or from provider to provider, due to challenges in communications or needs.

The office recognizes that these cases are all unique, and that explanations for why care is not helping or someone feels unheard can vary greatly. However, the office also recognizes that individuals—not total numbers of people covered or served, or total available beds or facilities for those who qualify to receive care—are at the core of behavioral health systems in the state. This is why the ombudsman office remains committed to following through each individual case to the best of our ability, for as long as necessary.

# Conclusion

## Looking Forward: Priorities for 2024-25

Long bill appropriations for the 24/25 fiscal year approved by the Colorado State Legislature and the Governor's Office included the addition of sustainable funding to maintain staffing levels and operations in the Behavioral Health Ombudsman Office that were previously allowed through ARPA funds. While caseload management will always remain a top priority, in the upcoming year the office also hopes to address the following priorities:

**1. More robust and formalized processes.** Currently, the office offers a thorough phone intake to everyone who reaches out, in order to assess needs and determine next steps. Following these intakes, staff members follow up in a variety of ways based on case needs. This may include outreach to state or local agencies, care coordinators, case managers, facilities and providers, or other organizations. Staff join care coordination calls when requested by individuals or providers, help file complaints or grievances with state agencies, connect callers to a variety of services or entities, and assist with serving as a central point of contact within multiple systems. Importantly, the office strives to be available to those who have been unable to find help after trying a multitude of resources, and the office attempts to follow through each case as new or additional needs are identified.

Because each case, while similar across trends and systemic issues, is so unique, the office strives to maintain flexibility, particularly when reaching out to other agencies for assistance. However, we recognize that many state entities have formal systems in place for grievances, complaints, and services. It is our goal to implement systems within the ombudsman office that helpfully intersect with existing state processes, while also maintaining the flexibility and independence required of an ombudsman office.

# Conclusion

## 2024-25 Priorities (cont.)

Additionally, one of the primary goals of the office besides direct support for individuals needing care has been to submit complaints to appropriate state and federal agencies regarding possible mental health parity and access violations and concerns, and in return receive a statutorily required response from certain state agencies. Since the opening of the office, this process has sometimes been limited due to immediate individual case needs and insufficient resources. Over the next year, with a sustainable funding source, the office will strive to strengthen this process for outreach to other agencies, and for providing subsequent responses to providers, groups of providers or others with these concerns.

The office will continue to collaborate with the Behavioral Health Administration (BHA) and others on developing and coordinating, where possible, processes that will allow for smooth transitions and interactions between entities.

**2. Improved tracking (in collaboration with BHA and other state agencies) to help foster system wide understanding of systemic gaps in care and services.** Last year ARPA funds allowed for purchase and development of a Salesforce system in order to track cases and trends within the office. This year, the office seeks to refine the system and develop processes to more robustly define and track behavioral health access to care issues.

**3. Increased outreach.** Many cases come from word of mouth and build on the office's prior experience working with a majority of Medicaid-centered cases. These calls come from individuals and families, and also from providers, case managers, care coordinators or facilities who have worked with the office previously or been referred by others who have done so. Over the past year, the office has also connected with numerous individuals who need services outside of Medicaid systems, and believes that there are many more Coloradans who may need assistance.

The office has had opportunities and requests in recent months to present to and engage with groups of providers that work with individuals inside and outside of Medicaid systems, and hope to continue to expand our reach through presentations and other outreach activities so that anyone who needs help can find the Behavioral Health Ombudsman Office. While cases have steadily increased over the last several years, our long-term strategic planning seeks to further market the office so that all Coloradans are easily able to identify and access the office, ensuring both geographic and social equity.