MICHIGAN VETERANS' FACILITY OMBUDSMAN
Act 198 of 2016

AN ACT to create the office of the Michigan veterans' facility ombudsman; and to prescribe the powers and duties of the office, the ombudsman, the legislative council, and the department of military and veterans affairs.

History: 2016, Act 198, Eff. Sept. 20, 2016.

The People of the State of Michigan enact:

4.771 Definitions.

Sec. 1. As used in this act:

(a) "Administrative act" includes an action, omission, decision, recommendation, practice, or other procedure of the department.

(b) "Complainant" means a resident veteran, family member of a resident veteran, legal guardian or individual with power of attorney for a resident veteran, or legislator who files a complaint under section 4.

(c) "Council" means the legislative council established under section 15 of article IV of the state constitution of 1963.

(d) "Department" means the department of military and veterans affairs.

(e) "Legislator" means a member of the senate or the house of representatives of this state.

(f) "Michigan veterans' facility" or "facility" means a Michigan veterans' facility established under 1885 PA 152, MCL 36.1 to 36.12, or any other facility for the care of veterans that is constructed or established by this state after the effective date of the amendatory act that amended this subdivision.

(g) "Office" means the office of the Michigan veterans' facility ombudsman created under this act.

(h) "Ombudsman" means the Michigan veterans' facility ombudsman.

(i) "Resident veteran" means a veteran who is a resident of a Michigan veterans' facility or an individual who is a resident of a Michigan veterans' facility by virtue of the individual's relationship with a veteran.

(j) "Veteran" means that term as defined in section 2a of 1885 PA 152, MCL 36.2a.

History: 2016, Act 198, Eff. Sept. 20, 2016;—Am. 2018, Act 395 , Imd. Eff. Dec. 19, 2018.

4.772 Office of Michigan veterans' facility; creation; Michigan veterans' facility ombudsman as principal executive officer; appointment.

Sec. 2. (1) The office of the Michigan veterans' facility ombudsman is created within the legislative council.

(2) The principal executive officer of the office is the Michigan veterans' facility ombudsman, who shall be appointed by and serve at the pleasure of the council.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.773 Council; approval of budget; expenditure of funds; employment of personnel.

Sec. 3. The council shall establish procedures for approving the budget of the office, for expending funds of the office, and for the employment of personnel for the office.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.774 Commencement of investigation by ombudsman; interview; conditions; establishment of procedures.

Sec. 4. (1) The ombudsman may commence an investigation upon his or her own initiative or upon receipt of a complaint from a complainant concerning an administrative act, medical treatment of a resident veteran, or a condition existing at a facility that poses a significant health or safety issue for which there is no effective administrative remedy or is alleged to be contrary to law or departmental policy. The ombudsman may interview any of the following individuals whom the ombudsman considers necessary in an investigation:

(a) An individual employed by or retained under contract by the department.

(b) An individual employed by or retained under contract by a private contractor that operates a facility that houses resident veterans.

(2) Subject to approval of the council, the ombudsman shall establish procedures for receiving and processing complaints, conducting investigations, holding hearings, and reporting the findings resulting from the investigations.

History: 2016, Act 198, Eff. Sept. 20, 2016.

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4.775 Access to information, records, and documents; inspection; informal hearings; appearance.

Sec. 5. (1) Upon request and without the requirement of any release, the facility shall provide access to all information, and the ombudsman shall be given access to all information, records, and documents in the possession of the department or a facility that the ombudsman deems necessary in an investigation, including, but not limited to, resident veteran medical health records, resident veteran mental health records, and resident veteran mortality and morbidity records.

(2) Upon request and without notice, the ombudsman shall be granted entrance to inspect at any time any Michigan veterans' facility.

(3) The ombudsman may hold informal hearings and may request that any person appear before the ombudsman or at a hearing and give testimony or produce documentary or other evidence that the ombudsman deems relevant to an investigation.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.776 Administrative remedies.

Sec. 6. (1) The ombudsman shall advise a complainant to pursue all administrative remedies available to the complainant. The ombudsman may request and shall receive from the department or from a facility a progress report concerning the administrative processing of a complaint. After administrative action on a complaint, the ombudsman may conduct further investigation on the request of a complainant or on his or her own initiative.

(2) The ombudsman is not required to conduct an investigation or hold a hearing on a complaint brought before the ombudsman.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.777 Notice of decision to investigate complaint.

Sec. 7. Upon receiving a complaint under section 4 and deciding to investigate the complaint, within 10 business days the ombudsman shall notify the complainant, the resident veteran or resident veterans affected, and the department. If the ombudsman declines to investigate, the ombudsman shall notify the complainant within 10 business days, in writing, and inform the resident veteran or resident veterans affected of the reasons for the ombudsman's decision.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.778 Council; hearing.

Sec. 8. Upon request of the ombudsman, the council may hold a hearing. The council may administer oaths, subpoena witnesses, and examine the books and records of the department or of a facility in a matter that is or was a proper subject of investigation by the ombudsman.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.779 Confidentiality; disclosure; privacy provisions.

Sec. 9. (1) Correspondence between the ombudsman and a complainant is confidential and is privileged communication.

(2) A report prepared and recommendations made by the ombudsman and submitted to the council under section 10 and any record of the ombudsman are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) All records, reports, and communications relied upon, referenced, or prepared are subject to the privacy provisions of the health insurance portability and accountability act of 1996, Public Law 104-191, and regulations promulgated under that act, 45 CFR parts 160 and 164.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.780 Report of findings; recommendations.

Sec. 10. (1) The ombudsman shall prepare and submit a report of the findings of an investigation and make recommendations to the council within 10 business days after completing the investigation if the ombudsman finds any of the following:

(a) A matter that should be considered by the department.

(b) An administrative act that should be modified or canceled.

(c) A statute or rule that should be altered.

(d) Administrative acts for which justification is necessary.

(e) Significant resident veteran health and safety issues.

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(f) Any other significant concerns.

(2) Subject to section 11, the council shall forward the report prepared and submitted under this section to the department, the resident veteran or resident veterans affected, and to the complainant who requested the report.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.781 Report critical of person, facility, or department; consultation before submission of report; statement.

Sec. 11. Before submitting a report with a conclusion or recommendation that expressly or by implication criticizes a person or facility or the department, the ombudsman shall consult with that person or facility or the department. When publishing an opinion adverse to a person or facility or the department, the ombudsman shall include in that publication a statement of reasonable length made to the ombudsman by that person or facility or the department in defense or mitigation of the finding if that statement is provided within a reasonable period of time as determined by the council. The ombudsman may request to be notified by a person or facility or the department, within a specified time, of any action taken on any recommendation presented. The ombudsman shall notify the complainant of the actions taken by the person or facility or by the department.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.782 Report; contents.

Sec. 12. The ombudsman shall submit to the council, the board of managers, and the legislature a semiannual report on the conduct of the office. A report under this section shall include all of the following information for each Michigan veterans' facility during the preceding 6 months, at a minimum:

(a) The number of complaints received.

(b) The number of complaints concerning each of the following categories:

(*i*) The modification or cancellation of, or justification for, an administrative act.

(*ii*) A statute or rule.

(*iii*) Significant veteran health issues.

(*iv*) Significant veteran safety issues.

(c) The number of complaints resulting in the initiation of an investigation.

(d) The number of investigations initiated by the ombudsman.

(e) The number of hearings.

(f) The number of reports of findings issued.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.783 Prohibited conduct.

Sec. 13. (1) A resident veteran shall not be penalized in any way by a person or facility or the department as a result of filing a complaint, communicating a complaint to a legislator, or cooperating with the ombudsman in investigating a complaint.

(2) A person or facility or the department shall not hinder the lawful actions of the ombudsman or employees of the office or willfully refuse to comply with any lawful demand of the office.

History: 2016, Act 198, Eff. Sept. 20, 2016.

4.784 Scope of authority.

Sec. 14. The authority granted the ombudsman under this act is in addition to the authority granted under any other act or rule under which a remedy or right of appeal or objection is provided for a complainant, or any procedure provided for the inquiry into or investigation of any matter concerning a facility. The authority granted the ombudsman under this act shall not be construed to limit or affect any other remedy or right of appeal or objection and shall not be deemed to be exclusionary.

History: 2016, Act 198, Eff. Sept. 20, 2016.

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