State of Iowa Office of Ombudsman

Annual Report FY2021

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This annual report about the exercise of the Office of Ombudsman functions during the 2021 fiscal year is submitted to the Iowa General Assembly and the Governor pursuant to Iowa Code section 2C.18.

Office of Ombudsman

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An Interview with the Outgoing Ombudsman

Kristie Hirschman retired as Iowa Ombudsman at the end of August 2021 following a 26year career in the office. First hired in 1995 as the office's first small business ombudsman, the one-time owner of farming operations in Madison County established herself as one of the most conscientious members on staff. Her work ethic, calm demeanor and institutional knowledge earned her the honor of the office's top job in 2016. When COVID struck in early 2020 and the Ombudsman's office was damaged by heavy winds and rain, Hirschman sent her assistants home to work and she answered phones for several weeks. During her time as an ombudsman, Hirschman handled 12,186 complaints and information requests from every corner of the state.



Hirschman's successor, Acting Ombudsman Bert Dalmer, interviewed her in December about her experiences and philosophies as an ombudsman. The interview has been lightly edited for brevity and clarity.

Dalmer: What percentage of people that you meet in your daily travels knows what an ombudsman is?

Hirschman: Ballpark guess, 20 percent.

Dalmer: Why is it so low?

Hirschman: There are a lot of things – until it affects us, or impacts us, or we need it – that we don't pay attention to, or don't know. We've received a lot of publicity over the years regarding our annual report and our public critical reports, so it is difficult for me to understand why we're not more of a household name. It doesn't help that people can't pronounce the word "ombudsman."

Dalmer: Tell me what your average day looked like as an ombudsman.

Hirschman: An average day in the office is responding to calls and emails and letters from individuals who have concerns about state and local government, putting together lists of questions, and doing research so when I make an inquiry, I was knowledgeable enough to know what questions to ask.

Dalmer: Was it hard being an ombudsman?

Hirschman: It was an extremely rewarding job that I was passionate about, helping resolve problems and helping put things in place. It was exhausting mentally, and sometimes physically, trying to persuade intransigent agencies to change their mind when we know they're wrong. It was exhausting at times carrying the weight of everybody's problems on your shoulders.

The days I loved the most were Friday afternoons at 3 o'clock when the agency called or the complainant called and said, "We resolved the problem, everything's hunky dory, you were right, all is right with the world." You only need one of those every once in awhile to keep you going and to know you're doing good work.

Dalmer: What makes for a good ombudsman?

Hirschman: Curiosity. Patience. Good investigative skills, good people skills. And good antennae, the ability to get to the root of a problem quickly. For some people, it really is an inherent sense of right and wrong. We look at not only whether things are legal, but whether they're fair and reasonable. I think that's the wonderful part of what our office does, is looking past the legality of things and determining, "Is this a fair decision? Is this a reasonable decision? Is this an arbitrary decision?" And bringing justice to those who deserve it.

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Dalmer: The Ombudsman oversees most local and state government agencies – that's 99 counties, 900 cities, all the state agencies, the prisons, the jails. In your opinion, what is the condition of government overall right now?

Hirschman: I believe many government agencies are underfunded and understaffed. I think that, in a number of situations, is the cause and the source of a lot of the problems that we see. I think most government employees try to do the right thing and try to do their job well. I also know that many government jobs are thankless jobs, whether it's law enforcement, correctional officer, social worker, child-abuse investigator. There's a number of jobs out there that are very, very difficult and very taxing jobs and underappreciated jobs.

Government is a necessity. Our job is to identify issues that need corrected – problems that were usually unintentional or unforeseen or just a mistake – and give the agencies a chance to fix those problems. We're kind of a risk manager for government.

Dalmer: How cynical is the public about the government these days?

Hirschman: There's a lack of civility right now that causes a lot of distrust. I think that's unfortunate and not necessarily warranted. I think the problem is that some government officials believe everything's on a need-to-know basis. Government needs to be more open and transparent about all of their decisions, all of their discussions, their plans. I really believe that would address a lot of the distrust and skepticism that people have right now.

Dalmer: Why does it take an ombudsman's office to solve problems like these?

Hirschman: You need an outsider who has no vested interest who is looking at everything from a different perspective and looking at all aspects of it ... to review the problem and come up with a reasonable recommendation to fix a problem, if indeed it is a problem. When you're housed within the agency, and you've done things this way forever, it takes somebody from the outside to actually come in and look at things with a clear mind and open eyes.

Dalmer: Forty-five states have no ombudsman. What would it mean for lowans if we didn't have one?

Hirschman: I truly believe that dissatisfaction with government would be much greater for the people that call our office. We're able not only to independently verify there's a problem, but to make contact with someone at an agency that can resolve it. If you or I as a private citizen call the Department of Human Services, what are the odds we're ever going to be able to talk to (Director) Kelly Garcia. Slim and none. We have the tools and the contacts and the respect of agencies to resolve problems, and I think that can go a long way.

Dalmer: Did you ever deal with a government official who maybe didn't appreciate your scrutiny at the beginning, but in the end thanked you for your work?

Hirschman: Oh heavens, yes. Sometimes, when we're talking to a manager or a supervisor or even an agency director, they had no clue a problem exists. First of all, they bristle at the fact we even called them. Then, when we bring it to their attention and show them all the facts, they're surprised and thanked us because it was a problem that needed addressed.

Dalmer: What cases do you look back on and still take pride in?

Hirschman: There was an inmate years ago who got 365 days in solitary confinement and 365 days' loss of earned time for assaulting another inmate. He'd exhausted the disciplinary process at the institution, so I agreed to look at the documents. The correctional officers who were in the room said the inmate didn't hit the other inmate.

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There was no evidence – none. I had to take it up the chain of command a ways, but I got him his 365 days back and I got him released back to general population.

Dalmer: You've now been gone for three months. Do you miss it?

Hirschman: Yup. I can find rewarding things to do in my community to help people. But I miss the variety of issues. I miss learning something new every day. It was a rewarding job, and it was my passion. It's not just a job, it's a calling.

Dalmer: What do you hope for the future of the office?

Hirschman: That the office will receive the support it needs to continue to do the amazing work that it does. There are so many things that we handle and we solve that nobody ever hears about. And we do good work. We do really good work.



What We Do:

We investigate complaints against agencies or officials of state and local governments in lowa.

We work with agencies to attempt to rectify problems when our investigation finds that a mistake, arbitrary, or illegal action has taken place.

We have unique statutory responsibility to investigate and determine if an action was fair or reasonable, even if in accordance with law.

We have access to state and local governments' facilities and confidential records to ensure complete review of facts regarding a complaint.

We make recommendations to the General Assembly for legislation, when appropriate.

Local Government

City Makes Questionable Decision on Water Shutoff



An elderly couple in northwest lowa contacted our office after their city water service was disconnected, even though they were making monthly payments on an outstanding bill.

The problem arose after the couple received a hefty bill for replacing a water stop box. They were on a fixed income and could not afford to pay the bill all at once. By the time the city decided to disconnect their water service, the couple had already paid nearly half of the bill.

While it did not appear the city's decision to shut off the water was illegal, we questioned why they would do so when good-faith efforts were being made by the couple to pay the bill each month. We also questioned why a formal payment plan could not have been explored instead of service termination.

The city ultimately agreed to set up a payment plan and restore the water service. While the payment plan was not quite what the couple wanted, we determined it was reasonable, especially since their primary goal was to get water service restored.

A Fiery Dispute

A rural resident in north-central lowa was visiting with a neighbor when he heard and saw fire trucks rushing to the area. He soon realized that the trucks were headed for his property, where he had started a controlled burn of an old abandoned building.

The man had called 911 in advance to alert them to the burn, but the message apparently didn't get to one dispatcher, who sent fire crews to the scene after receiving reports of flames and smoke from passersby. By the time the man got back to his property, firefighters were dousing the dilapidated building with water. The chief was aware that the man had plans for a controlled burn, but he did not know this was his property.

Two months after the mix-up, the property owner received an unexpected bill for the fire department's response – totaling \$2,250. He argued that the bill was unreasonable, but city officials wouldn't budge.

We pulled state and local regulations and spoke to government officials who regulate burning. We also interviewed the fire chief to better understand how the bill was totaled and what conversations he had with the resident in advance of the burn. The chief said the property owner had a duty to tend to the fire and to have a water source nearby – but acknowledged he had not provided these instructions to the resident. The city has a permit process for open burns, but no city official told the owner a permit was necessary.

Analyzing the issue was further complicated by jurisdictional issues since the property owner lived outside the city limits where the fire department is based. State law also imposed different requirements for "agricultural burns" versus "open burns."

In the end, we determined that the property owner had done his due diligence by contacting city officials and dispatchers in advance of his burn, and should not be held responsible for fire-tending practices that either weren't shared with him, or weren't in writing. We suggested that the city create a checklist for future burn requests that would clearly notify residents of their responsibilities.

The fire chief agreed the checklist was a good idea, and the mayor decided to drop the city's collection efforts.

Local Government

Our Bad ... Too Bad

A distraught woman called our office when she found out that the city cemetery plot she had purchased for herself 30 years ago had been sold to her ex-husband. She learned of this after seeing her ex's headstone on the plot. (The ex, incidentally, was still alive.) The woman had purchased the plot in 1990 because it was the only space next to her son, who had tragically died earlier that year. The woman provided our office with copies of the cemetery deeds for herself and her ex-husband for the same plot. The woman said the City had offered to refund her money or be cremated and placed with her son. She told us she was appalled. The city told her the disagreement was a civil matter between her and her former husband and they "weren't getting into it."

After reviewing copies of the deeds, we contacted the city clerk for the city's version of events. To our surprise, the clerk did not dispute the complainant's version of events. We wasted no time contacting the city attorney. We said we were confused why the ex-husband was given the space when their records showed the woman was the original deed holder. We did not see this as a civil matter that should require the woman to hire an attorney, but rather, an error that should be corrected by the city. We suggested that the city council place this matter on its agenda for discussion and invite both deed holders to attend the meeting to get this resolved.

Just a few weeks later, the city attorney told us the council had accepted our suggestion to bring the parties together, but before that took place, the ex-husband agreed to surrender the plot. The city paid to have the headstone removed and refunded his money. The woman was satisfied and relieved with this outcome.

City Utility Charges Late Fee to Customers on Payment Plans

Citizens who have billing disputes with municipal utilities often come to our office for help. Before we investigate their complaints, we usually refer residents back to the utility to ask for relevant records and initiate a conversation with representatives in hopes of resolving the matter themselves. Once an assistant ombudsman becomes convinced that an issue deserves a closer look, he or she contacts the utility and, more often than not, gets the dispute resolved quickly.

Sometimes, however, our interventions require more formal communication to get a utility's attention.

One customer called our office after he had entered into a payment plan for an unpaid utility bill. He spotted a mistake as he was nearing the end of his payment plan, still with an outstanding balance. He found that the utility had been applying a late fee to his account, despite his payments toward the plan.

We found that lowa law was silent on whether a late fee could be applied to an agreed-upon payment plan. We did find, however, that rules on utilities regulated by the state suggested that partial payments made toward an agreed-upon payment plan were considered "timely payments." A tariff filed by this utility adopted those same rules. We shared our findings with the city administrator, who quickly resolved the issue for this customer and asked the city council to adopt a new policy on the subject.

We asked the city administrator to review records and estimate how many other customers were impacted. We initially received no response. When we pressed the matter further, the city administrator told us he was done with the issue since we had received only one complaint from a customer.

Not satisfied with this response, we issued formal recommendations to the city council and mayor and required a response. The City quickly accepted all of our recommendations, and agreed to address the issue openly in a city council meeting to raise public awareness of the situation. In the end, over \$300 in credits were applied to customers' accounts.

Local Government

City Council Member Abuses Her Authority

Our office received an anonymous complaint that a city council member had abused her authority by directing city crews to remove a large tree limb from private property. If true, the council member's alleged directive could have run afoul of Iowa law, which generally prohibits the private use of public equipment when it fails to serve a public purpose.

We asked questions and learned that the city had already hired an outside investigator to review the allegations against the council member. Notably, the council member who was the subject of the misconduct allegations declined to participate or be interviewed for the investigation. Among the investigation's findings:

- The council member indirectly asked city employees to help remove part of a downed tree that was on private property, and not the city's responsibility.
- Although city employees knew it was wrong to perform work on private property, they did so anyway due to fears of retaliation and public ridicule if they upset the council member in question.
- The council member created a "hostile work environment" for city employees.

We were pleased that city officials had taken decisive steps to get to the bottom of some serious allegations about an elected official. The investigator's report was also provided to the mayor and full council, whose members were reportedly set to review and potentially update their rules to provide for censure or reprimand of a council member.

In many cases, our office's work begins with finding out whether a particular state or local government agency has taken appropriate measures in response to a complaint. In this case, the city was exceptionally proactive to ensure the issue was addressed. Officials set a good example and we credited them accordingly.

While all cities may not have the resources to hire an outside investigator when legitimate allegations of council member misconduct arise, this case serves as a reminder that one way or another, they should be



Human Services

Keeping Siblings Together Can be an Uphill Battle

State and federal law prioritize keeping siblings together while in the foster care system. Research and common sense all support the notion that it is in the best interests of children to live in the same home as their brothers and sisters.

No one denies the benefits of nurturing and maintaining strong sibling bonds. But there are still times when the system struggles to meet this objective.

We were contacted by the adoptive mother of a young boy whose baby brother was in a foster care placement. The mother had been trying to secure placement and adoption of the baby so that the brothers could grow up together.

Despite rule, law, and policy favoring such an outcome, the child welfare caseworker intended for the baby to be adopted by the foster parents, who had, by all accounts, provided excellent care for the child since his placement there shortly after his birth.

We reached out to the agency asking what efforts had been made to place the siblings together. We were told that there was opposition to changing placement without first building stronger bonds between the baby and the members of the older brother's home. We noted, however, that the agency was hardly monitoring visits between the baby and the prospective family. We questioned how much the caseworker could have even known of the bond that was developing.

The agency also created barriers that had the potential to hinder further bonding. The family was only getting relatively short visits and had to travel six hours round trip to see the child. Despite requests by the family to have longer and more frequent contact and visits in their own home, the agency was resistant. We later learned that the caseworker had given assurances to the licensed foster parents that they would adopt the child and that the agency had no intention of placing the baby with his brother.

Not long after we got involved, the case was transferred to a different caseworker who specialized in adoptions. The difference was stark. The older brother's family finally began to have more contact with the baby. The new caseworker saw to it that the baby would have extended overnight visits in his brother's home. The agency began to signal that it now favored placing the baby with his brother for adoption. This change, however, prompted the foster parents to take legal action that would nullify the agency's authority to place the child.

The foster parents succeeded in this effort. The agency and the older brother's family, however, challenged the ruling. After a lengthy appeals process, the agency ultimately regained its authority to place the child.

It was then that the agency stated that it intended for the brothers to be together. It began the process of transitioning the younger boy into the home of his sibling. The child was then adopted into the family. The brothers now reside together and are no longer at risk of growing up in separate homes.



Human Services

State and Local Officials Dragged Their Feet on Child Sex Abuse Investigation

The legal guardian of a minor child who reported sexual abuse by her mother's paramour contacted our office when the investigation by state and local officials seemed to have stalled. The guardian was further concerned by poor communication after investigators stopped providing updates.

We began by contacting the child protective agency for more details on the abuse assessment. In so doing, we determined that the agency had failed to follow its own administrative rules when it did not provide a copy of the abuse assessment to the child's guardian. The agency admitted the mistake and took corrective action. We then contacted local law enforcement for an update on the status of their investigation. In speaking with local law enforcement officials, we determined there were several lapses in communication during the course of their investigation. Understandably, those shortcomings made an already difficult situation worse for the family.

We made several suggestions to local law enforcement to improve communication going forward, including establishing a primary point of contact for details on the investigation. Local officials were receptive to our suggestions and the investigation and communication with the guardian resumed. We partially substantiated the complaint due to various shortcomings on the part of state and local officials.

"I am extremely grateful for you and all you do to help the taxpayers of our state. You are honest, kind, caring, empathetic, and persistent, and the lowa taxpayers are lucky to have you on their side."

Happy Customer

"On behalf of everyone here we just want to say Thank You! We realize your office is swamped with complaints and I'm sure the Ombudsman staff is overloaded.....especially during the pandemic. I originally did not know what to expect from the Ombudsman's office but now I'm very impressed and grateful that we contacted you with our complaint."

Small Business Complainant

State Government

Unemployment Reversals Trigger Panic

COVID-related unemployment complaints to our office exploded in fiscal year 2021. In most cases, they involved lowa residents who were awarded unemployment, only to be told later that they did not qualify for the benefits and must repay them all.

It is not an understatement to say that every caller was in a state of panic due to this turn of events. Some were told they had to repay \$10,000 or more in benefits.

Most of the affected workers who called us for help were first-time unemployment filers. They said they were encouraged to apply for unemployment because their job losses were related to the pandemic; because they continued to receive benefits following weeks of claims, they had no reason to believe they did not qualify.

We received so many complaints at one point that it was impossible to investigate each one. Our primary goal was simply to make sure that folks filed a timely appeal. We also took steps in compelling cases to relay pertinent facts to agency higher-ups to seek an official review and response. One good example of our casework concerned a central lowa woman who emailed us in March 2021. Her contract job, which involved face-to-face interaction with individuals, came to an abrupt halt due to COVID-related workplace restrictions. Her employer provided her with information on how to apply for unemployment. On a monthly basis for over a year, she emailed her supervisors and asked for an update on reopening and returning to work. Despite her diligence, she eventually received a notice to repay over \$7,200 in unemployment benefits because she purportedly had "not been available for work."

Based on what the woman had told us, we believed there was merit to her complaint. After a review of the details, the agency agreed with us. Within 24 hours of contacting our office, the agency reversed its denial decision and removed the overpayment from our complainant's record.

All told, complaints to our office about the state agency that handles unemployment cases tripled from 2020 to 2021. Between fiscal year 2019 and 2021, the increase in cases reached almost 1,000 percent. That number has abated significantly in the early months of fiscal 2022.



"Merry Christmas! I wanted to take this moment to Thank You from the bottom of my heart!!! [The agency] finally released all of my unemployment benefits Dec. 23rd!!! I can't even express into words how much relief has been lifted! It has been a very long, hard journey for the last 7 months but thanks to you, I can sleep easily tonight! Thank You, Thank You, Thank You!!!!"

Unemployment Complainant

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State Government

Inefficiencies Lead to Delays; Delays Lead to Evictions

A landlord contacted our office after she and her tenant had waited several months for a response on an application for assistance under the state's Rental Eviction Prevention Program. The tenant was six months behind on rent, but the agency had asked landlords to suspend evictions while applications under the program were under review. Unfortunately, two months after the landlord and tenant had submitted their applications, our complainant still had not received a status report from the agency, and there was no resolution in sight.

According to the landlord, a representative from a state call center suggested that she evict her tenant despite the eviction moratorium, suggesting that she could still receive the monetary assistance later. Thus, even though the purpose of the Rental Eviction Prevention Program was obvious – to prevent rental evictions – tenants still might be thrown out of their homes due to delays in reviewing applications and providing financial assistance.

According to news articles circulating at the time, our complainant was not alone. Some applicants were waiting more than four months for a response to their applications. As of July 1, 2021, the agency had received over 7,000 applications, but only 1,225 households had received assistance. It was also revealed that the agency had spent only a fraction of the \$195 million that the federal government had allotted to the state for rental assistance.

Although some of the delays were due to incomplete applications, our inquiries revealed that the agency was understaffed and its software system was inefficient. We were informed that the agency was working to make computer improvements, and add 200 new workers to review applications. The goal was to finalize reviews on all complete applications by July 30. Our office continued to monitor the situation. As of September, we were informed that the agency had caught up with its backlog of applications.

While the issue now appears to be under control, it is unknown how many evictions occurred as a result of the inefficiencies and delays.

Car-Dealer Complaint Outside Our Jurisdiction, Ha! We Fixed It Anyway



A man reported to our office that a car dealership had placed the wrong expiration date on his temporary tag and had refused to correct it. The reason this was important to him was because he would soon be traveling out of state for the winter holidays and he was concerned the expired tag might cause him problems. Since the dealership was not a government agency, our office had no jurisdiction to review the complaint. However, we knew that dealerships are given authority by the Department of Transportation (DOT) to issue temporary tags and that the Governor's COVID-19 waivers had allowed a 30-day extension for temporary tags (beyond the usual 60 days), so we reached out to the DOT to relay the man's concern.

The DOT confirmed that the customer should be allowed to get a new temporary tag from the dealer with the correct expiration date, which would be 90 days from the purchase of the vehicle. The DOT offered to reach out to the dealer in question to communicate the waiver information. The customer was not confident the dealer would be willing to correct the mistake since it was not willing to do so the day before, so he took the DOT up on their offer. A new tag was issued that same day and the customer was able to travel carefree through the holidays.

Managed Medicaid

Medicaid – The Year in Review

We received a total of 216 complaints involving Medicaid and Managed Care during the fiscal year. Of those, 124 complaints were fully investigated and 21 were substantiated or partially substantiated.

Many complaints involved the lowa Home and Community-Based Services (HCBS) Waiver programs, where the federal government has set aside or "waived" rules. Waiver programs give Medicaid members more flexibility about how and where they receive services, and the Waiver programs allow many people to remain in their own homes rather than being placed in institutions.

One of the services available to most HCBS Waiver members is Consumer Directed Attendant Care (CDAC). A CDAC provider does things for a member that the member would normally do for themselves if they could, such as getting in and out of bed, getting dressed, cooking, cleaning and shopping.

Last fiscal year, we reported that complaints from CDAC workers were increasing. This year, the number of complaints were fewer, but steady. There were 34 total complaints involving CDAC providers and 11 were substantiated. CDAC cases still make up a little over half of our substantiated Medicaid and Managed Care complaints.

Electronic Visit Verification (EVV), which is a federal requirement, began this fiscal year. Individual CDAC providers are now required to participate in a process that uses electronic means to verify provider visits. Data is collected during each visit that includes the date of service, the start time and end time, the type of service performed, the location where the service is provided, and information about the service provider. Provider claims are then sent to the Managed Care Organization (MCO) based on this information.

Last year, we expressed concern that EVV would cause additional issues with CDAC providers. We are relieved to report that there were only four complaints directly involving EVV and none of those were substantiated. At this point, it appears that the administrator of the EVV program, CareBridge, is responsive to CDAC providers' concerns and complaints. However, there have been complaints about claims being denied once they reach the MCO from the EVV system.

Sample CDAC Complaints

A CDAC provider complained to us that the MCO had denied her CDAC claim because services to a Medicaid provider were not medically necessary. The MCO admitted that the claim was incorrectly denied due to a system error which did not note there was an appeal in process. The provider was paid and the MCO assured us that the next month's claim would be monitored so the problem would not recur. The provider, however, called us back the following month because her claim did not show up in the MCO's provider portal. The MCO responded that her claim was set to pay out and provided a screenshot of the portal. The MCO explained that there were computer glitches due to system updates. The CDAC provider was paid and was provided with contact information of a representative to help with future issues.

Another CDAC provider was initially told by MCO staff that her claim was processing, but near the end of that month, she was informed that the claim had not been received.

The MCO responded to our inquiry stating, "The agents she spoke with did not do their job properly or they would have seen that the claim was clearly for July 2019 and not July 2020.

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Managed Medicaid

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This was clearly agent error and should not have happened. Those agents who provided the incorrect claim status have been coached by their supervisors." The provider let us know once she received payment. This same provider called again after being notified by the MCO that she had an overpayment from 2019 and her current claims were not going to be paid. The MCO responded that the overpayment notice was erroneously sent. The notice was withdrawn and the provider was paid.

An MCO paid a CDAC provider less than she had billed due to a manual processing error. We learned that the MCO had failed to follow an "exception to policy" to allow the member more CDAC hours than the Waiver cap allowed. The provider was ultimately paid correctly for that month. Unfortunately, the issue occurred again the next month; the provider was told that the MCO did not pay her because she had used an incorrect provider number. The MCO responded to our inquiry by stating that their system had again failed to catch the override to allow the member to exceed the Waiver cap for CDAC services. The provider ultimately received both July and August checks in mid-October. The provider was paid correctly and timely for September 2020.

A partially substantiated complaint involved an MCO delaying payment to a CDAC provider. The MCO reported to us that the provider had erred by not placing her provider number in the appropriate spot on the claim form. The MCO also admitted that the provider was not given a correct denial notice. The provider was thus allowed to file incorrectly for months because the MCO's software did not catch the error. These issues resulted in delay in payment and confusion for the provider.

A different Medicaid member contacted our office because their CDAC worker had not been paid for two months and she feared losing the provider. The MCO told us the November claim had been paid at the time of our inquiry but the October claim was not paid until months later, which was longer than the 30 days allowed by contract. According to the MCO, the October claim was held because the name on the claim did not match the authorization. We determined that the provider was not at fault for any error and substantiated the complaint.

Transportation

Our office received multiple complaints involving nonemergency medical transportation, or NEMT. The same transportation contractor is used for both MCOs and "fee for service" Medicaid (members who are not with MCOs). Most complaints involve transportation providers not showing up to take members to appointments or not showing up to get members to and from appointments in a timely manner. We initially refer members to the MCO grievance process so that the transportation contractor and/or the MCO can try to resolve the issues. Members can call our office back if they are dissatisfied with the grievance response. It is important that members with transportation complaints exhaust the grievance process so their issues can be recorded and hopefully resolved.

Other Transportation Complaints

A Medicaid member told us that a transportation contractor said she was banned from the program, but gave her no reason. The MCO responded that the member's account had been flagged in error. The account was then corrected. The MCO blamed human error and said other accounts would be reviewed for accuracy.

Another Medicaid member contacted our office because he was having difficulty obtaining a bus pass. The delay was caused by a transportation contractor customer service representative (CSR) who had sent the initial authorization to the incorrect contacts at the bus company and had not re-sent the authorization until a couple of weeks later. The member received his bus pass after some delay.

Additional Complaints

A Medicaid recipient's daughter contacted our office after receiving a notice that her mother's services had been terminated based upon her death. The daughter assured our office that her mother was not deceased and was still in need of services. The agency admitted that an income maintenance worker had mistakenly listed the case closed due to death. The agency said that the worker was coached and counseled. The Medicaid member's case was reopened and the MCO ensured that services were reinstated and that providers were paid.

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Managed Medicaid

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A different Medicaid member's provider was not paid because the agency's financial management company failed to receive funds from the agency. The agency responded that approval was put in the system and showed up as a denial. The information was corrected and funds were provided to the financial management company, which then paid the providers. The agency told us that it had updated its operating procedures to ensure the error would not happen again.

Balance Billing

Our office received multiple complaints from Medicaid members who said that their providers were billing them directly. Generally, providers who are enrolled with and accept Medicaid are prohibited from billing Medicaid members.

Members on the Qualified Medicare Beneficiaries (QMB) program have even more protection. QMB is a program for persons who are entitled to Medicare Part A and are eligible for Medicare Part B; have incomes below 100 percent of the federal poverty level; and have been determined to be eligible for QMB status by their state Medicaid agency. Medicaid pays the Medicare Part A and B premiums, deductibles, co-insurance and co-payments for members on the QMB program.

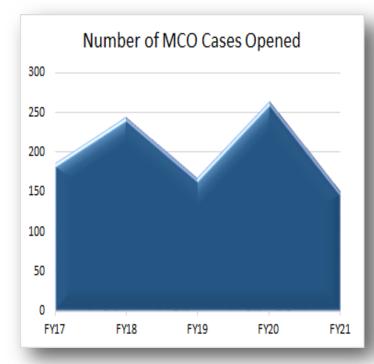
The Centers for Medicaid and Medicare (CMS) notes that Section 1902(n)(3)(B) of the Social Security Act, as modified by section 4714 of the Balanced Budget Act of 1997, prohibits Medicare providers from balance-billing people on the QMB program for Medicare cost-sharing, and providers are prohibited from billing QMB program members for Medicare cost -sharing, including deductibles, coinsurance, and copayments.

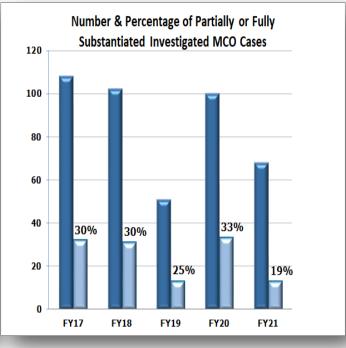
For further information, please see <u>https://</u> www.medicare.gov/Pubs/pdf/12039-Qualified-Medicare-Beneficiary-Program.pdf.

Because our office does not have authority or jurisdiction to review complaints against private providers, we contact the MCO and/or the Medicaid agency for review of complaints when providers bill members. QMB members can also call 1-800-MEDICARE (1-800-633-4227) for assistance if they receive bills from providers.

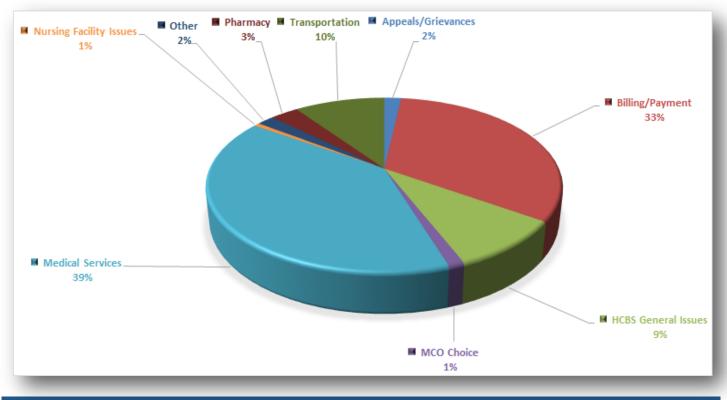


Managed Medicaid - Statistics





MCO Cases by Category



Corrections and Jails



Jail Credit Mistake

A prison inmate who contacted us disagreed with the calculation of his anticipated release date, also called a tentative discharge date (TDD). We

reviewed the inmate's court records and found that a judge had ordered him to serve two sentences out of the same county concurrently (at the same time). The inmate had been granted probation in both cases in October 2013, but his probation was later revoked in May 2018.

When the inmate arrived at prison, he was informed that the TDD for one of his sentences was different than the other. This did not make sense to the complainant or to our office since the sentences were the same length and were effective the same day.

We discovered through research that the individual had received credit for only one of the two sentences for time he had spent in a county jail between 2013 and 2014. We pointed out to the agency that the inmate was entitled to credit toward both sentences for any time he spent in jail after his probation began, so long as he had been served an arrest warrant on the other county's criminal case. Our position was based on lowa law and an lowa Supreme Court decision. The agency agreed with our findings corrected the inmate's release date.

Questionable Drug Test Halts Inmate's Release

In December 2020, an inmate at a medium-security prison was approved for a transfer to a work-release facility. Within days, however, his mail and other papers tested positive for synthetic marijuana (otherwise known on the streets as "K2" or "spice"). As a result of the disciplinary action that followed, the inmate's work release was revoked and he was transferred to a maximum-security prison. He also lost mail privileges, all contact with his wife, and 180 days of time he had shaved off his sentence for good behavior.

The inmate asked to have the papers that had tested positive sent to an independent lab for re-testing. At the time, we were already aware of a few unusual cases where quick-tests in prisons were found to be "false positives," including one case where ink from a prison's printer triggered the test. In this case, we learned that the inmate's mail had come from his wife's printer at work.

We contacted the warden with our concerns and he agreed to send the inmate's materials out for confirmation testing. Within a few months, the test came back negative and the offender was finally allowed to proceed to the work release facility.

Unfortunately, these curious cases have not caused the agency to incorporate automatic re-testing of questionable materials. Instead, for now, the prisons have opted to stay with the use of quick tests. We continue to work through this issue with agency officials.

Let It Go

A county jail refused to let an inmate and his stepmother visit due to the stepmother's non-violent felony conviction from 21 years ago. The jail pointed to its policy that banned all visitors who had ever been convicted of a felony. In our experience, it is common practice for jails to deny visitors who are currently on probation or parole, have recently been incarcerated in the jail, or have a serious criminal history. We reviewed visitation policies from other jails around the state and found that most based their decisions on the nature and age of the visitor's crime. We did not find any other jail with a blanket policy that banned all visitors with a felony.

We concluded that the jail in our case acted unreasonably and contrary to the concept of rehabilitation, which is an underlying principle of the criminal justice system. We suggested that the jail administrator and sheriff revise their jail policy so that visitors' applications would be reviewed on a case-by -case basis. They agreed and to be more discretionary and inclusive, and our complainant was ultimately approved to visit her stepson.

One Old Note Saves Man Thousands of Dollars

A resident of a correctional work-release facility had worked odd jobs on-site in the past to pay off his rent.

Corrections and Jails

(Continued from page 15)

The arrangement was unusual, but was allowed due to the resident's disability, which prevented him from working outside of the facility.

However, years later, the facility had no records of the resident's work or the informal agreement he had reached with his case manager. Facility leaders insisted that the resident owed thousands of dollars in past rent, and they would not allow him to progress through privilege levels until it was paid.

We reviewed agency records and found an old note written by a case manager that vaguely memorialized the agreement. When we shared this with the facility, officials agreed to acknowledge the work the resident had done and forgave his back rent.

Leave the Past in the Past

A parole officer denied an inmate's request to parole to her father's house due to the father's criminal and substance-abuse history. The inmate complained to our office, arguing that her father been sober for 25 years and his criminal history was from the early 1990s. Further, the inmate's father was now elderly with serious health issues and was in need of his daughter's care and assistance.

We contacted the parole officer's supervisor, presented the facts, and requested that they give the matter further consideration. Upon review, the supervisor agreed that the father's past criminal and substance abuse was no longer relevant due to its age. The supervisor discussed the role of relevancy when making these determinations with the parole officer. The inmate was allowed to parole to her father's house.

Communication Breakdown

A federal detainee complained that the county jail where he was housed had repeatedly skipped doses of his treatment for Crohn's Disease. The federal government had paid for the medication, but we found problems in communications between the jail and the online pharmacy that filled the prescription.

The jail administrator took this complaint very seriously and eventually organized a conference call that included his staff and the pharmacy's board. They quickly developed a plan that would ensure the jail received this medication. The jail ultimately decided not to renew its contract with the pharmacy.

If It's Safe at a Library, It's Safe in Jail

A man in jail who worships under the Asatru faith contacted our office after his request to order Asatru reading materials was denied. He expected to be in jail for at least a few months and stated that he felt the need to reach out to his gods.

The man had submitted a written request for permission to order Asatru reading material from a bookstore. But his request was denied because the sheriff wanted to limit the number of outside items brought into the jail due to concerns about the COVID-19 virus. The jail instead offered him bibles and other religious-type books already on hand.

In response to the man's complaint, we searched online to see if libraries had received any pandemicrelated guidance on how to handle checked-out books. We found a study that concluded that returned library books should be quarantined for four days. As part of the study, the virus that causes COVID-19 was applied inside various library materials, including books. The results showed that the virus was not detectible after four days.

We conveyed the findings to the sheriff. We then asked that the sheriff consider allowing the inmate to order one book and have it quarantined for eight days, twice as long as the four-day period mentioned in the study.

After doing some additional research of his own, the sheriff accepted our proposal.



Corrections and Jails

Dealing with Defiant Inmates Requires Restraint

Correctional officers are used to dealing with defiant prisoners, but some methods are better than others when it comes to maintaining order.

After we received an allegation of excessive force from an inmate in a county jail in western lowa, we received confirmation that officers had indeed shot the inmate with a pepperball gun. These guns shoot "less lethal" projectiles such as mini-beanbags, talcum-powder balls, or pepperballs, which release an acrid scent that causes coughing and watering of the eyes. The guns are primarily used to quell riots or other disturbances.

We reviewed video footage of the incident and read reports written by several officers. The records showed that the inmate had been shaking a door and demanding to speak to a ranking officer over a nonemergency. His misbehavior continued even after he was told that a sergeant was unavailable. The inmate had a history of assaultive behavior, but had made no threats in this case. He did use expletives against officers repeatedly.

The inmate ignored orders when the entire unit was directed to return to their cells. Instead, he sat down at a table in a common area to write a complaint. Officers then gathered and burst into the common area, two of whom wielded a pepper-ball gun and a taser. Several officers shouted commands at the inmate to get on the ground, but he calmly remained seated at the table. Within about two seconds, an officer shot talcum-powder balls at the inmate, striking him twice in the upper arm. Other officers had the inmate in hand almost three seconds after the powder balls were shot, and the inmate gave no resistance. He was handcuffed and shackled within 90 seconds and was walked and wheeled to a cell. He was later treated for abrasions to his arm.

Although we concluded the inmate had been defiant and profane, we questioned the need for officers to use the pepperball gun since he had only passively resisted orders. It appeared to us that several less harmful options outlined in the jail's own policies existed. We did not believe that the inmate was given enough time to react to orders, nor was he warned what would happen if he continued not to cooperate. We determined that officers had escalated the operation too quickly before giving less aggressive methods time to work.

We also noted that the pepperball gun was not included in jail policies, where official justifications for the use of weapons are explained.

A training officer at the jail acknowledged our concerns and agreed to discuss them further with staff. The jail administrator thanked us for the feedback and promised to consider our suggestions.

The Box Went "Boom"

An inmate asked for our help after prison officials denied his request to be compensated for a broken "boom box." He discovered damage to the stereo a week after he was transferred to a different prison 35 miles away.

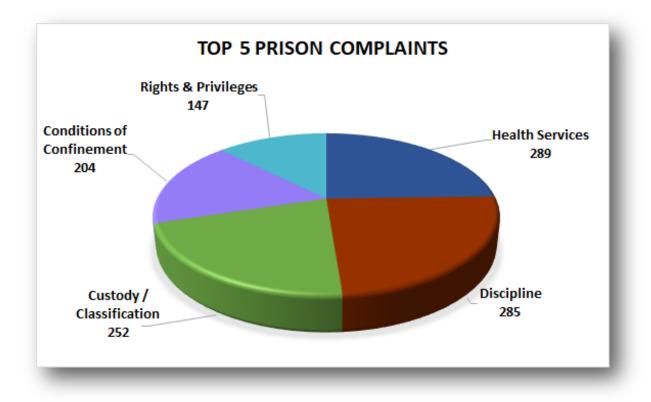
The inmate insisted that his boom box had been in working order when he packed it for transport. When the item was later delivered to him in a box by an inmate worker, he immediately spotted a crack and separation in the stereo's plastic shell. He said the CD player in the boom box no longer worked.

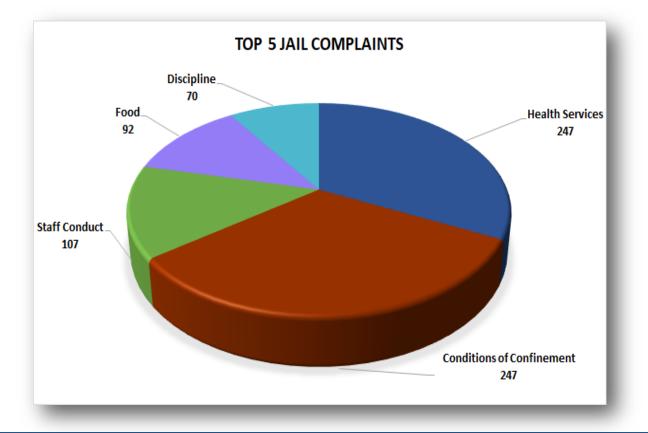
The inmate solicited written statements from the inmate worker and an officer who had seen the broken item at the time it was unboxed. Despite this information, a grievance officer at the prison determined there was "no evidence" that staff was responsible for the broken stereo.

We disagreed, since the stereo had been out of the inmate's hands for a week, and we investigated further. Prison policy requires the completion of inventory sheets when inmates transfer between institutions, but we discovered that no such sheets were filled out in this case. The sheets are intended to log all of an inmate's belongings, including their condition. Broken items are not typically allowed. For these reasons, logic dictated that the inmate's stereo would not have been packed and sent if it had not been in good condition. We also asked a counselor to shoot photos of the stereo, which confirmed the damage.

We outlined our findings to a state board that considers claims from citizens whose property is damaged by the actions of state employees. The board was convinced that the inmate should be compensated and paid him \$56 so he could order a replacement boom box.

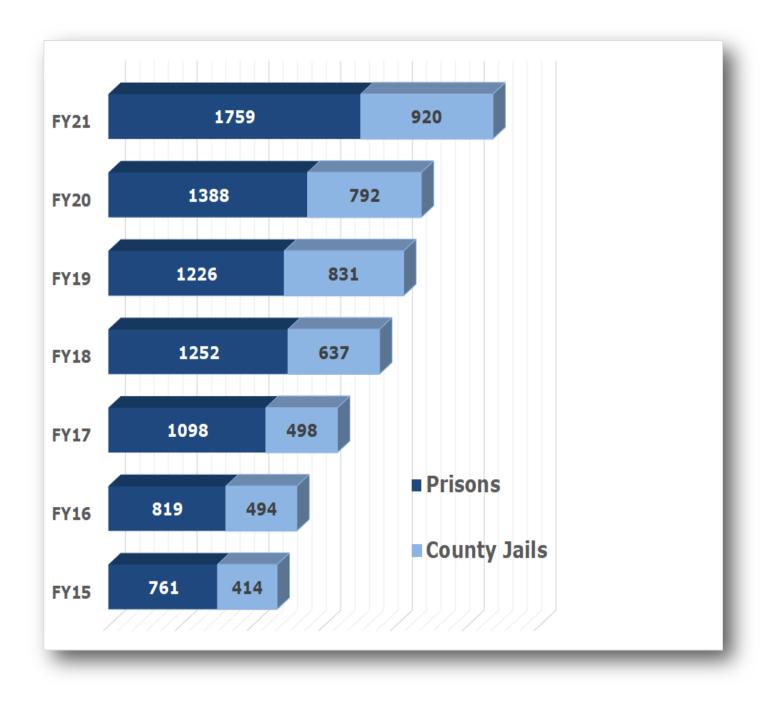
Corrections and Jails - Statistics





Corrections and Jails - Statistics

NUMBER OF PRISON AND COUNTY JAIL COMPLAINTS

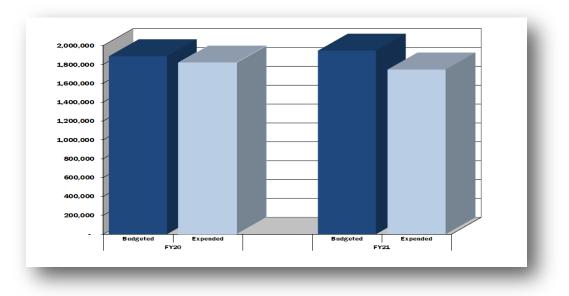


Office of Ombudsman FY20 and FY21 Financial Information

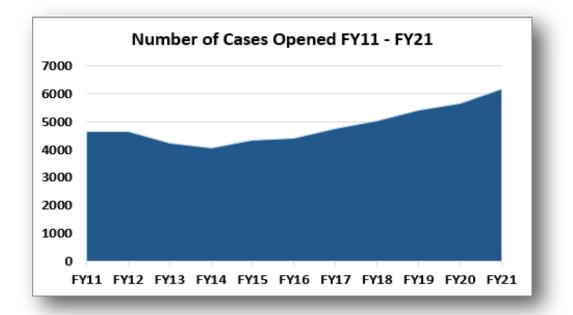
Office of Ombudsman

FY20 and FY21 Financial Information

Presented to meet the requirement that state government annual reports to the Legislature include certain financial information.

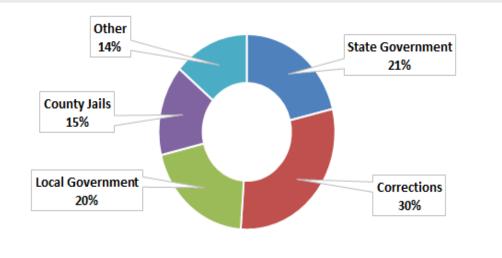


Statistics



FY2021 Annual Report

Subjects of Cases



What we can investigate:

- City governmental departments
- County government departments
- Most state agencies
- Public school districts
- Intergovernmental organizations
- Government contractors doing child-welfare or juvenile-justice work
- Prisons, jails and work-release facilities

What we can't investigate:

- The Governor and staff
- The Legislature and staff
- Judges, court clerks and judicial staff
- Most public employee-employer disputes
- Federal government
- Private entities or businesses

IOWA OFFICE OF OMBUDSMAN FY2021 ANNUAL REPORT

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Agency	Jurisdictional Complaints	Jurisdictional Information Requests	Non- Jurisdictional Cases	Non- Jurisdictinal Information Requests	Special Projects	Total	Percentage of Total
State Government							
Administrative Services	3	2	0	0	0	5	0.08%
Aging	3	60	0	0	0	63	1.02%
Agriculture & Land Stewardship	5	0	0	0	0	5	0.08%
Attorney General/Department of Justice	3	8	0	0	0	11	0.18%
Auditor	1	0	0	0	0	1	0.02%
Blind	1	0	0	0	0	1	0.02%
Civil Rights Commission	10	1	0	0	0	11	0.18%
College Aid Commission	0	0	0	0	0	0	0.00%
Commerce	9	4	0	0	0	13	0.21%
Corrections	1688	71	0	0	0	1759	28.52%
County Soil & Water Conservation Districts	0	0	0	0	0	0	0.00%
Cultural Affairs	0	0	0	0	ů 0	0	0.00%
Drug Control Policy	0	0	0	0	0	0	0.00%
Economic Development	2	0	0	0	0	2	0.03%
Education	2	0	0	0	0	2	0.03%
Education Educational Examiners Board	1	-	0	0	0	1	0.03%
		0	-	-		-	
Ethics and Campaign Disclosure Board	0	0	0	0	0	0	0.00%
Executive Council	0	0	0	0	0	0	0.00%
Human Rights	0	1	0	0	0	1	0.02%
Human Services	529	32	0	0	0	561	9.10%
Independent Professional Licensure	5	0	0	0	0	5	0.08%
Inspections & Appeals	23	1	0	0	0	24	0.39%
Institute for Tomorrow's Workforce	0	0	0	0	0	0	0.00%
Iowa Communication Network	0	0	0	0	0	0	0.00%
Iowa Finance Authority	3	0	0	0	0	3	0.05%
Iowa Lottery	0	0	0	0	0	0	0.00%
Iowa Public Employees Retirement System	4	2	0	0	0	6	0.10%
Iowa Public Information Board	1	0	0	0	0	1	0.02%
Iowa PBS	0	0	0	0	0	0	0.00%
Law Enforcement Academy	0	0	0	0	0	0	0.00%
Management	0	1	0	0	0	1	0.02%
Municipal Fire & Police Retirement System	0	0	0	0	0	0	0.02%
Natural Resources	7	1	0	0	0		
Office of Ombudsman			-		-	8	0.13%
	2	36	0	0	0	38	0.62%
Parole Board	68	9	0	0	0	77	1.25%
Professional Teachers Practice Commission	0	0	0	0	0	0	0.00%
Public Defense	1	0	0	0	0	1	0.02%
Public Employment Relations Board	0	0	0	0	0	0	0.00%
Public Health	14	3	0	0	0	17	0.28%
Public Safety	18	0	0	0	0	18	0.29%
Regents	12	0	0	0	0	12	0.19%
Revenue & Finance	25	1	0	0	0	26	0.42%
Secretary of State	6	1	0	0	0	7	0.11%
State Fair Authority	0	0	0	0	0	0	0.00%
State Government (General)	158	37	0	0	0	195	3.16%
Transportation	53	6	0	0	0	59	0.96%
Treasurer	0	0	0	0	0	0	0.00%
Veterans Affairs Commission	3	1	0	0	0	4	0.06%
Workforce Development	194	8	0	0	0	202	3.28%
	194	0	0	0	0	202	5.2076
State Government Non-Jurisdictional							
Governor	0	0	32	4	0	36	0.58%
Judiciary	0	0	118	16	0	134	2.17%
Legislature and Legislative Agencies	0	0	5	5	0	10	0.16%
Governmental Employee-Employer	0	0	13	0	0	13	0.21%
Local Government							
City Government	532	27	0	0	0	559	9.06%
County Government	1212	29	0	0	0	1241	20.12%
Metropolitan/Regional Government	17	1	0	0	0	18	0.29%
Community Based Correctional Facilities/Programs	280	33	0	0	0	313	5.08%
Schools & School Districts	21	1	0	0	0	22	0.36%
Special Projects	0	0	0	0	24	24	0.39%
Non-Jurisdictional	<u> </u>	<u> </u>	<u> </u>	<u> </u>		- 1	0.0070
	0	0	89	20	0	109	1 770/
Non-Iowa Government Private							1.77%
						E10	
Totals	0 4916	0 377	505 762	43 88	0 24	548 6167	8.89% 100.00%

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