**ANNUAL PROGRAM PERFORMANCE REPORT and ANNUAL REPORT of the PAIMI ADVISORY COUNCIL for the PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS (PAIMI) PROGRAM**

**SUPPORTING STATEMENT**

## A. JUSTIFICATION

1. Circumstances of Information Collection

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) is requesting approval from the Office of Management and Budget (OMB) for a revision of the Annual Program Performance Report (PPR) for the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Program (OMB 0930-0169). The current approval expires on September 30, 2007.

In 1975, the Developmental Disabilities Assistance and Bill of Rights Act (the DD Act) [42 U. S. C 6041, *et seq*.], established the State protection and advocacy (P&A) system to protect and advocate the rights of persons with developmental disabilities. In 1986, the Protection and Advocacy for Mentally Ill Individuals (PAIMI) Act [42 U.S.C. 10801 *et seq.*] extended the DD Act protections to eligible individuals with significant (severe) mental illnesses (adults) and significant emotional impairments (children), at risk for abuse, neglect, and civil rights violations while residing in public or private residential care and treatment facilities.

The Children=s Health Act of 2000 added requirements at 42 U.S.C. 290ii to protect and promote the rights of residents of general hospitals, nursing, intermediate care or other health care facilities receiving support with funds appropriated to any Federal department or agency to be free from physical or mental abuse, corporal punishment or other restraints or involuntary seclusions imposed for purposed of discipline or convenience. There is a requirement that each facility to which the PAIMI Act applies notify an appropriate agency determined by the Secretary of each death at the facility while a patient is restrained or in seclusion. The Child Health Act also added at 42 U.S.C. 290jj analogous requirements for residents of non-medical, community-based facilities for children and youth receiving support from any program with funds appropriated under the Act. Each of these new sections requires that the Secretary promulgate regulations. SAMHSA is working to develop proposed rules for the PAIMI facilities and the Centers for Medicare and Medicaid are developing rules for the non-medical, community-based facilities for children and youth.

The PAIMI Act provides formula grant support to 57 governor-designated P&A systems in each State, the District of Columbia, and the territories (the American Indian Consortium, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands). Administrative responsibility at the Federal level rests with the Administration on Developmental Disabilities (ADD) in the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS) for the DD Act. The Center for Mental Health Services (CMHS) in the Substance Abuse and Mental Health Services Administration

(SAMHSA), DHHS is responsible for carrying out the provisions of the PAIMI Act [ 42 U.S.C. 290bb-31].

The PAIMI Program provides funding to establish and operate a protection and advocacy (P&A) system for individuals with mental illness which will protect and advocate the rights of these individuals through activities that ensure enforcement of the Constitution and Federal and State statutes. Each P&A system is designated by the governor of the State, the District of Columbia (the Mayor), and the territories to receive formula grants to support legal-based advocacy services for PAIMI-eligible clients -- persons with significant mental illnesses (adults) and significant emotional impairments (children), at risk for, or in danger of, abuse, neglect, and civil rights violations while residing in public and private, treatment or care facilities. Appendix A is a copy of the most recent Guidance for Applicants for the PAIMI program.

The PAIMI Act [42 U.S.C. 10826 (b)] requires the Secretary of the Department of Health and Human Services (the Secretary) to promulgate final regulations to carry out the legislation. The PAIMI Final Rule promulgated regulations for the implementation of authorized activities of State protection and advocacy (P&A) systems that serve individuals with severe mental illnesses and severe emotional impairments, at risk for abuse, neglect, and civil rights violations while residing in a public or private care or treatment facility, as defined in the Act [42 U.S.C.10801 *et seq*.].

This submission requests three-year approval for a revision of the annual performance report required of each State P&A system and its Advisory Council by 42 U.S.C. 10805(a)(7) and, respectively, by 42 CFR 51.8 and 42 CFR 51.23(a)(3). The PPR was designed to capture information to document activities of the State P&A system as required by statute.

2. Purpose and Use of Information

As stated above, the annual PPR is used to document State P&A system compliance with statutory and regulatory requirements. The PAIMI Act [42 U.S.C. 10824], also requires the Secretary to submit a report that summarizes the P&A system program activities required under 42 U.S.C. 10805(a)(7); this is to be part of the Secretary=s report to the President, Congress, and the National Council on Disabilities as required by section 105 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000. The Secretary=s report, prepared by ADD (the lead Federal P&A agency), includes an overview of trends, case illustrations, training and educational activities, systemic and legislative issues, unmet needs and accomplishments for the State P&A system programs of the respective administrations. SAMHSA=s annual PAIMI Program Performance Report (PPR), including the Advisory Council section, is an appendix to that report.

SAMHSA/CMHS, jointly with the P&A systems, other Federal P&A officials, and the P&A technical assistance contractor developed Government Performance and Results Act (GPRA) performance measures that were included in the previous annual report format approved by OMB. In September 2005, in conjunction with the OMB Performance Assessment Rating Tool

(PART), SAMHSA approved the following PAIMI Program Performance GPRA (PART) measures:

Measure 1: Increase the number of individuals served.

Measure 2: Increase the percentage of complaints of alleged abuse, substantiated and not withdrawn by the client that resulted in positive change for the client in her/his environment, community, or facility, as a result of PAIMI involvement. [The previous GPRA measure - Increase the number attending public education /constituency training activities and public awareness activities – was deleted. The amended Measure 2 is a current GPRA and PART measure, which is now separated into 3 measures for abuse, neglect, and rights violations].

Measure 3: Increase the percentage of complaints of alleged neglect, substantiated and not withdrawn by the client that resulted in positive change for the client in her/his environment, community, or facility, as a result of PAIMI involvement.

Measure 4: Increase the percentage of complaints of alleged rights violations, substantiated and not withdrawn by the client that resulted in positive change through the restoration of client rights, expansion or maintenance of personal decision-making, or elimination of other barriers to personal decision-making, as a result of PAIMI involvement

Measure 5: The percentage of interventions conducted on behalf of groups of PAIMI-eligible individuals that were concluded successfully. This is a new GPRA and PART measure.

CMHS/SAMHSA uses the information in the annual PAIMI Program Performance Report (PPR) to compile a national profile on P&A system trends, activities, and accomplishments for the Secretary DHHS. The PAIMI Program profile facilitates SAMHSA=s ability to respond to administrative and/or congressional requests for information on specific State P&A system activities, identifies training and technical assistance activities, highlights trends and/issues of national significance, and provides valuable comparative program activity and performance evaluation information.

Each State P&A system is provided a copy of the Secretary=s bi-annual report to Congress for informational and/or comparative evaluation purposes, e.g., identification of new national or regional trends/activities, initiatives, strategies and legal remedies to address common issues, etc. The information from the annual PPR also facilitates grant administrators and Federal Program staff=s ability to monitor, guide, and evaluate the training and technical assistance provided to the State P&A systems.

The PAIMI Annual Program Performance Report (PPR) will undergo minor changes consistent with current statutory and regulatory data requirements, specifically information on grievance procedures, issues and investigations related to incidents of seclusion, restraint, including serious injuries and deaths, and the Advisory Council assessment of State P&A system PAIMI Program activities. The revised regulations for the DD Act of 2000, developed by ADD, are awaiting departmental review and clearance. The applicable provisions of the Children=s Health Act of 2000 developed for Parts H & I, respectively by the Centers for Medicare and Medicaid Services (CMS) and SAMHSA is also awaiting departmental review and clearance. Once these

regulations are final, the PAIMI Rules will be amended accordingly. When the PAIMI Rules are finalized, the PAIMI PPR will also be revised, as appropriate.

In the unlikely event that the revisions to all the regulations are completed before the expiration of this clearance, SAMHSA/CMHS will proceed as expeditiously as possible to make appropriate revisions to the PAIMI PPR and obtain OMB approval.

The revised Annual Program Performance Report, including the Advisory Council Section is located in Appendix B.

Principal revisions to the PAIMI Annual Program Performance Report are as follows: include the following items:

1) Changing the fonts to improve readability;
2) Adding Tables of Content and Glossaries to the PPR and ACR sections;
3) Reducing the reporting burden in Section 2. PAIMI Program Priorities and Objectives by requesting only one case example per priority (goal) rather than per objective;
4) Revising Sections: 2. PAIMI Program Priorities (Goals) and Objectives: 4. Case Complaints/Problems of Individuals; and, 5. Intervention Strategies on Behalf of Groups of PAIMI-eligible Individuals, for consistency with the findings and recommendations from the Office of Management and Budget (OMB), 2005 PART evaluation/assessment of the PAIMI Program and to clarify and/or enhance the instructional guidance for determining activity/intervention outcomes and estimating e the number of individuals or groups impacted by P&A system activities /interventions in sections 4 and 5;
5) Expanding Section 4. E. 2. by adding an item c. for the number of death investigation activities not related to incidents of seclusion and restraint;
6) Providing the applicable PAIMI citations to the guidance in Section 8. Other Services & Activities.

7) Modifying the Advisory Council Report (ACR), Sections B. PAIMI Advisory Council (PAC) Membership and C. PAC Ethnicity/Racial Diversity for consistency with the format used in the PAIMI Application for FY 2007-2009;

8) Enhancing Section F. PAC Activities to include the applicable citations that will provide each PAC with better information on its authority, role, and responsibilities as the P&A governing authority.

9) Revising Section G. PAIMI Assessment of PAIMI Program Operations, by eliminating the previous requirement that the PAC comment on each P&A system annual priority and objective. The PAC will only submit a summary of its assessment of the P&A system's annual PAIMI Program priorities, objectives, activities and program operations;

10) Adding an additional item to Section G. to identify the training and technical assistance needs of each PAC; and,

11) Adding the applicable citations to Section H. Grievance Procedures to provide the PAC with better information on its authority, role, and responsibilities.

These modifications will provide clarity and facilitate retrieval of relevant PPR information. It is expected that electronic copies of the annual PAIMI PPR, including the Advisory Council section will be readily available to the State P&A systems via the SAMHSA/CMHS web page.

3. Use of Information Technology

To facilitate State P&A system preparation of the PAIMI annual program performance report, SAMHSA also made the documents electronically accessible via the Internet to each system in WordPerfect or Microsoft Word format. These reports and the correction action plans/ implementation status reports may be submitted by e-mail to the SAMHSA/CMHS PAIMI Program Coordinator.

Since the last PPR submission in 2004, SAMHSA grants management and program staff participated and developed, in response to the government-wide efforts, policies for formula and block grants that were included in separate sections of www.grants.gov. In 2006, SAMHSA's effort was operational and the PAIMI Program participated. Revised electronic guidelines for

submission of FY 2008 PAIMI Applications were also developed in collaboration with SAMHSA Division of Grants Management, IT Web Specialists from SAMHSA and HHS/ARST. However, until HHS decides PKI signature specifications, the State P&A systems are required to submit a single hard copy of the cover sheet with the signature of the Chair of the PAIMI Advisory Council with the Advisory Council section of the annual PPR.

4. Efforts to Identify Duplication

The PAIMI Program is a singular, unduplicated program, and this information is not available or accessible from other sources.

5. Information Collection Involving Small Businesses

Small businesses or other small entities are neither involved in nor impacted by this program.

6. Consequences if Information Collected Less Frequently

An annual PAIMI PPR, including a section prepared by the Advisory Council (AC), is required from each State P&A system [42 U.S.C. 10805(7)]. Annual PPR data collected from State P&A systems are summarized by SAMHSA and copies of the two most recent annual reports are included as an appendix to the Secretary=s biannual report to the President, the Congress, and the National Council on Disabilities [42 U.S.C. 10824]. To collect State P&A system PPR data less frequently will violate the statutory requirement that a report be transmitted to the Secretary on January 1 of each year [42 U.S.C.10805 (7)] and result in untimely, inaccurate, and inappropriate information on P&A system activities, trends, and issues of national significance to the President and Congress.

7. Consistency with the Guidelines

The data collection complies with 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

A notice soliciting public comment on this data collection was published in the Federal Register, February 23, 2007, pages 8189 – 8190. Seven comments from State P&A officials and others knowledgeable of PAIMI Program activities were received from Alabama, Florida, Massachusetts, Nebraska, Nevada, South Carolina, and Wyoming. The majority pointed out various corrections (e.g., typos, spelling, format, etc) needed (Alabama, Florida, Nebraska, Nevada, South Carolina and Wyoming), offered other suggestions, such as, clearer instructional guidance (Alabama, Florida, Nebraska, and Nevada), and rearrangement of some sections (Florida) and (Massachusetts). Copies of the comments are in Appendix C.

*Non-Federal Organizations*

Since 2004, CMHS has received regular input on the PPR through the PAIMI Performance Indicators Workgroup, comprised of representatives from the National Disability Rights Network (NDRN), formerly known as the National Association of Protection and Advocacy Systems or NAPAS, and representatives from the California, Florida, Hawaii, Idaho, Illinois, Indiana, Louisiana, Maryland, New Jersey, New York, South Carolina, Vermont and Virginia P&A systems. In addition, P&A system staff, governing board and PAIMI Advisory Council (PAC) members, mental health consumers and their family members, other professional and advocacy organizations, service providers and others, including representatives from SAMHSA and the ADD on various PPR issues, such as readability, content, additional information, etc. Additional consultation on the annual PAIMI PPR, including the PAC section, was obtained on revisions proposed for the PPR from current or former State P&A system management, legal and program staff, consumers with current or past State P&A affiliation (PAIMI AC Chair or members) and their family members.

| Persons Consulted | Title | Affiliation | Phone |
|---|---|---|---|
| *P&A* | | | |
| Shawn DeLoyola | Executive Director | Missouri P&A | (573) 893-333 |
| Aaryce Hayes, M.S.W. | PAIMI Program Coordinator | Texas P&A | (512) 454-4816 |
| Lois Simpson, J.D. | Executive Director | Louisiana P&A | (504) 522-2337 |
| Joe Young, J.D. | Dep. Executive Dir. | New Jersey P&A | (609) 292-9742 |
| Miriam Richter | PAIMI Peer reviewer | Iowa (former PAC member) | (319) 646-5668 |

9. Payments to Respondents

Other than the annual formula grants awarded by SAMHSA to each State P&A system for activities mandated under the PAIMI Act, no additional payments or gifts are made.

10. Assurance of Confidentiality

State P&A systems are mandated to Amaintain the confidentiality of such records to the same extent as is required of the provider of such services@ [42 U.S.C. at 10806(a), see also exceptions to confidentially, cited at 10806(b)]. Each State P&A system is required to protect all client records and identifying data from loss, damage, tampering, or use by unauthorized individuals. Compliance with confidentiality requirements is reviewed by Federal program officials during annual on-site monitoring reviews of selected State P&A systems.

There are no confidentiality issues relevant to the information collection and report requirements because the annual PPR is primarily composed of Aaggregated summary@ data and contains no personal identifiers.

11. Questions of a Sensitive Nature

There are no questions of a sensitive, individual nature included in this report.

12. Estimate of Annual Hour Burden

The estimated annual burden for the PAIMI Annual PPR is summarized below:

| **Data Collection Instrument** | **No. of Respondents** | **No. of Responses/ Respondent** | **Average Burden Hrs./ Response*** | **Total Annual Response Burden Hrs.** | **Estimated Hourly Costs**** | **Total Annual Hourly Cost** |
|---|---|---|---|---|---|---|
| Program Performance Report | 57 | 1 | 26 | 1482 | $ 50/hour | $74100 |
| Advisory Council Report | 57 | 1 | 10 | 570 | $ 35/hour (Unpaid volunteers) | $19950 |
| **Total** | 114 | - | - | 2,052 | - | $94050 |

* Based on past estimates and the fact that changes being made do not measurably impact response burden.

** Based on the average salary paid to State P&A system staff, estimated at $50 per hour, including fringe benefits. The $35 per hour rate is an estimate of compensation if the PAIMI AC members were P&A system employees and not unpaid volunteers.

13. Estimated Annual Cost to Respondents

There are no capital or start-up, operations, maintenance or purchase of services costs that exceed standard business expenses associated with these regulations.

14. Estimated Annual Cost Burden to the Government

Federal costs associated with the annual PAIMI PPR are estimated as follows: the contractor will take appropriately 4 hours to read, review, and extract information from each of the 57 annual PAIMI PPRs submitted by the State P&A systems and an additional 10 hours to enter this data into a computerized system [4 x 57 + 10 hours = 238 hours]. The contractor will need an additional 80 hours to prepare the narrative summaries, case examples, and data tables needed for the Secretary=s bi-annual P&A system report to the President for a total of $14310 [238 +80 = 318 hours x $45@ hour = $14310].

SAMHSA/CMHS staff costs associated with final review and approval of the 57 State P&A system annual PPRs are approximately $8245 for salary, which includes approximately 171

hours [57 P&A systems x 3 hours per each report = 171 x $45@ hour = $7,695] for SAMHSA/CMHS staff review and follow-up of each PPR report and 10 hours supervisory review time [10 x $55@ hour = $550]. The final cost to the Federal government is $22555 [$14310 contract costs and $8245 SAMHSA costs].

15. Changes in Burden

Currently, there are 2,166 hours in the OMB inventory. The program is requesting 2,052 hours. The decrease of 114 hours is due to a reduction in program case example information (Section 2) from the grantees. Specifically grantees are asked to only provide one (1) case example per priority (goal) rather than an example for each priority (goal) and objective.

16. Time Schedule, Publication, and Analysis Plan

Each State P&A system is provided 90 days, from September 30 the end of the Federal Fiscal Year (FFY) until December 31, the first quarter of the new FFY, to prepare its annual PAIMI PPR. The PAIMI Act mandates that each State P&A system submit its annual PPR to SAMHSA no later than January 1. Before starting the PPR review process, SAMHSA logs in the date that each State PPR is received. Information extracted from each annual PAIMI PPR is used to provide a national profile of State P&A system activities which are consolidated into a report for the Secretary. SAMHSA via CMHS staff will contact State P&A systems whenever PPR clarification, additional information, or documentation is needed.

The DD Act of 2000 now requires that the State P&A system report to the President and Congress be submitted biannually. CMHS continues to prepare an annual PPR, including an appendix of statistical tables, which it is submitted to SAMHSA for review and clearance. SAMHSA forwards the cleared report to HHS for additional review and final approval. SAMHSA submitted its most recent annual PAIMI Reports to Congress for FFYs 2005 and 2006 for inclusion as an Appendix to the ADD biannual report to the President, the Congress, and the National Council on Developmental Disabilities. When the ADD final report is released to the President and the Congress, it is available for public distribution.

**Time Table for Report Activities**

| Tasks | Target Completion Date |
|---|---|
| Preparation of Reports by respondents | October 1 - December 31 |
| Respondents submit annual reports to SAMHSA via CMHS | January 1 |
| Review of submitted reports, preparation and submission of the bi-annual report by | March 1 |
| CMHS staff review, edit, and submit the final draft report to SAMHSA for review | June 15 |

| | |
|---|---|
| SAMHSA staff review and edit the final PAIMI Report to Congress the SAMHSA Administrator signs, and the document is submitted to HHS. | July 15 |

17. Display of Expiration Date

An exemption for the requirement to display the expiration date is not requested.

18. Exceptions to Certification Statement

This collection of information involves no exceptions to the Certification for Paperwork Reduction Act Submissions.

B. Statistical Methods

Statistical methods are not employed in the Annual PAIMI Program Performance Report which includes the PAIMI Advisory Council section.

## List of Attachments

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| Appendix A | Program Description – (RFA) |
| Appendix B | 1) Letter to Funding Recipients<br>2) Annual Program Performance Report – Revised |
| Appendix C | Comments |