

**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 reinstatement and 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 expired on March 31, 2011.

In 1975, the Developmental Disabilities Assistance and Bill of Rights Act (the DD Act) [42 U. S. C. 15001, *et seq.*, as amended in 2000], established the State protection and advocacy (P&A) systems 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 placed in seclusion. 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 (AIC), 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). ADD administers the Protection and Advocacy Program for Developmental Disabilities (PADD) created by r 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), the Tribal Presidents of the Hopi and Navajo Tribes – the AIC, and the five

territories to receive formula grants. These formula grants are based on the population of each State with a P&A system and on the population of each State weighted by its per capita income [42 U.S.C. 10822 (a) (1) (A) (1) and (2)]. The grants are used 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 Request for Applicants (RFA) for the PAIMI Program [Short Title: FY 2010 – 2012 PAIMI Program, CFDA No 93.138].

The PAIMI Act [42 U.S.C. 10826 (b)] requires the Secretary DHHS to promulgate final regulations to carry out the legislation. The PAIMI Final Rule [42 CFR Part 51] 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 the PAIMI Act at 42 U.S.C. 10805(a)(7) and its rules at by 42 CFR 51.8 and 42 CFR 51.23(a)(3).

2. Purpose and Use of Information

The annual PAIMI PPR, including the Advisory Council section is used to document State P&A system compliance with statutory and regulatory requirements. The PAIMI Act [42 U.S.C. 10824] requires the SAMHSA to prepare an annual report for the Secretary HHS that summarizes the P&A system program activities mandated under 42 U.S.C. 10805(a)(7). The annual SAMHSA reports are submitted as appendices to the biannual report on disabilities prepared for the Secretary by ADD, the lead Federal P&A agency. This report aggregates the information from the 57 P&A systems, includes a description of the activities, accomplishments, and expenditures of systems to protect and advocate the rights of individuals with mental illness supported by PAIMI allotments, the total number of individuals served, the types of activities undertaken, identifies the types of facilities where these activities are undertaken and the accomplishments resulting from these activities. The report also includes an overview of State trends, case illustrations, and identifies training/education, outreach, systemic and legislative activities, as well as, unserved and underserved populations. The Secretary's report on all Federal P&A program activities is sent to the President, Congress, and the National Council on Disability, as required by the DD Act at 42 U.S.C. 15005.

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: Increase 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 quality of the training/ and technical assistance provided to the State P&A systems.

The PAIMI annual PPR will undergo minor revisions changes consistent with current statutory and regulatory requirements. The revised annual Program Performance Report, including the Advisory Council Section is located in Appendix B.

These minor revisions to the PAIMI annual PPR include the following items:

- 1) Clarifying the instructional guidance in the PPR, e.g., Section 3. - Living Arrangements and Section 4 - Complaints/Problems of PAIMI- eligible Individuals at 4. D.2. – Intervention Strategy Outcome Statement by using a chart format to capture the most significant outcome achieved per strategy used;
- 2) Eliminating the need for attachments, e.g., in Section 7 - Grievance Procedures, a copy of the policies/procedures, in Section 8 – Other Services and Activities a copy of agency policies/procedures for obtaining comments from the public (8.A.3.) and a copy of the

public comment opportunity notice (8.A.1.);

- 3) Clarifying the Advisory Council section of the PPR, e.g., Section B. PAIMI Advisory Council Membership, secondary identification instructions; and,
- 4) Eliminating the submission of supplemental documents from the Advisory Council, e.g., PAIMI bylaws, etc.

These modifications will provide clarity and facilitate retrieval of relevant PPR information consistent with SAMHSA's strategic initiatives and its authorizing legislation and regulations. It is expected that electronic copies of the annual PAIMI PPR, including the Advisory Council section will be available in accessible formats 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 Word format. These reports and the correction action plans implementation status reports may be submitted by the P&A system's e-mail to the SAMHSA/CMHS PAIMI Program Coordinator.

Since the last PPR submission in 2008, 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 2010 - 2012 PAIMI Applications were also developed in collaboration with the SAMHSA Division of Grants Management, IT Web Specialists, and HHS/ARST. Until HHS decides PKI signature specifications, the State P&A systems are required to submit a single hard copy of the annual Advisory Council section cover sheet with the original signature of the PAIMI Advisory Council Chair.

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, on February 16, 2011 (Vol. 76, page 9032). One comment was received. (See Attachment C for a copy of the comment and SAMHSA’s response.) SAMHSA concurs with the comments will clarify Program Performance Report (PPR), Section 3.A.4. to include only those individuals not served either because of insufficient program funds or non- priority issues. All Information and Referral services will be reported in Section 6.A. Section B.1.m. of the PPR, Advisory Council Section will also be revised to clarify that all PAIMI Advisory Council are counted under secondary identification to achieve the mandated 60 percent minimum for consumer membership on the PAC [PAIMI Rules at 42 C.F.R. 51.23(b), (b) (2) and (b(1))].

Non-Federal Organizations

SAMHSA/CMHS maintain regular contact with the State P&A systems through various P&A system activities, which include attendance at the annual P&A trainings for the PAIMI Advisory Councils and the Fiscal Managers, annual meetings with the P&A system Executive Directors , annual monitoring visits to selected P&A systems, arranging on-sight technical assistance and training to the P&A systems, and its annual Peer Reviews of P&S system annual applications and PPRs. SAMHSA/CMHS involves other 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 PAIMI Program related activities, e.g., PAIMI monitoring visits and Peer Reviews..

<u>Persons Consulted</u>	<u>Title</u>	<u>Affiliation</u>	<u>Phone</u>
<i>P&A</i>			
Shawn DeLoyola	Executive Director	Missouri P&A	(573) 893-333
Beth Mitchell	Legal Director	Texas P&A	(512) 454-4816
Dana Farmer	Dir. Legis.Advocacy	Florida P&A	(805) 486-9074

Jeanne Thobro	Executive Director	Wyoming P&A	(307) 632 -3496
Elmer Cerano	Executive Director	Michigan P&A	(517) 487-1755
Yvette Sangster	Peer Advocacy Dir.	Georgia P&A	(404) 888-1234

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 maintain 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 confidentiality, 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 composed of Aggregated 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	\$ 80/hour	\$118,560

Advisory Council Report	57	1	10	570	\$55/hour (Unpaid volunteers)	\$31,350
Total	114	-	-	2,052	-	\$149,910

* 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 \$80 per hour, including fringe benefits. The \$55 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 \$23,750 [238 + 80 = 318 hours x \$75@ hour = \$23,850].

SAMHSA/CMHS staff costs associated with final review and approval of the 57 State P&A system annual PPRs are approximately \$12,615 for salary. This includes approximately 171 hours [57 P&A systems x 3 hours per each report = 171 x \$65@ hour = \$11,115] for SAMHSA/CMHS staff review and follow-up of each PPR report and 10 hours supervisory review time [15 x \$100@ hour = \$1500]. The final cost to the Federal government is \$36,465 [\$23,850 contract costs and \$12,615 SAMHSA costs].

15. Changes in Burden

There is no burden change.

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 requires the Secretary to submit biannual P&A system reports to the President, Congress and the National Council on Disability. CMHS continues to prepare the SAMHSA’s annual report on P&A system PAIMI Program activities. This report includes statistical tables and is submitted to SAMHSA for review and clearance. SAMHSA forwards the cleared report to HHS for additional review and final approval. ADD included the SAMHSA annual PAIMI Reports for FFY 2007 and 2008 as appendices to the Secretary’s biannual disability report to the President, Congress, and National Council on Disability. When the ADD final report is released to the President and the Congress, it is available for public distribution.

Time Table for Report Activities

<u>Tasks</u>	<u>Target Completion Date</u>
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 that includes the Advisory Council section.

List of Attachments

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| Appendix A | 1) Letter to Funding Recipients |
| Appendix B | 2) Annual Program Performance Report – Revised |
| Appendix C | 3) Comment and Response |