

**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) 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, 2020.

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/youth), at risk for abuse, neglect, and rights violations while residing in public or private residential care and treatment facilities.

The Children's Health Act of 2000 (at 42 U.S.C. 290ii) added requirements to protect and promote the rights of residents of general hospitals, nursing, intermediate care or other health care facilities. Entities supported with funds appropriated to any federal department or agency are mandated to be free from physical or mental abuse, corporal punishment, other restraints, or involuntary seclusions imposed for discipline or convenience. Also, each facility, to which the PAIMI Act applies, is mandated to notify an appropriate agency, determined by the Secretary of Health and Human Services (HHS), 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 protection and advocacy (P&A) systems in each state, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands, the District of Columbia (Mayor), and the Tribal Councils of the Navajo Nation and the Hopi Tribe who compose the American Indian Consortium (AIC) in the Four Corners region of the Southwest. Administrative responsibility at the federal level rests with the Administration on Intellectual and Developmental Disabilities (AIDD) in the Administration for Community Living (ACL), Department of Health and Human Services (HHS). The DD Act of 1975 established the P&A systems and AIDD administers the Protection

and Advocacy of Developmental Disabilities (PADD) Program. SAMHSA 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 P&A system for individuals with mental illness that will protect and advocate the rights of these individuals through activities that ensure enforcement of the Constitution and federal and state statutes. The PAIMI Program formula grants are based on the population of each P&A system's state, weighted by the state's 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/youth), at risk for, or in danger of abuse, neglect, and rights violations while residing in public and private treatment or care facilities. A copy of the most recent *State Protection and Advocacy for Individuals with Mental Illness (PAIMI) Program Funding Opportunity Announcement* can be found in Appendix A. Consistent with the PAIMI Act and Rules, state P&A systems shall submit a full application, which SAMHSA shall retain for 4 years. P&A state systems must submit annual updates to that application – Statement of Priorities and Objectives (SPO), proposed budget expenditures, and a set of PAIMI Program assurances in years 2, 3 and 4.

The PAIMI Act [42 U.S.C. 10826 (b)] requires the Secretary of HHS to promulgate final regulations to carry out the legislation. In 1997, the PAIMI Final Rule [42 CFR Part 51] promulgated regulations for the implementation of authorized activities of state P&A systems that serve individuals at risk for abuse, neglect, and 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 3-year approval for the revised annual PAIMI program performance report (PPR), including the current Advisory Council Report (ACR) section required of each state P&A system and Advisory Council [PAIMI Act at 42 U.S.C. 10805(a) (7) and Rules at 42 CFR 51.8 and 42 CFR 51.23 (a) (3)].

2. Purpose and Use of Information

The annual PPR and ACR are used to document state P&A system compliance with PAIMI statutory and regulatory requirements. The PAIMI Act [42 U.S.C. 10824] requires SAMHSA to prepare a biennial report for that summarizes the state P&A systems program activities mandated under 42 U.S.C. 10805(a)(7). The SAMHSA report is an appendix to the biennial report on disabilities prepared by AIDD for the Secretary. The SAMHSA report for the Secretary aggregates information from the 57 annual PAIMI PPRs and ACRs and that includes, but is not limited to descriptions of state P&A system activities, accomplishments, the strategies used to protect and advocate the rights of program-eligible individuals, the number of individuals served by each state P&A with PAIMI funds, the facilities investigated and monitored, and barriers and accomplishments. The P&A reports provide an annual overview of state mental health system trends, case vignettes, the number of unserved and underserved populations, as well as training/education, outreach, systemic, and legislative/regulatory educational activities conducted by each state P&A system. The Secretary's biennial report on all federal P&A program activities

is sent to the President, Congress, and the National Council on Disability [DD Act at 42 U.S.C. 15005].

SAMHSA, jointly with the P&A systems, other federal P&A program 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. OMB last approved the PAIMI PPR and ACR on July 17, 2017 (0930 -0169). The PAIMI Program GPRA performance measures are as follows:

- 3.4.12 Increase the number of people served by the PAIMI program. (Outcome)
- 3.4.19 Increase the number attending public education/constituency training and public awareness activities. (Output)
- 3.4.21 Increase percentage of reported complaints of alleged abuse, neglect and rights violation substantiated and not withdrawn by the client through the restoration of client rights, expansion or maintenance of personal decision-making, elimination of other barriers to personal decision-making, as a result of PAIMI involvement. (Outcome)

SAMHSA uses its GPRA performance measures to respond to administrative and/or congressional requests for program information on specific state P&A system activities, identify training and technical assistance (TTA) activities, highlight trends and issues of national significance, and provide valuable comparative program activity and performance evaluation information.

The annual PPR also helps federal grant administrators and program staff monitor, guide, and evaluate the quality of the TTA provided to the state P&A systems.

The state P&A systems submit their PPR and ACR electronically to SAMHSA. See Appendix B for the PPR and ACR format.

The following table provides an overview of specific proposed change, comparing the current PAIMI PPR and ACR to the proposed PAIMI PPR and ACR.

New Proposed PPR/ACR Requirements	PPR/ACR Section
Mental Health Professionals on Advisory Council requires the P&A to indicate the profession of Advisory Council members.	A.12 of the PPR B.1.f of the ACR
Age of PAIMI Eligible Individuals Served: the age ranges have been altered to align with those collected by the other Federally supported P&A entities.	B.1
Number of PAIMI Eligible Individuals served with a diagnosis of both SMI/SED and	B.4.5

Intellectual Disabilities.	
The Section, “Abuse Complaints Disposition” now includes two additional categories: “Other Representation Found” and “Services not needed due to client death or relocation”.	C.2
The Section “Areas of Alleged Neglect has added clarifying language to better capture “Failure to provide...” various forms of treatment and care.	C.3
The Section, “Neglect Complaints Disposition” now includes two additional categories: “Other Representation Found” and “Services not needed due to client death or relocation”.	C.4
The Section “Areas of Alleged Rights Violations has added clarifying language to better capture “Failure to provide...” various forms of treatment and care as well as has added several additional categories of Rights, including the right to refuse treatment and prescribed medications.	C.5
The Section, “Rights Violations Disposition” now includes two additional categories: “Other Representation Found” and “Services not needed due to client death or relocation”.	C.6
The Section “Reasons for Closing Individuals Advocacy Case File” has one additional category: “Other Appropriate Entity Investigating”.	C.7
The Section, “Intervention Strategies” has provided more specific definitions of each of the required categories of data. These definitions are included in the “Annual Program Performance Report (PPR) Instructions, Section I, Glossary”.	C.8
The Section, “Death Investigation Activities” has two additional clarifying categories. These include “d) Death investigations with a finding or determination and c) Provision in policy added or prevented.”	C.9b
The Section, “Interventions on Behalf of Groups...” has added the categories “Community Based Monitoring Services” and Educating Policy Makers”.	C.11

Table capturing “End Outcomes of P&A Activities.	C.12
The PAIMI Budget and the PAIMI Expenditures and Revenues sections were combined into a single section “Actual PAIMI Budget/Expenditures”. This simplifies reporting by the P&A to SAMHSA.	G.
The Section “Statement of Priorities (GOALS)” has a new section on “Strategies used to Implement Goals and Address Priorities.	H.B

Proposed Deletions from Current PPR	PPR Section
Section on: Executive Director Appointment and Evaluation information, proposed to be eliminated. This information was determined not to be of any benefit.	A. Executive Director
Living Arrangement section has combined several categories for efficiency and eliminated unnecessary categories. These include combining “Public and Private hospitals and emergency rooms” into a single category rather than separate categories; Eliminating the “Jail” subcategories of a) municipal/city, b) County, and c) Other; Eliminating the distinctions of a) within 90 days post-discharge from a facility and b) after 90 days of discharge from the categories “Independent” and “Parental or Other Family Home”. These distinctions are no longer applicable.	B.5

3. Use of Information Technology

In Fiscal Year 2017, SAMHSA enhanced the Web-based Block Grant Application Systems (WebBGAS) to facilitate the electronic submission of the PAIMI application. State P&A systems are required to complete and submit their PPR and ACR in WebBGAS at: <https://bgas.samhsa.gov>. In each FY 2018-2020, the PAIMI grantees are only required to submit an updated annual Statement of Priorities and Objectives (SPO), a budget of proposed expenditures, and PAIMI Program Assurances signed by the Executive Director. This change is consistent with the program application requirements [PAIMI Act 42 U.S.C. 10821 and Rule 42 CFR 51.5]. State P&A systems are required to upload a copy of the annual ACR cover sheet signed and dated by the PAIMI Advisory Council Chairperson into the WebBGAS as an attachment.

4. Efforts to Identify Duplication

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

1. 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

Each state P&A system awarded a SAMHSA PAIMI grant is required to submit annual PPR and ACR [42 U.S.C. 10805(7)]. The information collected from these reports is summarized by SAMHSA into a biennial report of PAIMI Program activities. The SAMHSA report is included as an appendix to the Secretary's biennial report to the President, the Congress, and the National Council on Disabilities [42 U.S.C. 10824]. To collect state P&A system PPR/ACR data less frequently violates the statutory requirement that a report be transmitted to the Secretary on January 1 of each year [42 U.S.C.10805 (7)]. Less frequent data collection results in untimely, inaccurate, and incomplete information on state P&A system activities, trends, GPRA data, 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 Federal Register notice was published on November 6, 2019 (Vol. 84, page 59836). 110 public comments were received from 19 individual entities. All public comments addressing the same items were categorized into 21 unique comments. Refer to Attachment 4 Public Comments Received to review the public comments. For SAMHSA responses refer to Attachment 5 PAIMI PPR Table of Comments Received.

Non-Federal Organizations

From 2016 to date, SAMHSA received input on the PPR and ACR from the state P&A systems, federal partners, and the federal P&A technical assistance contractor. SAMHSA conducted an internal review of the PPR based on input from these stakeholders. SAMHSA's processes ensures the state P&A systems collect program data that is consistent with PAIMI statutory and regulatory requirements. SAMHSA continues to maintain regular contact with the state P&A systems via the following methods: communicating by e-mail and phone calls; conducting site visits; attending annual P&A system events (CEO meeting, P&A Annual conference, and the fiscal managers training); participating in monthly conference calls with the federal partners, and

the training and technical (TTA) contractor; participating on various TTA committees chaired by system staff; and reviewing the annual applications and PPRs/ACRs.

Persons Consulted	Title	Affiliation	Contact
Michael Kirkman	Executive Director	OH P&A System	(614) 466-7264
J.J. Rico	Executive Director	AZ P&A System	(520) 327-9547
Tom Masseur	Executive Director	Arkansas P&A system	(501) 296-1775
Jennifer Monthie	Executive Director	NY P&A System	(518) 432-7861
Anna Bass	Executive Director	TN P&A System	(800)-342-1660

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 (PAIMI Rules at 42 CFR 51.45). Compliance with confidentiality requirements is reviewed by federal program officials during annual on-site monitoring visits 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.

1. 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	1,482	\$ 82.4/hour	\$122,117
Advisory Council Report	57	1	10	570	\$56.65/hour (Unpaid)	\$32,291

					volunteers)	
Total	114	-	-	2,052	-	\$154,408

*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 \$82.40 per hour, including fringe benefits. The \$56.65 per hour rate is an estimate of compensation if 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 development of the annual PAIMI PPR within WebBGAS are estimated at \$178,922. Federal costs to maintain and provide support to the annual PAIMI PPR within WebBGAS are estimated at \$75,513. The P&A systems input their annual reports directly into the WebBGAS.

The SAMHSA staff costs associated with final review and approval of the 57 state P&A system annual PPRs/ACRs are approximately \$24,161 for salary. This estimate includes approximately 171 hours [57 P&A systems x 4 hours per report = 228 x \$87.55@ hour = \$19, 961] for SAMHSA staff review and follow-up for each PPR/ACR and 40 hours supervisory review time [40 x \$103@ hour = \$4, 200]. The final cost to the federal government is \$278,596 [\$254,435 contract costs + \$24,161= SAMHSA costs].

1. Changes in Burden

There are no changes to the 2,052 hours in the OMB inventory.

16. Time Schedule, Publication, and Analysis Plan

Each state P&A system has 90 days, from September 30, the end of the Federal Fiscal Year (FFY) until December 31 to prepare and submit its annual PAIMI PPR/ACR. The PAIMI Act and Rules mandates each state P&A system to submit its annual PPR/ACR to SAMHSA no later than January 1 [respectively at 42 U.S.C. 10805 (a) (7) and 42 CFR 51.8]. Before starting the annual PAIMI PPR/ACR review process, WebBGAS automatically notifies SAMHSA PAIMI Program staff the date a PPR/ACR is entered into the system. Information extracted from each PPR/ACR is used to provide a national profile of state P&A system activities. These activities are summarized and then consolidated into a report for the Secretary. SAMHSA PAIMI Program staff contact state P&A systems whenever PPR/ACR clarification, additional information, or documentation is needed.

The DD Act of 2000 (42 U.S.C. 15001 *et. seq.*) requires the Secretary to submit a biennial report on P&A system disability activities to the President, Congress, and the National Council on Disability. SAMHSA continues to prepare its biennial PAIMI Program activities report. This report includes statistical tables and narratives and will be sent to HHS for additional review and final approval. AIDD includes the SAMHSA report as an appendix to the Secretary’s biennial disability report to the President, Congress, and National Council on Disability. When the AIDD final biennial report is released, 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	January 1
Review of submitted reports, preparation, and submission of the biennial report	June 15
SAMHSA staff review and edit the final PAIMI Report to Congress, the Assistant Secretary for Mental Health and Substance Use, SAMHSA signs and submits the report to HHS	September 15

1. 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 Advisory Council Report section.

List of Attachments

Attachment 1	Annual Program Performance Report
Attachment 2	Annual Program Performance Report - Instructions
Attachment 3	Advisory Council Report

Attachment 4 Public Comments Received

Attachment 5 PAIMI PPR Table of Comments Received