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[Home](#)

[Programs](#)

[Mental Health Topics](#)

[Newsroom](#)

[Publications](#)

[Resources](#)

SEARCH

This Site

IN THIS SECTION

- [About the Program](#)
- [Conferences](#)
- [Legislative Information](#)
- [Related Topics](#)
- [Featured Publications](#)
- [In the News](#)
- [FAQs](#)
- [Related Links](#)
- [PAIMI Program Performance Report Data](#)
- [Protection & Advocacy Homepage](#)

CMHS Programs:

CMHS Activities:

PAGE OPTIONS

- [printer friendly page](#)
- [e-mail this page](#)
- [bookmark this page](#)
- [shopping cart](#)
- [current or new account](#)

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Protection and Advocacy

Center for Mental Health Services
Division of State and Community Development Systems
State Planning and Systems Development Branch

Protection and Advocacy for Individuals with Mental Illness (PAIMI) Program

Program History: In 1975, the U.S. Department of Health and Human Services (DHHS) established a program pursuant to Part C of the Developmental Disabilities Assistance and Bill of Rights Act (the DD Act) [42 U.S.C. 6041, *et seq.* which was amended on October 31, 2000], that provided formula grant support to systems designated by the Governor of each State, the District of Columbia, and the Territories — the American Indian Consortium (Shiprock, NM), American Samoa, Guam, the Northern Mariana Islands, Micronesia, Palau, Puerto Rico, and the U.S. Virgin Islands — to protect and to advocate for the rights of persons with disabilities. To redress these issues, Congress recognized the importance of ensuring independence of protection and advocacy (P&A) systems and mandated that the systems be independent of any agency providing treatment or services (other than advocacy services). The Protection and Advocacy for the Developmentally Disabled (PADD) program is administered by the Administration on Developmental Disabilities (ADD), Administration on Children and Families, United States Department of Health and Human Services (DHHS).

In 1986, Congress found that adults with significant mental illness and children with severe emotional impairments were vulnerable to abuse, serious injury, and subject to neglect, which included inadequate or inappropriate treatment, nutrition, clothing, health care, and discharge planning and that State systems for monitoring compliance with respect to the rights of these individuals varied widely and were frequently inadequate. In order to ameliorate these injustices, Congress passed the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act [42 U. S. C. 10801 *et seq.*], which is administered by the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS). Each State P&A system designated under the DD Act also manages the PAIMI Program.

In 1986, the PAIMI Act extended the protections of the DD Act to individuals with mental illness. Congress provided SAMHSA with funding for PAIMI Program formula grants to P&A systems in each State, the District of Columbia and 5 Territories - American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands. Private nonprofit organizations operate 45 of these P&A systems with the remaining 11 - Alabama, American Samoa, Connecticut, Indiana, Kentucky, New York, North Carolina, North Dakota, Ohio, Puerto Rico and Virginia - in State government agencies or special departments which are independent of those providing mental health treatment or services.

PAIMI grant awards are used by State P&A systems to pursue administrative, legal (individual and class action litigation), systemic and legislative activities, or other appropriate remedies to redress complaints of abuse, neglect, and civil rights violations; to ensure enforcement of the United States Constitution, Federal laws and regulations, and State statutes; and to investigate incidents of abuse and neglect on behalf of individuals with mental illness in a public or private facility rendering care or treatment. The PAIMI Program grants to the State P&A systems were not intended to accomplish systemic reform of the mental health system. Efforts toward that goal are made by other Federal, State and private national and local advocacy organizations, e.g., the National Mental Health Association, the Alliance of the Mentally Ill, consumer groups, State Mental Health Block Grant planning councils, etc.

Under the PAIMI Act, Congress granted special legal authority to the State P&A systems. The P&A systems are authorized to access clients and records for the purpose of conducting independent investigations to redress and prevent abuse, neglect and rights violations in various types of **public and private** facilities, such as, hospitals, schools, board and care homes; supervised or semi-independent apartments, halfway houses, or other community group residences; foster care homes; nursing homes; prison forensic units; homeless shelters; jails, correction and detention facilities; interim care facilities; general hospitals, etc.

Under the PAIMI Act, State P&A systems are also authorized: To access public and private residential facilities, residents and resident records while investigating reports of abuse, particularly incidents involving the inappropriate use of seclusion and restraint, neglect, and civil rights violations in these facilities, and related fatalities, that either provide care or treatment to these individuals.

PAIMI eligible individuals:

- Are diagnosed with a significant mental illness or emotional impairment, as determined by a mental health professional qualified under the laws and regulations of the State; and,
- Are inpatients or residents in public or private residential facilities that provide care or treatment to individuals with mental illness, and
- Were abused, neglected or had their rights violated, or were in danger for abuse, neglect or rights violations, while receiving care or treatment in a public or private residential facility.

State P&A systems also are authorized to intervene on behalf of PAIMI eligible clients:

- During their transport or admission to a residential care or treatment facility; or,

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- Within 90 days of their discharge from a facility; or,
- Who die while in a residential care or treatment facility or whose whereabouts in the facility are unknown; or,
- Who are involuntarily confined in a municipal detention facility/jail for reasons other than to serve a sentence resulting from conviction for a criminal offense.

On October 17, 2000, the PAIMI Act was amended to create a **57th P&A system** - the American Indian Consortium (Shiprock, New Mexico) and to provide P&A systems the authority to serve persons with significant mental illness and severe emotional impairment who reside in the community, including their own homes. However, Congress stated that State P&A systems' service priorities must focus on individuals in residential settings.

The Children Health Act of 2000, also enacted in October 2000, mandated that public and private facilities protect the rights of persons with mental illness, including children and youth in non-medical, community-based facilities, who reside in public and private facilities from the inappropriate use of seclusion and restraint. Facilities must report all incidents involving the seclusion and restraint and any resulting fatalities to the appropriate State agency and to the State P&A systems. The systems will investigate these complaints. The facilities must also ensure that it maintains sufficient number of staff who are adequately and appropriately trained in de-escalation and crisis management techniques, and alternatives to the use of seclusion and restraint, etc.

Each State P&A system is different and the services offered to State PAIMI eligible residents will vary due to resource limitations and consumer needs. The activities and services of each P&A are established annually by its Governing Board with the advice and recommendations from its PAIMI Advisory Council, chaired by a mental health consumer or a family member of a consumer (child), and composed of former recipients of mental health services, an attorney, service providers, and persons knowledgeable of mental health issues).

For assistance, please contact your State P&A system, to see if your request is within the agency's annual service priorities.

Select A State

For free information about protection and advocacy systems - - including publications, references, and referrals to local and national resources and organizations - call 1.800.789.2647; (TDD) 1.866.889.2647.

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