

§51.6

42 CFR Ch. I (10–1–15 Edition)

occur within the State which affect the functioning of the P&A system, in which case an amendment will be required 30 days prior to the effective date of the change. The P&A system shall also provide the Department the name of the designated official.

(d) The Governor's written assurance that the allotments made available under the Act will be used to supplement and not to supplant the level of non-Federal funds available in the State to protect and advocate the rights of individuals with mental illness shall be submitted by the P&A system. The Governor may provide this assurance along with the assurances provided to ADD under 45 CFR part 1386, as long as it can reasonably be construed as applying to the PAIMI program. Any future "supplement and not supplant" assurance shall explicitly refer to the PAIMI program.

§51.6 Use of allotments.

(a) Allotments must be used to supplement and not to supplant the level of non-Federal funds available in the State to protect and advocate the rights of individuals with mental illness.

(b) Allotments may not be used to support lobbying activities to influence proposed or pending Federal legislation or appropriations. This restriction does not affect the right of any P&A system, organization or individual to petition Congress or any other government body or official using other resources.

(c) Allotments may not be used to produce or distribute written, audio or visual materials or publicity intended or designed to support or defeat any candidate for public office.

(d) If an eligible P&A system is a public entity, that P&A system shall not be required by the State to obligate more than five percent of its annual allotment for State oversight administrative expenses under this grant such as costs of internal or external evaluations, monitoring or auditing. This restriction does not include:

(1) Salaries, wages and benefits of program staff;

(2) Costs associated with attending governing board or advisory council meetings; or

(3) Expenses associated with the provision of training or technical assistance for staff, contractors, members of the governing board or advisory council.

(e) No more than ten percent of each annual allotment may be used for providing technical assistance and training, including travel expenses for staff, contractors, or members of the governing board or advisory council as defined in §51.27.

(f) Allotments may be used to pay the otherwise allowable costs incurred by a P&A system in bringing lawsuits in its own right to redress incidents of abuse or neglect, discrimination, and other rights violations impacting on individuals with mental illness and when it appears on behalf of named plaintiffs or a class of plaintiffs for such purposes.

§51.7 Eligibility for protection and advocacy services.

In accordance with section 105(a)(1)(C) of the Act (42 U.S.C. 10805(a)(1)(C)) and the priorities established by the P&A system governing authority, together with the advisory council, pursuant to section 105(c)(2)(B) of the Act (42 U.S.C. 10805(c)(2)(B)), allotments may be used:

(a) To provide protection and advocacy services for:

(1) Individuals with mental illness as defined in 42 U.S.C. 10802(4) and 10805(a), including persons who report matters which occurred while they were individuals with mental illness;

(2) Persons who were individuals with mental illness who are residents of the State, but only with respect to matters which occur within 90 days after the date of the discharge of such individuals from a facility providing care or treatment; and

(3) Individuals with mental illness in Federal facilities rendering care or treatment who request representation by the eligible P&A system. Representation may be requested by an individual with mental illness, or by a legal guardian, conservator or legal representative.

(b) To provide representation of clients in civil commitment proceedings if the P&A system is acting on behalf