



State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

August 20, 2020

Sent via e-mail to: dennis.koch@maderacounty.com

Dennis Koch, MPA, Director
Madera County Behavioral Health
209 E. 7th Street
Madera, CA 93639

SUBJECT: Annual County Compliance Unit Report

Dear Director Koch:

The Department of Health Care Services (DHCS) is responsible for monitoring compliance to requirements of the Substance Abuse Block Grant (SABG) and the terms of the Contract operated by Madera County.

The County Compliance Unit (CCU) within the Audits and Investigations Division (A&I) of DHCS conducted a review of the County's compliance with contract requirements based on responses to the monitoring instrument, discussion with county staff, and supporting documentation provided by the County.

Enclosed are the results of Madera County's State Fiscal Year 2019-20 SABG compliance review. The report identifies deficiencies, required corrective actions, advisory recommendations, and referrals for technical assistance.

Madera County is required to submit a Corrective Action Plan (CAP) addressing each deficiency noted to the Community Services Division (CSD), Community Support Branch (CSB), Policy, Monitoring and Financing Section (PMFS) Analyst by 9/21/2020. Please use enclosed CAP plan form when completing the CAP. CAP and supporting documentation to be e-mailed to the PMFS analyst at SABGcompliance@dhcs.ca.gov.

If you have any questions regarding this report, please contact me.

Sincerely,

Kimberly Brady
(916) 713-8591
kimberly.brady@dhcs.ca.gov

Audits and Investigations Division
Medical Review Branch
Behavioral Health Compliance Section
County Compliance Unit
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Annette Presley, LCSW, Madera County Behavioral Health Services Division Manager

Lead CCU Analyst: Kimberly Brady	Date of Review: June 2020
Assisting CCU Analyst(s): Emanuel Hernandez	
County: Madera	County Address: 209 E. 7 th Street Madera, CA 93639
County Contact Name/Title: Annette Presley LCSW, Madera County Behavioral Health Services Division Manager	County Phone Number/Email: 559-673-3508 annette.presley@maderacounty.com
Report Prepared by: Kimberly Brady	Report Approved by: Mayumi Hata

REVIEW SCOPE

- I. Regulations:
 - a. California Code of Regulations, Title 22, section 51341.1 – Drug Medi-Cal Substance Use Disorder Services
 - b. Code of Federal Regulations; Title 45, Part 96; Subpart L; section 96.121 through 96.137: Substance Abuse Prevention and Treatment Block Grant
 - c. United States Code, Title 42, Section 300x-21 through 300x-66: Block Grants regarding Mental Health and Substance Use
 - d. Health and Safety Code, Division 10.5, Section 11750 – 11970: Alcohol and Drug Programs

- II. Program Requirements:
 - a. State Fiscal Year (SFY) 2019-20 State County Contract, herein referred to as State County Contract
 - b. State of California *Youth Treatment Guidelines Revised August 2002*
 - c. DHCS *Perinatal Practice Guidelines FY 2018-19*
 - d. National Culturally and Linguistically Appropriate Services (CLAS)
 - e. Mental Health and Substance Use Disorders Services (MHSUDS) Information Notices

SUMMARY OF SFY 2019-20 COMPLIANCE DEFICIENCIES (CD)

Section:	Number of CD's:
1.0 Administration	3
2.0 SABG Monitoring	3
3.0 Perinatal	2
4.0 Adolescent/Youth Treatment	1
5.0 Primary Prevention	1
6.0 Cultural Competence	1
7.0 CalOMS and DATAR	0
8.0 Privacy and Information Security	2
9.0 Fiscal	1
10.0 Previous CAP	0

CORRECTIVE ACTION PLAN

Pursuant to the State County Contract, Exhibit A, Attachment I A2, Part I, Section 3, B, 5-8 each compliance deficiency (CD) identified must be addressed via a Corrective Action Plan (CAP). The CAP is due within thirty (30) calendar days of the date of this monitoring report.

Please provide the following within the completed SFY 2019-20 CAP.

- a) A statement of the CD.
- b) A list of action steps to be taken to correct the CD.
- c) A date of completion for each CD.
- d) The name of the person who will be responsible for corrections and ongoing compliance.

The PMFS analyst will monitor progress of the CAP completion.

1.0 ADMINISTRATION

A review of the County's Organizational Chart, subcontracted contracts, and policies and procedures was conducted to ensure compliance with applicable regulations and standards. The following deficiencies in regulations, standards, or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 1.3:

SABG State-County Contract, Exhibit B A1, Part IV, Section 1, A

- A. Contractor shall maintain sufficient books, records, documents, and other evidence necessary for the State to audit contract performance and contract compliance. Contractor shall make these records available to the State, upon request, to evaluate the quality and quantity of services, accessibility and appropriateness of services, and to ensure fiscal accountability...

Finding: The County did not provide a fully executed SABG treatment provider contract.

CD 1.6:

SABG State-County Contract, Exhibit A, Attachment I A2, Part I, Section 1, B, 3, b

3. As a subrecipient, the Contractor shall:
 - b. Comply with federal statutes, regulations, including 45 CFR Part 75, and terms and conditions of the SABG grant.

45 CFR 75.329(f) (1-4)

- (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 - (1) The item is available only from a single source;
 - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (3) The HHS awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
 - (4) After solicitation of a number of sources, competition is determined inadequate.

45 CFR 75.333(b) (1)

- (b) The non-Federal entity must make available upon request, for the HHS awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

Finding: The County did not demonstrate County compliance with procurement by noncompetitive proposal requirements for new service providers.

CD 1.8:

SABG State-County Contract Exhibit A, Attachment I A2, Part II, S

S. Byrd Anti-Lobbying Amendment (31 USC 1352)

Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Contractor shall also disclose to DHCS any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

SABG State-County Contract Exhibit A, Attachment I A2, Part II, Y

Y. Subcontract Provisions

Contractor shall include all of the foregoing Part II general provisions in all of its subcontracts.

Finding: The County did not demonstrate County and Subcontractor compliance with the Byrd Anti-Lobbying Amendment. The County did not demonstrate all of the foregoing SABG State-County Contract Exhibit A, Attachment I A2, Part II general provisions are included in all executed subcontracts, including the Byrd Anti-Lobbying Amendment.

2.0 SABG MONITORING

The following deficiencies in the SABG monitoring requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 2.9:

SABG State-County Contract Exhibit A, Attachment I A2, Part II, X, 1

X. Information Access for Individuals with Limited English Proficiency

1. Contractor shall comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8) regarding access to materials that explain services available to the public as well as providing language interpretation services.

SABG State-County Contract Exhibit A, Attachment I A2, Part II, Y

Y. Subcontract Provisions

Contractor shall include all of the foregoing Part II general provisions in all of its subcontracts.

Finding: The County did not demonstrate County and Subcontractor compliance with the Dymally-Alatorre Bilingual Services Act. The County did not demonstrate all of the foregoing SABG State-County Contract Exhibit A, Attachment I A2, Part II general provisions are included in all executed subcontracts, including the Dymally-Alatorre Bilingual Services Act.

CD 2.11:

SABG State-County Contract Exhibit A, Attachment I A2, Part I, Section 1, B, 3, c-d

3. As a subrecipient, the Contractor shall:
 - c. Evaluate and monitor its activities and the activities of all subcontractors for compliance with applicable statutes, regulations, and terms and conditions of the subaward.
 - d. Address any instances of noncompliance promptly, including noncompliance identified in audit findings.

SABG State-County Contract Exhibit A, Attachment I A2, Part I, Section 1, C, 5

5. Contractor and all its subcontractors shall comply with the Minimum Quality Drug Treatment Standards for SABG for all Substance Use Disorder (SUD) treatment programs either partially or fully funded by SABG. The Minimum Quality Drug Treatment Standards for SABG are attached to this Contract as Document 2F(b), incorporated by reference. The incorporation of any new Minimum Quality Drug Treatment Standards into this Contract shall not require a formal amendment.

Finding: The County did not have all SABG program requirements within their monitoring tool. The following criteria are missing;

- DHCS Perinatal Practice Guidelines;
- DHCS Youth Treatment Guidelines;
- Intravenous Drug User Services;
- Interim Services; and
- Minimum Quality Drug Treatment Standards 2F(b).

CD 2.12:

SABG State-County Contract Exhibit A, Attachment I A2, Part I, Section 3, A, 1, e

1. Contractor's performance under this Exhibit A, Attachment I, Part I, shall be monitored by DHCS during the term of this Contract.
 - e. Whether the Contractor conducted annual onsite monitoring reviews of services and subcontracted services for programmatic and fiscal requirements. Contractor shall submit copy of its monitoring and audit reports to DHCS within two weeks of issuance. Reports shall be sent by secure, encrypted email to:

SUDCountyReports@dhcs.ca.gov or

Substance Use Disorder-Program, Policy, and Fiscal Division
Performance Management Branch
Department of Health Care Services
PO Box 997413, MS-2627
Sacramento, CA 95899-7413

Finding: The County indicated a total of 11 SABG monitoring reports were sent to DHCS for SFY 2018-19. The County did not monitor all providers for SABG programmatic and fiscal requirements. The County did monitor eight (8) of 11 County and sub-contracted providers for SABG programmatic and fiscal requirements. The County did submit two (2) of five (5) SABG programmatic and three (3) of three (3) fiscal monitoring reports secure and encrypted. The County did submit two (2) of five (5) SABG programmatic and three (3) of three (3) fiscal monitoring reports to DHCS within two weeks of report issuance.

3.0 PERINATAL

The following deficiencies in Perinatal Services regulations, standards, or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 3.19:

SABG State-County Contract, Exhibit A, Attachment I A2, Part I, Section 1, C, 1, g

1. Performance under the terms of this Exhibit A, Attachment I, Part I, is subject to all applicable federal and state laws, regulations, and standards. In accepting DHCS drug and alcohol SABG allocation pursuant to HSC Sections 11814(a) and (b), Contractor shall: (i) establish, and shall require its subcontractors to establish, written policies and procedures consistent with the control requirements set forth below; (ii) monitor for compliance with the written procedures; and (iii) be accountable for audit exceptions taken by DHCS against the Contractor and its subcontractors for any failure to comply with these requirements:
 - g. Title 45, Code of Federal Regulations (CFR), Sections 96.30 through 96.33 and Sections 96.120 through 96.137.

45 C.F.R. § 96.126(e) (1-5)

- (e) The State shall require that any entity that receives funding for treatment services for intravenous drug abuse carry out activities to encourage individuals in need of such treatment to undergo such treatment. The States shall require such entities to use outreach models that are scientifically sound, or if no such models are available which are applicable to the local situation, to use an approach which reasonably can be expected to be an effective outreach method. The model shall require that outreach efforts include the following:
- (1) Selecting, training and supervising outreach workers;
 - (2) Contacting, communicating and following-up with high risk substance abusers, their associates, and neighborhood residents, within the constraints of Federal and State confidentiality requirements, including 42 CFR part 2;
 - (3) Promoting awareness among injecting drug abusers about the relationship between injecting drug abuse and communicable diseases such as HIV;
 - (4) Recommend steps that can be taken to ensure that HIV transmission does not occur; and
 - (5) Encouraging entry into treatment.

Finding: The County did not demonstrate all required Outreach strategies for targeted populations. The following required element was missing:

- Promoting awareness among injecting drug abusers about the relationship between injecting drug abuse and communicable diseases such as HIV.

CD 3.22:

SABG State-County Contract, Exhibit A, Attachment I A2, Part I, Section 1, C, 1, g

1. Performance under the terms of this Exhibit A, Attachment I, Part I, is subject to all applicable federal and state laws, regulations, and standards. In accepting DHCS drug and alcohol SABG allocation pursuant to HSC Sections 11814(a) and (b), Contractor shall: (i) establish, and shall require its subcontractors to establish, written policies and procedures consistent with the control requirements set forth below; (ii) monitor for compliance with the written procedures; and (iii) be accountable for audit exceptions taken by DHCS against the Contractor and its subcontractors for any failure to comply with these requirements:
 - g. Title 45, Code of Federal Regulations (CFR), Sections 96.30 through 96.33 and Sections 96.120 through 96.137.

45 C.F.R. § 96.126 (a)

- (a) In order to obtain Block Grant funds, the State must require programs that receive funding under the grant and that treat individuals for intravenous substance abuse to provide to the State, upon reaching 90 percent of its capacity to admit individuals to the program, a notification of that fact within seven days. In carrying out this section, the State shall establish a capacity management program which reasonably implements this section - that is, which enables any such program to readily report to the State when it reaches 90 percent of its capacity - and which ensures the maintenance of a continually updated record of all such reports and which makes excess capacity information available to such programs.

Perinatal Practice Guidelines FY 18-19

- i. When a SUD treatment provider serving intravenous substance users reaches or exceeds 90 percent of its treatment capacity, the provider must report this information to the Drug and Alcohol Treatment Access Report (DATAR) on a monthly basis. The DATAR system is DHCS's capacity management program used to collect data on SUD treatment capacity and waiting lists.
- ii. A provider and/or county must also notify DHCS upon reaching or exceeding 90 percent of its treatment capacity within seven days.
 - a. Providers and/or counties must notify DHCS by emailing the PYSU email inbox at DHCSOWPS@dhcs.ca.gov.
 - b. The subject line in the email must read "Capacity Management."

Finding: The County did not provide evidence of compliance with regulations regarding notification to DHCS when 90% capacity has been reached.

4.0 ADOLESCENT/YOUTH TREATMENT (AYT)

The following deficiency in Adolescent/Youth Treatment regulations, standards, or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

CD 4.23:

State County Contract, Exhibit A, Attachment I A2, Part II, Q

Q. Youth Treatment Guidelines

Contractor must comply with the guidelines in Document 1V, incorporated by this reference, "Youth Treatment Guidelines," in developing and implementing youth treatment programs funded under this Exhibit, until new Youth Treatment Guidelines are established and adopted. No formal amendment of this contract is required for new guidelines to be incorporated into this Contract.

Youth Treatment Guidelines Section VI, A, 1, a-e

A. Case Management and Complementary Services

Except for early intervention programs, programs should provide or arrange for case management services for every youth in treatment. If the case manager function is provided directly by the treatment program, the case manager should:

1. Have training and skills in the following areas:
 - a. AOD treatment, an understanding of addiction, and the intergenerational nature of AOD abuse;
 - b. familiarity with community resources and other youth service systems (education, child welfare, juvenile justice, mental health, etc.);
 - c. physical and sexual abuse;
 - d. family dynamics; and,
 - e. legal issues (informed consent for minors, disclosure of confidential information, child abuse/neglect reporting requirements, and duty-to-warn issues).

Finding: The County did not demonstrate Case Managers completed the required training and possess skills to provide youth treatment.

5.0 PRIMARY PREVENTION

The following deficiency in Primary Prevention regulations, standards, or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

CD 5.29:

SABG State-County Contract Exhibit A, Attachment I A2, Part III, C, 1

1. Contractors and/or subcontractors receiving SABG Primary Prevention Set-Aside funding shall input planning, service/activity and evaluation data into the service. When submitting data, Contractor shall comply with the PPSDS Data Quality Standards

Primary Prevention Substance Use Disorder Data Service (PPSDS) Data Quality Standards

The PPSDS data quality standards require that:

1. Quality data is timely;
2. Quality data is logical;
3. Quality data is accurate;
4. Quality data is complete; and,
5. Quality data is valid.

Finding: An internal review of data compliance standards finds the Primary Prevention SUD Data Service (PPSDS) data submitted during recent submissions to DHCS did not meet the PPSDS data quality standards. In addition, the County did not provide evidence describing the process to ensure the PPSDS data meet data quality standards of timely.

6.0 CULTURAL COMPETENCE

The following deficiency in Cultural Competence regulations, standards, or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

CD 6.31:

SABG State-County Contract, Exhibit A, Attachment I A2, Part II, K

K. Cultural and Linguistic Proficiency.

To ensure equal access to quality care by diverse populations, each service provider receiving funds from this Contract shall adopt the Federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards.

Document 3V, Culturally and Linguistically Appropriate Services (CLAS) National Standards

Standard 1:

Provide effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs.

Standard 2:

Advance and sustain organizational governance and leadership that promotes CLAS and health equity through policy, practices, and allocated resources.

Standard 3:

Recruit, promote, and support a culturally and linguistically diverse governance, leadership, and workforce that are responsive to the population in the service area.

Standard 9:

Establish culturally and linguistically appropriate goals, policies, and management accountability, and infuse them throughout the organization's planning and operations.

Standard 15:

Communicate the organization's progress in implementing and sustaining CLAS to all stakeholders, constituents, and the general public.

Finding: The County did not provide evidence of compliance for the following CLAS Standards for Subcontracted providers:

- Standard 1
- Standard 2
- Standard 3
- Standard 9
- Standard 15

8.0 PRIVACY AND INFORMATION SECURITY

The following deficiencies in Privacy and Information Security regulations, standards, or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 8.35:

SABG State-County Contract, Exhibit A, Attachment I A2, Part I, Section 1, C, 1, i

1. Performance under the terms of this Exhibit A, Attachment I, Part I, is subject to all applicable federal and state laws, regulations, and standards. In accepting DHCS drug and alcohol SABG allocation pursuant to HSC Sections 11814(a) and (b), Contractor shall: (i) establish, and shall require its subcontractors to establish, written policies and procedures consistent with the control requirements set forth below; (ii) monitor for compliance with the written procedures; and (iii) be accountable for audit exceptions taken by DHCS against the Contractor and its subcontractors for any failure to comply with these requirements:
 - i. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A – E).

SABG State-County Contract Exhibit A, Attachment I A2, Part II, U, 12

U. Federal Law Requirements

12. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A – E).

SABG State-County Contract Exhibit A, Attachment I A2, Part II, Y

Y. Subcontract Provisions

Contractor shall include all of the foregoing Part II general provisions in all of its subcontracts.

Finding: The County did not provide evidence the County requires compliance with the regulations regarding confidentiality of alcohol and drug abuse patient records. The County did not demonstrate all of the foregoing SABG State-County Contract Exhibit A, Attachment I A2, Part II general provisions are included in all executed subcontracts, including the requirements of 42 CFR Part 2, Subparts A-E.

CD 8.36:

SABG State-County Contract Exhibit A, Attachment I A2, Part II, H

H. Health Insurance Portability and Accountability Act (HIPAA) of 1996

All work performed under this Contract is subject to HIPAA, Contractor shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Exhibit F, DHCS and County shall cooperate to assure mutual agreement as to those transactions between them, to which this provision applies. Refer to Exhibit F for additional information.

State-County Contract Exhibit F A1, Exhibit F-1, 3, D, 4

4. Security Officer.

Contractor shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with the Department.

State-County Contract Exhibit F A1, Exhibit F-2, 3, B, 10

10. Designation of Individual Responsible for Security.

Contractor shall designate an individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying out the requirements of this Exhibit F-2 and for communicating on security matters with the Department.

State-County Contract Exhibit F A1, Attachment I, I, A

I. Personnel Controls.

A. Employee Training. All workforce members who assist in the performance of functions or activities on behalf of DHCS, or access or disclose DHCS PHI or PI must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.

Finding: The County did not provide evidence of compliance with the regulations for information privacy and security training.

9.0 FISCAL

The following deficiency in Privacy and Information Security regulations, standards, or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

CD 9.38:

SABG State-County Contract, Exhibit A, Attachment I A2, Part I, Section 2, A

A. Restrictions on Salaries

Contractor agrees that no part of any federal funds provided under this Contract shall be used by the Contractor or its subcontractors to pay the salary and wages of an individual at a rate in excess of Level I of the Executive Schedule. Salary and wages schedules may be found at https://grants.nih.gov/grants/policy/salcap_summary.htm. SABG funds used to pay a salary in excess of the rate of basic pay for Level I of the Executive Schedule shall be subject to disallowance. The amount disallowed shall be determined by subtracting the individual's actual salary from the Level I rate of basic pay and multiplying the result by the percentage of the individual's salary that was paid with SABG funds (Reference: Terms and Conditions of the SABG award).

Finding: The County did not provide evidence the County is monitoring compliance with regulations regarding SABG funds and the requirements on CEO salary caps.

TECHNICAL ASSISTANCE

Madera County did not request any Technical Assistance for SFY 2019-20.