



WILL LIGHTBOURNE
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

August 14, 2020

Sent via e-mail to: mmann@inyocounty.us

Marilyn Mann, Director
Inyo County Department of Health and Human Services
163 May Street
Bishop, CA 93514

SUBJECT: Annual County Compliance Unit Report

Dear Director Mann:

The Department of Health Care Services (DHCS) is responsible for monitoring compliance to requirements of the State Plan Drug Medi-Cal (DMC) Contract operated by Inyo 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 Inyo County's State Fiscal Year 2019-20 State Plan DMC Contract compliance review. The report identifies deficiencies, required corrective actions, advisory recommendations, and referrals for technical assistance.

Inyo County is required to submit a Corrective Action Plan (CAP) addressing each deficiency noted to the Medi-Cal Behavioral Health Division (MCBHD), Plan and Network Monitoring Branch (PNMB), County Monitoring Unit (CMU) Analyst by 9/14/2020. Please use enclosed CAP plan form when completing the CAP. CAP and supporting documentation to be e-mailed to the CMU analyst at MCBHDMonitoring@dhcs.ca.gov.

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

Sincerely,

Michael Bivians

Michael Bivians
(916) 713-8966
michael.bivians@dhcs.ca.gov

Audits and Investigations Division
Medical Review Branch
Behavioral Health Compliance Section
County Compliance Unit
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Lead CCU Analyst: Michael Bivians	Date of Review: July 2020
Assisting CCU Analyst(s): N/A	
County: Inyo	County Address: 163 May Street Bishop, CA 93514
County Contact Name/Title: Stephanie Tanksley / Program Integrity and Quality Assurance Manager	County Phone Number/Email: 760-872-3273 stanksley@inyocounty.us
Report Prepared by: Michael Bivians	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. Health and Safety Code, Division 10.5, Section 11750 – 11970: Alcohol and Drug Programs
 - c. Special Terms and Conditions (STCs) for California’s Medi-Cal 2020 section 1115(a) Medicaid Demonstration STC, Part X: Drug Medi-Cal Organized Delivery System
 - d. Code of Federal Regulations, Title 42 Chapter IV, Subchapter C, Part 438; section 438.1 through 438.930: Managed Care

- II. Program Requirements:
 - a. State Fiscal Year (SFY) 2019-20 State County Contract, herein referred to as State County Contract
 - b. Mental Health and Substance Use Disorders Services (MHSUDS) Information Notices
 - c. State Fiscal Year (SFY) 2019-20 Intergovernmental Agreement (IA)

SUMMARY OF SFY 2019-20 COMPLIANCE DEFICIENCIES (CD)

Section:	Number of CD's:
1.0 Administration	2
2.0 Beneficiary Services	0
3.0 Service Provisions	1
4.0 Access	0
5.0 Monitoring	2
6.0 Program Integrity	3
7.0 Compliance	0

CORRECTIVE ACTION PLAN

Pursuant to the State County Contract, Exhibit A, Attachment I A1, Part I, Section 3, 7, (a-d) 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. Advisory recommendations are not required to be addressed in the CAP.

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) Who will be responsible for correction and ongoing compliance.

The CMU analyst will monitor progress of the CAP completion.

1.0 ADMINISTRATION

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

COMPLIANCE DEFICIENCIES:

CD 1.2:

Exhibit A, Attachment I, Part I, Section 4, A, 3, a

a.) Contractor shall ensure subcontractors complete training on the requirements of Title 22 regulations and DMC program requirements at least annually from either DHCS' SUD Program, Policy and Fiscal Division (SUD PPF) or the Contractor. Contractor shall provide documentation of attendance at the annual training to DHCS' e-mail address SUDCOUNTYREPORTS@dhcs.ca.gov annually as part of the DHCS Contractor monitoring process.

Finding: The County did provide evidence stating County staff received Title 22 training during fiscal year 2018-19 however, the training documents were not dated and the attendance attestations signed by employees were not dated.

CD 1.3:

Exhibit A, Attachment I, Part I, Section 4, A, 2, g

g) Contractor shall assure that subcontractor sites keep a record of the clients/patients being treated at each location. Contractor shall retain client records for a minimum of ten years after the completion of the final settlement process.

Exhibit A, Attachment I A2, Part I, Section 4, B, 5, a

Contractor shall include instructions on record retention in any subcontract with providers and mandate all providers to keep and maintain records for each service rendered, to whom it was rendered, and the date of service, pursuant to W&I Code, Section 14124.1.

W&I Code, Section 14124.1

... Records required to be kept and maintained under this section shall be retained by the provider for a period of 10 years from the final date of the contract period between the plan and the provider, from the date of completion of any audit, or from the date the service was rendered, whichever is later, in accordance with Section 438.3(u) of Title 42 of the Code of Federal Regulations.

Finding: The County did not provide evidence that records are retained for ten years from the final date of the contract period between the County and the provider from the date of completion of any audit or from the date the service was rendered, whichever is later.

3.0 SERVICE PROVISIONS

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

COMPLIANCE DEFICIENCY:

CD 3.6:

Exhibit A, Attachment I, Part I, Section 2, A, 1, a-e

Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area. Covered services include:

- a) Outpatient drug-free treatment
- b) Narcotic replacement therapy
- c) Naltrexone treatment
- d) Intensive Outpatient Treatment
- e) Perinatal Residential Substance Abuse Services (excluding room and board)

MHSUDS Information Notice No: 18-009

The DMC contract between the Department and a contracting county specifies that the contracting county "shall establish assessment and referral procedures **and** shall arrange, provide, or subcontract for covered services in the Contractor's service area." (See Fiscal Year 2017-2020 DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection A, Paragraph 1.) The contract goes on to define "covered services" to include the following:

- a) Outpatient drug-free treatment;
- b) Narcotic replacement therapy;
- c) Naltrexone treatment;
- d) Intensive Outpatient Treatment; and
- e) Perinatal Residential Substance Abuse Services (excluding room and board).

(DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection A, Paragraph 1)

The contract further requires that a contracting county "maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services." (DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection B, Paragraph 1.) These services must be provided to Medi-Cal beneficiaries with reasonable promptness, may not be limited due to budgetary constraints, and must be provided to requesting beneficiaries without regard to the county of residence (DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection B, Paragraphs 1 and 2.). A referral to a non-contracting provider or to another county without an appropriate funding agreement does not fulfill a county's contractual obligation to arrange, provide or subcontract for DMC services.

If a county does not fulfill its contractual obligations to arrange, provide or subcontract for the provision of all DMC covered services, the Department may, at its discretion, require that the contracting county forfeit its county realignment funds, pursuant to Government Code Section 30027.10, and may require that the county surrender its authority to function as the administrator of DMC services (Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection C, Paragraph 3.). Additionally, the Department will enter into direct contracts with

providers and will invoice the county for all DMC claims for services provided to the residents of that county (Contract, Exhibit B, Part II, Section 3, Subsection B).

Finding: The County did not provide evidence of assessment and referral procedures or a funding agreement with an appropriate provider for Narcotic Replacement Therapy, Naltrexone Treatment, Intensive Outpatient Treatment, and Perinatal Residential Treatment (excluding room and board). The lack of evidence indicates the County did not fulfill their contractual obligation to provide the following covered services;

- Narcotic replacement therapy;
- Naltrexone treatment;
- Intensive Outpatient Treatment; and
- Perinatal Residential Substance Abuse Services (excluding room and board).

5.0 MONITORING

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

COMPLIANCE DEFICIENCIES:

CD 5.9:

Exhibit A, Attachment I, Part I, Section 4, A, 2, f

- f) Contractor shall implement and maintain compliance with the system of review described in Title 22, Section 51341.1(k), for the purpose review utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.

Exhibit A, Attachment I, Part I, Section 4, B, 1, b

- b) Contractor shall conduct, at least annually, an audit of DMC providers to assure covered services are being appropriately rendered. The annual audit must include an on-site visit of the service provider. Reports of the annual review shall be provided to DHCS's Performance Management Branch at:

Finding: The County's system for ensuring DMC services are meeting all Medi-Cal requirements does not include evaluating the following areas for utilization and quality as described in Title 22, Section 51341.1(k);

- Sign-in Sheets; and
- Continuing Services Justification.

CD 5.11:

Exhibit A, Attachment I, Part I, Section 4, B, 1, b

- b) Contractor shall conduct, at least annually, an audit of DMC providers to assure covered services are being appropriately rendered. The annual audit must include an on-site visit of the service provider. Reports of the annual review shall be provided to DHCS's Performance Management Branch at:

Department of Health Care Services
SUD - Program, Policy and Fiscal Division
Performance & Integrity Branch
PO Box 997413, MS-2627
Sacramento, CA 95899-7413

Or by secure, encrypted email to: SUDCountyReports@dhcs.ca.gov

Finding: The County indicated a total of one (1) DMC monitoring report was sent to DHCS for SFY 2018-19. The County did not monitor all DMC providers. The County did monitor one (1) out of two (2) County DMC providers. The County did not submit any DMC monitoring reports secure and encrypted.

6.0 PROGRAM INTEGRITY

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

COMPLIANCE DEFICIENCIES:

CD 6.17:

Exhibit A, Attachment I, Part I, 3, A, 4, c

4. Contractor shall require all the subcontracted providers of services to be licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations. The Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:

c) Minimum Quality Treatment Standards, (Document 2F(a))

Document 2F(a), A, 5

Compliance with the following Minimum Quality Treatment Standards is required in addition to CCR Title 9 and 22 regulations for all SUD treatment programs either partially or fully funded through DMC. If conflict between regulations and standards occurs, the most restrictive shall apply.

A. Personnel Policies

5. Written roles and responsibilities and a code of conduct for the medical director shall be clearly documented, signed and dated by a program representative and physician.

22 CCR § 51341.1 (b) (28) (A) (i) (a-f)

- i. ...The substance use disorder medical director's responsibilities shall at a minimum include all of the following:
- a. Ensure that medical care provided by physicians, registered nurse practitioners, and physician assistants meets the applicable standard of care.
 - b. Ensure that physicians do not delegate their duties to non-physician personnel.
 - c. Develop and implement medical policies and standards for the provider.
 - d. Ensure that physicians, registered nurse practitioners, and physician assistants follow the provider's medical policies and standards...
 - e. Ensure that the medical decisions made by physicians are not influenced by fiscal considerations.
 - f. Ensure that provider's physicians are adequately trained to perform other physician duties, as outlined in this section.

Finding: The County did provide a copy of the written roles and responsibilities for the Medical Director of Inyo County Behavioral Health. The written roles and responsibilities did not include the following requirement(s);

- Signed and dated by the physician; and
- Signed and dated by a provider representative.

CD 6.18:

Document 2F(a), A, 5

Compliance with the following Minimum Quality Treatment Standards is required in addition to CCR Title 9 and 22 regulations for all SUD treatment programs either partially or fully funded through DMC. If conflict between regulations and standards occurs, the most restrictive shall apply.

A. Personnel Policies

5. Written roles and responsibilities and a code of conduct for the medical director shall be clearly documented, signed and dated by a program representative and physician.

Document 2F(a), A, 3

Compliance with the following Minimum Quality Treatment Standards is required in addition to CCR Title 9 and 22 regulations for all SUD treatment programs either partially or fully funded through DMC. If conflict between regulations and standards occurs, the most restrictive shall apply.

A. Personnel Policies

3. Written code of conduct for employees and volunteers/interns shall be established which addresses at least the following:
 - a) Use of drugs and/or alcohol;
 - b) Prohibition of social/business relationship with beneficiary's or their family members for personal gain;
 - c) Prohibition of sexual contact with beneficiaries;
 - d) Conflict of interest;
 - e) Providing services beyond scope;
 - f) Discrimination against beneficiary's or staff;
 - g) Verbally, physically, or sexually harassing, threatening, or abusing beneficiary's, family members or other staff;
 - h) Protection beneficiary confidentiality;
 - i) The elements found in the code of conduct(s) for the certifying organization(s) the program's counselors are certified under; and
 - j) Cooperate with complaint investigations.

Finding: The County did provide a copy of the Code of Conduct for the Medical Director of Inyo County Behavioral Health. The Code of Conduct did not include the following requirements;

- Signed and dated by the physician; and
- Signed and dated by a provider representative.

CD 6.19:

Exhibit A, Attachment I, Part III, C, 3 - 6

The CalOMS-Tx business rules and requirements are:

3. Electronic submission of CalOMS-Tx data shall be submitted by Contractor within 45 days from the end of the last day of the report month.
4. Contractor shall comply with data collection and reporting requirements established by the DHCS CalOMS-Tx Data Collection Guide (Document 3J) and all former Department of Alcohol and Drug Programs Bulletins and DHCS Information Notices relevant to CalOMS-Tx data collection.
5. Contractor shall submit CalOMS-Tx admission, discharge, annual update, resubmissions of records containing errors or in need of correction, and “provider no activity” report records in an electronic format approved by DHCS.
6. Contractor shall comply with the CalOMS-Tx Data Compliance Standards established by DHCS identified in Document 3S for reporting data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method.

Finding: The following CalOMS-Tx report is non-compliant:

- Open Admissions Report.

TECHNICAL ASSISTANCE

DHCS's County Compliance Unit Analyst will make referrals for the training and technical assistance identified below.

Quality Improvement: The County requested TA for Quality Improvement and Program Integrity efforts. DHCS's County Monitoring Analyst has been contacted and a referral has been made.

CalOMS-Tx: The County requested TA for CalOMS-Tx. DHCS's County Monitoring Analyst has been contacted and a referral has been made.

Inyo County's request for Technical Assistance was prepared and submitted on July 2, 2020.