



MICHELLE BAASS
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

November 19, 2021

Sent via e-mail to: vkelly@dbh.sbcounty.gov

Veronica Kelley, LCSW, Director, AOD Administrator
San Bernardino County Behavioral Health
303 E. Vanderbilt Way
San Bernardino, CA 92415

SUBJECT: Annual DMC-ODS County Compliance Unit Findings Report

Dear Director Kelley:

The Department of Health Care Services (DHCS) is responsible for monitoring compliance to the requirements of the Drug Medi-Cal Organized Delivery System (DMC-ODS) Waiver and the terms of the Intergovernmental Agreement operated by San Bernardino 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 San Bernardino County's State Fiscal Year 2020-21 DMC-ODS compliance review. The report identifies deficiencies, required corrective actions, new requirements, advisory recommendations, and referrals for technical assistance.

San Bernardino County is required to submit a Corrective Action Plan (CAP) addressing each compliance deficiency (CD) noted to the Medi-Cal Behavioral Health Division (MCBHD), Plan and Network Monitoring Branch (PNMB), County/Provider Operation and Monitoring Branch (CPOMB) Analyst by 1/19/2022. Please use the enclosed CAP form and submit the completed CAP and supporting documentation via email to the CPOMB liaison at MCBHDMonitoring@dhcs.ca.gov.

If you have any questions or need assistance, please contact me at susan.volmer@dhcs.ca.gov.

Sincerely,

Susan Volmer
(916) 713-8677

Audits and Investigations Division
Medical Review Branch
Behavioral Health Compliance Section
County Compliance Unit
1500 Capitol Ave., MS 2305
Sacramento, CA 95814
<http://www.dhcs.ca.gov>

Distribution:

To: Veronica A. Kelley, LCSW, Director, AOD Administrator

CC: Mateo Hernandez, Audits and Investigations, Medical Review Branch Acting Chief
Lanette Castleman, Audits and Investigations, Behavioral Health Compliance Section Chief
Ayesha Smith, Audits and Investigations, Behavioral Health Compliance Unit Chief
Cindy Berger, Audits and Investigations, Provider Compliance Unit Chief
Michael Bivians, Audits and Investigations, County Compliance Monitoring II Chief
Mayumi Hata, Medi-Cal Behavioral Health Division, County/Provider Operations and
Monitoring Branch Chief
MCBHDMonitoring@dhcs.ca.gov, County/Provider Operations and Monitoring Branch
Michael Sweitzer, San Bernardino County Program Manager

COUNTY REVIEW INFORMATION

County:

San Bernardino

County Contact Name/Title:

Michael Sweitzer, Program Manager

County Address:

303 E. Vanderbilt Way
San Bernardino, CA 92415

County Phone Number/Email:

(909) 501-0813
msweitzer@dbh.sbcounty.gov

Date of DMC-ODS Implementation:

3/1/2018

Date of Review:

10/13/21

Lead CCU Analyst:

Susan Volmer

Assisting CCU Analyst:

N/A

Report Prepared by:

Susan Volmer

Report Approved by:

Ayesha Smith

REVIEW SCOPE

- I. Regulations:
 - a. 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
 - b. Code of Federal Regulations, Title 42, Chapter IV, Subchapter C, Part 438; section 438.1 through 438.930: Managed Care

- II. Program Requirements:
 - a. Fiscal Year (FY) 2020-21 Intergovernmental Agreement (IA)
 - b. Mental Health and Substance Use Disorders Services (MHSUDS) Information Notices
 - c. Behavioral Health Information Notices (BHIN)

ENTRANCE AND EXIT CONFERENCE SUMMARIES

Entrance Conference:

An Entrance Conference was conducted via WebEx on 10/13/2021. The following individuals were present:

- Representing DHCS:
Susan Volmer, Associate Governmental Program Analyst (AGPA)
- Representing San Bernardino County:
Anabelle Miranda-Muniz, SARC Clinic Supervisor
April Guzman, Acting Administrative Supervisor II
Briceida Tompkins, Ethics and Compliance Coordinator
Catherine Smith, Interim Program Manager II
Christopher Bailey, Program Specialist I
Erica Ochoa, Chief Compliance Officer
Jennifer Alsina, Deputy Director, SUDRS
Jeron Crawford, Social Worker II
Dr. Jonathan Avalos, Addiction Medicine Physician
Kim Carson, Program Manager II
Kimberlee Van, Administrative Manager
Lisa Tomaselli, Social Worker II
Lois Mergener, Program Specialist II
Manual Ted Rodriguez, Business Application Manager
Maria Arroyo, Social Worker II
Maribel Gutierrez, Cultural Competence Officer
Marina Espinosa, Deputy Director, Program Support Services
Michael Sweitzer, Program Manager II
Natalie Sanders, Program Specialist I
Niema Burrell, Supervising Automated Systems Analyst I
Patricia Grace, Supervising Automated Systems Analyst I
Paul Terrazas, Clinical Therapist II
Robert LoPatriello, Supervising Social Worker
Tan Suphavarodom, Deputy Director, Administrative Services

During the Entrance Conference, the following topics were discussed:

- Introductions
- San Bernardino County overview of services
- Overview of monitoring process

Exit Conference:

An Exit Conference was conducted via WebEx on 10/13/2021. The following individuals were present:

- Representing DHCS:
Susan Volmer, AGPA
Jamari Robinson, AGPA

- Representing San Bernardino County:
Anabelle Miranda-Muniz, SARC Clinic Supervisor
April Guzman, Acting Administrative Supervisor II
Briceida Tompkins, Ethics and Compliance Coordinator
Catherine Smith, Interim Program Manager II
Christopher Bailey, Program Specialist I
Erica Ochoa, Chief Compliance Officer
Jennifer Alsina, Deputy Director, SUDRS
Jeron Crawford, Social Worker II
Dr. Jonathan Avalos, Addiction Medicine Physician
Kim Carson, Program Manager II
Kimberlee Van, Administrative Manager
Lisa Tomaselli, Social Worker II
Lois Mergener, Program Specialist II
Manual Ted Rodriguez, Business Application Manager
Maria Arroyo, Social Worker II
Maribel Gutierrez, Cultural Competence Officer
Marina Espinosa, Deputy Director, Program Support Services
Michael Sweitzer, Program Manager II
Natalie Sanders, Program Specialist I
Niema Burrell, Supervising Automated Systems Analyst I
Patricia Grace, Supervising Automated Systems Analyst I
Paul Terrazas, Clinical Therapist II
Robert LoPatriello, Supervising Social Worker
Tan Suphavarodom, Deputy Director, Administrative Services

During the Exit Conference, the following topics were discussed:

- Submitting follow-up evidence
- Due date for evidence submission

SUMMARY OF FY 2020-21 COMPLIANCE DEFICIENCIES (CD)

<u>Section:</u>	<u>Number of CD's</u>
1.0 Availability of DMC-ODS Services	3
2.0 Coordination of Care	0
3.0 Quality Assurance and Performance Improvement	2
4.0 Access and Information Requirements	0
5.0 Beneficiary Rights and Protections	0
6.0 Program Integrity	0

CORRECTIVE ACTION PLAN (CAP)

Pursuant to the Intergovernmental Agreement, Exhibit A, Attachment I, Part III, Section KK, 2, i each CD identified must be addressed via a CAP. The CAP is due within sixty (60) calendar days of the date of this monitoring report.

Please provide the following within the completed FY 2020-21 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 CPOMB liaison will monitor progress of the CAP completion.

Category 1: AVAILABILITY OF DMC-ODS SERVICES

A review of the administrative trainings, policies and procedures was conducted to ensure compliance with applicable regulations, and standards. The following deficiencies in availability of DMC-ODS services were identified:

COMPLIANCE DEFICIENCIES:

CD 1.3.2:

Intergovernmental Agreement Exhibit A, Attachment I, III, A, 1, iv-v

- iv. Physicians shall receive a minimum of five hours of continuing medical education related to addiction medicine each year.
- v. Professional staff (LPHAs) shall receive a minimum of five (5) hours of continuing education related to addiction medicine each year.

Findings: The Plan provided evidence from two (2) of three (3) requested DMC-ODS subcontractors demonstrating that the Medical Directors have the required CMEs in addiction medicine during FY 2019-20.

The Plan provided evidence from four (4) of six (6) requested DMC-ODS subcontractors demonstrating the LPHAs required CEUs in addiction medicine during FY 2019-20.

CD 1.3.3:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 5, i-ii

- i. The SUD 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 written 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 and LPHAs are adequately trained to perform diagnosis of substance use disorders for beneficiaries, and determine the medical necessity of treatment for beneficiaries.
 - g. Ensure that provider's physicians are adequately trained to perform other physician duties, as outlined in this section.
- ii. The SUD Medical Director may delegate his/her responsibilities to a physician consistent with the provider's medical policies and standards; however, the SUD Medical Director shall remain responsible for ensuring all delegated duties are properly performed.

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 6, v

- v. Written roles and responsibilities and a code of conduct for the Medical Director shall be clearly documented, signed and dated by a provider representative and the physician.

Findings: The Plan submitted evidence of the written roles and responsibilities for Medical Directors from only two (2) of three (3) requested network providers.

CD 1.3.5:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 6, iii, a-i

- iii. Written provider 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 beneficiaries 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 beneficiaries or staff
 - g. Verbally, physically, or sexually harassing, threatening or abusing beneficiaries, family members or other staff
 - h. Protection of beneficiary confidentiality
 - i. Cooperate with complaint investigations

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 6, v

- v. Written roles and responsibilities and a code of conduct for the Medical Director shall be clearly documented, signed and dated by a provider representative and the physician.

Findings: The Code of Conduct provided for the Medical Director of St. John of God Health Care Services, Dr. Richardson, is missing the following elements:

- Shall be clearly documented, signed and dated by a provider representative and the physician.

Category 3: QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT

A review of the practice guidelines, monitoring, and other quality assurance requirements was conducted to ensure compliance with applicable regulations and standards. The following deficiencies in quality assurance and performance improvement were identified:

COMPLIANCE DEFICIENCIES:

CD 3.2.1

Intergovernmental Agreement Exhibit A, Attachment I, III, OO, 1, i, d

1. Monitoring

- i. The Contractor's performance under this Exhibit A, Attachment I, shall be monitored by DHCS annually during the term of this Agreement. Monitoring criteria shall include, but not be limited to:
 - d. Contractor shall conduct annual onsite monitoring reviews of services and subcontracted services for programmatic and fiscal requirements. Contractor shall submit copy of their monitoring and audit reports to DHCS within two weeks of issuance. Reports should be sent by secure, encrypted e-mail to:

SUDCountyReports@dhcs.ca.gov

Alternatively, mail to:

Department of Health Care Services
Medi-Cal Behavioral Health Division
1500 Capitol Avenue, MS-2623
Sacramento, CA 95814

Intergovernmental Agreement Exhibit A, Attachment I, III, AA, 1-2 iv

1. In addition to complying with the subcontractual relationship requirements set forth in Article **Error! Reference source not found.** of this Agreement, the Contractor shall ensure that all subcontracts require that the Contractor oversee and is held accountable for any functions and responsibilities that the Contractor delegates to any subcontractor.
2. Each subcontract shall:
 - iv. Ensure the Contractor monitors the subcontractor's performance on an ongoing basis and subject it to an annual onsite review, consistent with statutes, regulations, and Article III.PP.

Findings: The Plan did not monitor county and subcontracted providers for compliance with DMC-ODS programmatic and fiscal requirements. Specifically:

- For FY 2019-20, the Plan monitored zero (0) of 35 Plan and sub-contracted providers for DMC-ODS programmatic and/or fiscal requirements.

CD 3.2.2

Intergovernmental Agreement Exhibit A, Attachment I, III, FF, 4, i, c-f

- i. The CalOMS-Tx business rules and requirements are:
 - c. 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;
 - d. 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 and reporting requirements;
 - e. 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; and
 - f. 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.

Intergovernmental Agreement Exhibit A, Attachment I, III, AA, 1-2 iv

1. In addition to complying with the subcontractual relationship requirements set forth in Article **Error! Reference source not found.** of this Agreement, the Contractor shall ensure that all subcontracts require that the Contractor oversee and is held accountable for any functions and responsibilities that the Contractor delegates to any subcontractor.
2. Each subcontract shall:
 - iv. Ensure the Contractor monitors the subcontractor’s performance on an ongoing basis and subject it to an annual onsite review, consistent with statutes, regulations, and Article III.PP.

Findings: The following CalOMS-Tx reports are non-compliant:

- Open Admissions Report
- Open Providers Report

TECHNICAL ASSISTANCE

San Bernardino County did not request Technical Assistance during this review.