



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



GAVIN NEWSOM
GOVERNOR

August 19, 2020

Sent via e-mail to: JNagel@ochca.com

Jeffery A. Nagel, PHD, Behavioral Health Director
Orange County Healthcare Agency Behavioral Health Services
405 W. 5th Street Suite 700
Santa Ana, CA 92701

SUBJECT: Annual County Compliance Report

Dear Director Nagel,

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 Orange 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 Orange County's State Fiscal Year 2019-20 DMC-ODS compliance review. The report identifies deficiencies, required corrective actions, new requirements, advisory recommendations, and referrals for technical assistance.

Orange 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 Monitoring Unit (CMU) 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 CMU analyst at MCBHDMonitoring@dhcs.ca.gov.

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

Sincerely,

Emanuel Hernandez
(916) 713-8667
emanuel.hernandez@dhcs.ca.gov

Audits and Investigations Division
Medical Review Branch
Behavioral Health Compliance Section
County Compliance Unit
1500 Capitol Ave., MS 2305
Sacramento, CA 95814
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Distribution:

To: Director Nagel, PHD, Behavioral Health Director

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MCBHDMonitoring@dhcs.ca.gov, County and Provider Monitoring Unit
Azahar Lopez, PsyD, Orange County Substance Use Disorder Support Manager

Lead CCU Analyst: Emanuel Hernandez	Date of Review: May 2020
Assisting CCU Analyst(s): N/A	Date of DMC-ODS Implementation: 06/18/2018
County: Orange County	County Address: 405 West 5 th Street, Suite 700 Santa Anna, CA 92701
County Contact Name/Title: Azahar Lopez, PsyD, SUD Support Manager	County Phone Number/Email: 714-796-0208 azlopez@ochca.com
Report Prepared by: Emanuel Hernandez	Report Approved by: Mayumi Hata

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. State Fiscal Year (SFY) 2019-20 Intergovernmental Agreement (IA)
 - b. 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	1
2.0 Member Services	0
3.0 Service Provisions	0
4.0 Access	0
5.0 Coordination of Care	0
6.0 Monitoring	3
7.0 Program Integrity	3
8.0 Compliance	2

CORRECTIVE ACTION PLAN

Pursuant to the Intergovernmental Agreement, Exhibit A, Attachment I, Part II, Section EE, 2 each CD identified must be addressed via a CAP. The CAP is due within thirty (30) calendar days of the date

of this monitoring report. Advisory Recommendations (AR) 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) The name of the person who will be responsible for corrections and ongoing compliance.

The CMU liaison will monitor progress of the CAP completion.

1.0 ADMINISTRATION

A review of the administrative trainings, policies, and procedures was conducted to ensure compliance with applicable regulations and standards. The following deficiency in administration requirements was identified:

COMPLIANCE DEFICIENCY:

CD 1.7:

Intergovernmental Agreement Exhibit A, Attachment I, 5, i, a, i-ii

- i. The Contractor shall follow the state's established uniform credentialing and re-credentialing policy that addresses behavioral and substance use disorders, outlined in DHCS Information Notice 18-019.
- ii. The Contractor shall follow a documented process for credentialing and re-credentialing of network providers.

MHSUDS Information Notice: 18-019

Effective immediately, Plans must implement and maintain written policies and procedures for the initial credentialing and re-credentialing of their providers in accordance with the policy outlined in this IN...

Credentialing Policy

For all licensed, waived, registered and/or certified providers, the Plan must verify and document the following items through a primary source, as applicable. The listed requirements are not applicable to all provider types. When applicable to the provider type, the information must be verified by the Plan unless the Plan can demonstrate the required information has been previously verified by the applicable licensing, certification and/or registration board.

1. The appropriate license and/or board certification or registration, as required for the particular provider type;
2. Evidence of graduation or completion of any required education, as required for the particular provider type;
3. Proof of completion of any relevant medical residency and/or specialty training, as required for the particular provider type; and
4. Satisfaction of any applicable continuing education requirements, as required for the particular provider type.

In addition, Plans must verify and document the following information from each network provider, as applicable, but need not verify this information through a primary source:

1. Work history;
2. Hospital and clinic privileges in good standing;
3. History of any suspension or curtailment of hospital and clinic privileges;
4. Current Drug Enforcement Administration identification number;
5. National Provider Identifier number;
6. Current malpractice insurance in an adequate amount, as required for the particular provider type;
7. History of liability claims against the provider;
8. Provider information, if any, entered in the National Practitioner Data Bank, when applicable. See <https://www.npdb.hrsa.gov/>;
9. History of sanctions from participating in Medicare and/or Medicaid/Medi-Cal: providers terminated from either Medicare or Medi-Cal, or on the Suspended and Ineligible

- Provider List, may not participate in the Plan's provider network. This list is available at: <http://files.medi-cal.ca.gov/pubsdoco/SandILanding.asp>; and
10. History of sanctions or limitations on the provider's license issued by any state's agencies or licensing boards...

Provider Re-credentialing

DHCS requires each Plan to verify and document at a minimum every three years that each network provider that delivers covered services continues to possess valid credentials, including verification of each of the credentialing requirements listed above. The Plan must require each provider to submit any updated information needed to complete the re-credentialing process, as well as a new signed attestation. In addition to the initial credentialing requirements, re-credentialing should include documentation that the Plan has considered information from other sources pertinent to the credentialing process, such as quality improvement activities, beneficiary grievances, and medical record reviews.

Finding: The Plan's policy for Credentialing and Re-Credentialing has not received final approval and is currently in draft form.

6.0 MONITORING

The following deficiencies in monitoring were identified:

COMPLIANCE DEFICIENCIES:

CD 6.25:

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

1. Monitoring

- i. Contractor's performance under this Exhibit A, Attachment I, shall be monitored by DHCS annually during the term is the 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
Audits and Investigations Division
Medical Review Branch
Behavioral Health Compliance Section
County Compliance Unit
1500 Capitol Ave., MS 2305
Sacramento, CA 95814

Finding: The Plan indicated a total of sixteen (16) DMC-ODS monitoring reports were sent to DHCS for SFY 2018-19. The Plan did not monitor all providers for DMC-ODS programmatic requirements. The Plan did monitor sixteen (16) of twenty-four (24) Plan and sub-contracted providers for DMC-ODS programmatic requirements. The Plan did submit sixteen (16) of sixteen (16) DMC-ODS programmatic monitoring reports secure and encrypted. The Plan did submit fifteen (15) of sixteen (16) DMC-ODS programmatic monitoring reports to DHCS within two weeks of report issuance. The Plan did submit one (1) of sixteen (16) DMC-ODS programmatic monitoring reports to DHCS more than two weeks after report issuance.

CD 6.27

Intergovernmental Agreement Exhibit A, Attachment I, III, EE, 2 & 5

2. If significant deficiencies or significant evidence of noncompliance with the terms of the DMC-ODS waiver, or this Agreement, are found in a county, DHCS shall engage the Contractor to determine if there are challenges that can be addressed with facilitation and technical assistance. If the Contractor remains noncompliant, the Contractor shall submit a CAP to DHCS. The CAP shall detail how and when the Contractor shall remedy the issue(s). DHCS may remove the Contractor from participating in the Waiver if the CAP is not promptly implemented.

5. The Contractor shall monitor and attest compliance and/or completion by providers with CAP requirements (detailed in Article III.DD) of this Exhibit as required by any PSPP review. The Contractor shall attest to DHCS, using the form developed by DHCS that the requirements in the CAP have been completed by the Contractor and/or the provider. Submission of DHCS Form 8049 by Contractor shall be accomplished within the timeline specified in the approved CAP, as noticed by DHCS.

Finding: The Plan did not submit 8049 forms attesting to compliance with CAPs by network providers regarding DMCM Postservice Prepayment.

CD 6.33

Intergovernmental Agreement Exhibit A, Attachment I, III, BB, 2, ii

- i. Contractor and subcontractors that provide DMC services shall be responsible for verifying the Medi-Cal eligibility of each beneficiary for each month of service prior to billing for DMC services to that beneficiary for that month. Medi-Cal eligibility verification should be performed prior to rendering service, in accordance with and as described in the DHCS DMC Provider Billing Manual. Options for verifying the eligibility of a Medi-Cal beneficiary are described in the Department of Health Care Services DMC Provider Billing Manual.

Finding: The Plan does not ensure network providers are verifying DMC eligibility for each beneficiary, for each month of service.

7.0 PROGRAM INTEGRITY

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

COMPLIANCE DEFICIENCIES:

CD 7.44:

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

Finding: The Plan did provide the written roles and responsibilities of the Medical Director from the following network provider: Western Pacific Med – Corp (Medical Director Macareg). The written roles and responsibilities did not contain the required elements:

- Ensure that medical care provided by physicians, registered nurse practitioners, and physician assistants meets the applicable standard of care.
- Ensure that physicians do not delegate their duties to non-physician personnel.
- Develop and implement written medical policies and standards for the provider.
- Ensure that physicians, registered nurse practitioners, and physician assistants follow the provider's medical policies and standards.
- Ensure that the medical decisions made by physicians are not influenced by fiscal considerations.
- 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.
- Ensure that provider's physicians are adequately trained to perform other physician duties, as outlined in this section.

CD 7.45:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 7, 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, 7, 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.

Finding: The Plan's SUD program Medical Director's signed Code of Conduct for Western Pacific Med – Corp (Medical Director Macareg) is missing the following elements:

- Use of drugs and/or alcohol.
- Prohibition of social/business relationship with beneficiaries or their family members for personal gain.
- Prohibition of sexual contact with beneficiaries.
- Conflict of interest.
- Providing services beyond scope.
- Discrimination against beneficiaries or staff.
- Verbally, physically, or sexually harassing, threatening or abusing beneficiaries, family members or other staff.
- Protection of beneficiary confidentiality.
- Cooperate with complaint investigations.
- Shall be clearly documented, signed and dated by a provider representative and the physician.

CD 7.46:

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 II E 8 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.

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.
 - 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.

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

- Open Admissions Report.
- Open Providers Report.

8.0 COMPLIANCE

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

COMPLIANCE DEFICIENCIES:

CD 8.53

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 8, ii, v, a

- a. The Contractor agrees to cure transactions errors or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the Contractor is acting as a clearinghouse for that provider. If the Contractor is a clearinghouse, the Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

Finding: The Plan has not resolved previous deficiencies identified by DHCS in SFY 2018-19, CD 4.26 Credentialing/Re-credentialing.

CD 8.58

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 8, ii, v, a

- a. The Contractor agrees to cure transactions errors or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the Contractor is acting as a clearinghouse for that provider. If the Contractor is a clearinghouse, the Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

Finding: The Plan has not resolved previous deficiencies identified by DHCS in SFY 2018-19, CD 8.58 Policy and Procedure describing the expected roles and responsibilities for DMC-ODS Medical Directors.

TECHNICAL ASSISTANCE

Orange County did not request any technical assistance for SFY 2019-20