



MICHELLE BAASS
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

March 1, 2022

Sent via e-mail to: Suzanne.tavano@cchealth.org

Suzanne Tavano, PHN, PhD, Behavioral Health Director
Contra Costa County Behavioral Health Services
1340 Arnold Drive, Suite 200
Martinez, CA 94553

SUBJECT: Annual DMC-ODS County Compliance Unit Findings Report

Dear Director Tavano:

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 Contra Costa 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 Contra Costa County's State Fiscal Year 2021-22 DMC-ODS compliance review. The report identifies deficiencies, required corrective actions, new requirements, advisory recommendations, and referrals for technical assistance.

Contra Costa 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 5/2/2022. 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 becky.counter@dhcs.ca.gov.

Sincerely,

Becky Counter
(916) 713-8567

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 Tavano,

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MCBHDMonitoring@dhcs.ca.gov, County Provider Operations and Monitoring Branch
Fatima Matal Sol, Contra Costa County AODS Administrator

COUNTY REVIEW INFORMATION

County:
Contra Costa

County Contact Name/Title:
Fatima Matal Sol/AODS Administrator

County Address:
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Martinez, CA 94553

County Phone Number/Email:
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Date of DMC-ODS Implementation:
7/1/2017

Date of Review:
1/12/2022

Lead CCU Analyst:
Becky Counter

Assisting CCU Analyst:
N/A

Report Prepared by:
Becky Counter

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. Fiscal Year (FY) 2021-22 Intergovernmental Agreement (IA)
 - c. Mental Health and Substance Use Disorders Services (MHSUDS) Information Notices
 - d. Behavioral Health Information Notices (BHIN)

ENTRANCE AND EXIT CONFERENCE SUMMARIES

Entrance Conference:

An Entrance Conference was conducted via WebEx on 1/12/2022. The following individuals were present:

- Representing DHCS:
Becky Counter, Associate Governmental Program Analyst (AGPA)
Kionna Howard, AGPA
- Representing Contra Costa County:
Fatima Matal Sol, AODS Administrator
Mark Messerer, Program Manager, Quality Management and Compliance
Michelle Richardson, Program Manager
Sonya Blunt, Program Supervisor
Patricia Rogers, Program Manager
Danelyn Razon, Finance
Nick Carofanello, Finance
Pepe Nuval, Finance
Chris Pedraza, Program Manager
Alison Liu, Planner-evaluator
David Kekuewa, Data Analyst

During the Entrance Conference, the following topics were discussed:

- Introductions
- Overview of the monitoring process
- Contra Costa County overview of services

Exit Conference:

An Exit Conference was conducted via WebEx on 1/12/2022. The following individuals were present:

- Representing DHCS:
Becky Counter, AGPA
Kionna Howard, AGPA
- Representing Contra Costa County:
Fatima Matal Sol, AODS Administrator
Mark Messerer, Program Manager, Quality Management and Compliance
Michelle Richardson, Program Manager
Sonya Blunt, Program Supervisor
Patricia Rogers, Program Manager
Danelyn Razon, Finance
Nick Carofanello, Finance
Pepe Nuval, Finance
Chris Pedraza, Program Manager
Alison Liu, Planner-evaluator
David Kekuewa, Data Analyst

During the Exit Conference, the following topics were discussed:

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

SUMMARY OF FY 2021-22 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	4
4.0 Access and Information Requirements	3
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 2021-22 CAP:

- a) DHCS' CAP Template used to document process.
- b) A list of action steps to be taken to correct the CD.
- c) The name of the person who will be responsible for corrections and ongoing compliance.
- d) Provide a specific description on how ongoing compliance is ensured
- e) A date of completion for each CD.

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 1.2.1:

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

- i. The Contractor shall implement written policies and procedures for selection and retention of network providers and the implemented policies and procedures, at a minimum, meet the following requirements:
 - a. Credentialing and re-credentialing requirements.
 - 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 CREDENTIALING POLICY 2018

For all licensed, waived, registered and/or certified providers⁴, the Plan must verify and document the following items through a primary source, ⁵ 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.medical.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.

Findings: The Plan provided evidence demonstrating implemented policies and procedures for the selection and retention of network providers; however, the policies and procedures were missing the following element:

- 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.medical.ca.gov/pubsdoco/SandILanding.asp>.

CD 1.4.8:

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

iv. Physicians shall receive a minimum of five hours of continuing medical education related to addiction medicine each year.

Findings: The Plan did not provide evidence demonstrating the Discovery House physician, Dr. Bertam, received the annual five (5) hours of continuing medical education in addiction medicine. Specifically:

- The continuing medical education for calendar year 2019 for Discovery House physician, Dr. Bertam, was not provided.

The Plan did not provide evidence demonstrating the REACH Project physician, Dr. Wada, received the annual five (5) hours of continuing medical education in addiction medicine. Specifically:

- The continuing medical education for calendar year 2019 for REACH Project physician, Dr. Wada, was not provided.
- The continuing medical education for calendar year 2020 for REACH Project physician, Dr. Wada, was not provided.

CD 1.4.9:

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

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

Findings: The Plan did not provide evidence demonstrating Contra Costa County's professional staff (LPHAs) received the annual five (5) hours of continuing education units in addiction medicine.

Specifically:

- The Plan submitted continuing education units for one (1) of three (3) County LPHA staff for calendar year 2020.
- The continuing education units submitted for calendar year 2020 for Lauren Greene did not indicate the number of hours and was not indicated as continuing education units.

The Plan did not provide evidence demonstrating Bi-Bett Diablo Valley Ranch professional staff (LPHA) received the annual five (5) hours of continuing education in addiction medicine. Specifically:

- The Plan submitted continuing education units for one (1) of three (3) subcontractor LPHA staff for calendar year 2019.
- The Plan submitted continuing education units for two (2) of three (3) subcontractor LPHA staff for calendar year 2020.

The Plan did not provide evidence demonstrating the BiBett Pueblos del Sol professional staff (LPHA) received the annual five (5) hours of continuing education in addiction medicine. Specifically:

- The Plan submitted continuing education units for one (1) of three (3) subcontractor LPHA staff for calendar year 2019.
- The Plan submitted continuing education units for two (2) of three (3) subcontractor LPHA staff for calendar year 2020.

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 3.2.3:

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 did not provide evidence demonstrating the written roles and responsibilities for REACH Project's Medical Director, Dr. Wada, includes all required elements. The following required element is missing, specifically:

- Develop and implement medical policies and standards for the provider.

CD 3.2.4:

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 Plan did not provide evidence demonstrating the Code of Conduct for Contra Costa County's Medical Director, Dr. Matthew P White, M.D., includes all required elements. The following required elements are missing, specifically:

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

The Plan did not provide evidence demonstrating the Code of Conduct for Bright Heart Health's Medical Director includes all required elements. The following required elements are missing, specifically:

- Signed and dated by the physician;
- Signed and dated by a provider representative;
- Use of drugs and/or alcohol;
- Prohibition of social/business relationship with beneficiary's or their family members for personal gain;
- Prohibition of sexual contact with beneficiaries;
- Conflict of interest;

- Providing services beyond scope;
- Discrimination against beneficiary's or staff;
- Verbally, physically, or sexually harassing, threatening, or abusing beneficiary's, family members or other staff;
- Protection beneficiary confidentiality; and
- Cooperate with complaint investigations.

CD 3.2.5:

Intergovernmental Agreement Exhibit A, Attachment I, III, CC, 9

9. The Contractor shall implement mechanisms to monitor the safety and effectiveness of medication practices. The monitoring mechanism shall be under the supervision of a person licensed to prescribe or dispense prescription drugs. Monitoring shall occur at least annually.

Findings: The Plan did not provide evidence of implemented annual monitoring for the safety and effectiveness of medication practices.

CD 3.4.1:

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.

Findings: The Plan's Open Admissions report is not in compliance.

Category 4: ACCESS AND INFORMATION REQUIREMENTS

A review of the access and information requirements for the access line, language and format requirements and general information was conducted to ensure compliance with applicable regulations and standards. The following deficiencies in access and information requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 4.1.1:

Intergovernmental Agreement Exhibit A, Attachment I, III, II, 1

1. Contractor shall include instructions on record retention and include in any subcontract with providers the mandate to keep and maintain records for each service rendered, to whom it was rendered, and the date of service, pursuant to WIC 14124.1 and 42 CFR 438.3(h) and 438.3(u).

WIC 14124.1

Each provider, as defined in Section 14043.1, of health care services rendered under the Medi-Cal program or any other health care program administered by the department or its agents or contractors, shall keep and maintain records of each service rendered under the Medi-Cal program or any other health care program administered by the department or its agents or contractors, the beneficiary or person to whom rendered, the date the service was rendered, and any additional information as the department may by regulation require. 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.

Findings: The Plan did not provide evidence demonstrating 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.

CD 4.2.2:

Intergovernmental Agreement Exhibit A, Attachment I, III, F, 3, x

- x. Have a 24/7 toll free number for prospective beneficiaries to call to access DMC-ODS services and make oral interpretation services available for beneficiaries, as needed.

Intergovernmental Agreement Exhibit A, Attachment I, III, CC, 5

5. The QM Program shall conduct performance-monitoring activities throughout the Contractor's operations. These activities shall include, but not be limited to, beneficiary and system outcomes, utilization management, utilization review, provider appeals, credentialing and monitoring, and resolution of beneficiary grievances.

Findings: A minimum of two test calls were conducted for the Plan's 24/7 toll free number posted on the County's website. The responses to the test calls resulted in a barrier to access DMC-ODS services for prospective beneficiaries calling.

The test calls are summarized below:

Test Call 1: 12/13/2021 call placed at 7am was received by a Contra Costa County access line staff named Ray. Ray explained the process of evaluation, screening and full assessment would occur with a clinician between the hours of 8am-5pm Monday-Friday and if additional services are needed, he provided the crisis line information number 1 800-833-2900. He verified that this access line could be used at any time if assistance is needed and restated that clinicians are available from 8-5. This call was satisfactory and determined to be in compliance.

Test Call 2: 12/13/2021 call placed at 10:42am, only a recording was available which identified the service being Contra Costa County's access line and provided instruction that if this was an emergency to contact 911. At 10:45 the recording requested that I leave my name and number to receive a return call, however I did not provide this information and noted this as a barrier to service delivery. This call was non-compliant as it failed to provide access to services available within the County.

CD 4.3.1:

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 4, i

4. Hatch Act

- i. Contractor agrees to comply with the provisions of the Hatch Act (Title 5 USC, Sections 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 18, i

18. Subcontract Provisions

- i. Contractor shall include all of the foregoing provisions in all of its subcontracts.

Findings: The Plan did not provide evidence demonstrating all of the foregoing Intergovernmental Agreement, Exhibit A, Attachment I, Section III, Y, general provisions are included in all executed subcontracts, specifically the Hatch Act.

TECHNICAL ASSISTANCE

DHCS's County Compliance Unit Analyst will make referrals to the DHCS' CPOMB County Liaison for the training and/or technical assistance areas identified below:

Quality Assurance and Performance Improvement: Safety and effectiveness of medication practices.

Program Integrity: Effective models or processes to verify beneficiaries received services provided.