

March 9, 2023

THIS LETTER SENT VIA EMAIL TO: Suzanne.Tavano@cchealth.org

Suzanne K. Tavano, Director  
Contra Costa County Behavioral Health Services  
1340 Arnold Drive  
Martinez, CA 94553

SUBJECT: ANNUAL COUNTY COMPLIANCE SECTION DMC-ODS 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) and the terms of the Intergovernmental Agreement operated by Contra Costa County.

The County Compliance Section (CCS) 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 Fiscal Year 2022-23 DMC-ODS compliance review. The report identifies deficiencies, required corrective actions, advisory recommendations, and referrals for technical assistance.

Contra Costa County is required to submit a Corrective Action Plan (CAP) addressing each compliance deficiency (CD) to the Medi-Cal Behavioral Health – Oversight and Monitoring Division (MCBH-OMD), County/Provider Operations and Monitoring Branch (CPOMB) Liaison by 5/9/2023. Please use the enclosed CAP form to submit the completed CAP and supporting documentation via the MOVEit Secure Managed File Transfer System. For instructions on how to submit to the correct MOVEit folder, email [MCBHOMDMonitoring@dhcs.ca.gov](mailto:MCBHOMDMonitoring@dhcs.ca.gov).

If you have any questions, please contact me at [emanuel.hernandez@dhcs.ca.gov](mailto:emanuel.hernandez@dhcs.ca.gov).

Sincerely,



Emanuel Hernandez | County Compliance Monitoring II Analyst

County Compliance Report  
Contra Costa

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Distribution:

To: Director Tavano,

Cc: Mateo Hernandez, Audits and Investigations, Medical Review Branch Acting Chief  
Catherine Hicks, Audits and Investigations, Behavioral Health Compliance Section Chief  
Ayesha Smith, Audits and Investigations, Behavioral Health Compliance Unit Chief  
Michael Bivians, Audits and Investigations, County Compliance Monitoring II Chief  
Cindy Berger, Audits and Investigations, Provider Compliance Unit Chief  
Sergio Lopez, County/Provider Operations Monitoring Section I Chief  
Tony Nguyen, County/Provider Operations Monitoring Section II Chief  
[MCBHOMDMonitoring@dhcs.ca.gov](mailto:MCBHOMDMonitoring@dhcs.ca.gov), County/Provider Operations and Monitoring Branch  
Fatima Matal Sol, Contra Costa County Behavioral Health Alcohol and Other Drug Services

## COUNTY REVIEW INFORMATION

**County:**

Contra Costa

**County Contact Name/Title:**

Fatima Matal Sol,  
Alcohol & Other Drug Services Program Chief

**County Address:**

1220 Morello Ave  
Martinez, CA 94553

**County Phone Number/Email:**

(925) 335-3307  
Fatima.MatalSol@cchealth.org

**Date of DMC-ODS Implementation:**

07/01/2017

**Date of Review:**

2/9/2023

**Lead CCM Analyst:**

Emanuel Hernandez

**Assisting CCM Analyst:**

N/A

**Report Prepared by:**

Emanuel Hernandez

**Report Approved by:**

Ayesha Smith

## **REVIEW SCOPE**

- I. Regulations:
  - a. Special Terms and Conditions (STCs) for California Advancing & Innovating Medi-Cal (CalAIM) 1915(b) Waiver
  - b. Code of Federal Regulations, Title 42, Chapter IV, Subchapter C, Part 438; section 438.1 through 438.930: Managed Care
  - c. California Code of Regulations, Title 9, Division 4: Department of Drug and Alcohol Programs
  - d. California Health and Safety Code, Chapter 3 of Part 1, Division 10.5: Alcohol and Drug Programs
  - e. California Welfare and Institutions Code, Division 9, Part 3, Chapter 7, sections 14000 et seq., in particular but not limited to sections 14100.2, 14021, 14021.5, 14021.6, 14021.51-14021.53, 14124.20-14124.25, 14043, et seq., 14184.100 et seq. and 14045.10 et seq.: Basic Health Care
- II. Program Requirements:
  - a. Fiscal Year (FY) 2021-22 Intergovernmental Agreement (IA)
  - b. Fiscal Year (FY) 2022-23 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 2/9/2023. The following individuals were present:

- Representing DHCS:  
Emanuel Hernandez, County Compliance Monitoring II (CCM II) Analyst
- Representing Contra Costa County:  
Fatima Matal Sol, Alcohol & Other Drugs Services Program Chief  
Mark Messerer, Quality Assurance Manager  
Sofia Compos, Planner Evaluator  
Alison Campos, Planner Evaluator

During the Entrance Conference, the following topics were discussed:

- Introductions
- Overview of review process
- Overview of services provided

### **Exit Conference:**

An Exit Conference was conducted via WebEx on 2/9/2023. The following individuals were present:

- Representing DHCS:  
Emanuel Hernandez, CCM II Analyst
- Representing Contra Costa County:  
Fatima Matal Sol, Alcohol & Other Drugs Services Program Chief  
Mark Messerer, Quality Assurance Manager  
Sofia Compos, Planner Evaluator  
Alison Campos, Planner Evaluator

During the Exit Conference, the following topics were discussed:

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

## **SUMMARY OF FY 2022-23 COMPLIANCE DEFICIENCIES (CD)**

<b><u>Section:</u></b>		<b><u>Number of CDs</u></b>
1.0	Availability of DMC-ODS Services	2
2.0	Coordination of Care Requirements	0
3.0	Quality Assurance and Performance Improvement	1
4.0	Access and Information Requirements	3
5.0	Beneficiary Rights and Protections	0
6.0	Program Integrity	1

## **CORRECTIVE ACTION PLAN (CAP)**

Pursuant to the Intergovernmental Agreement, Exhibit A, Attachment I, Part III, Section QQ 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 2022-23 CAP:

- a) A list of action steps to be taken to correct the CD.
- b) The name of the person who will be responsible for corrections and ongoing compliance.
- c) Provide a specific description on how ongoing compliance is ensured.
- d) 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 1.2.2:**

Intergovernmental Agreement Exhibit A, Attachment I, III, J, 3

3. The Contractor shall only select providers that have a Medical Director who, prior to the delivery of services under this Agreement, has enrolled with DHCS under applicable state regulations, has been screened in accordance with 42 CFR 455.450(a) as a “limited” categorical risk within a year prior to serving as a Medical Director under this Agreement, and has signed a Medicaid provider agreement with DHCS as required by 42 CFR 431.107.

**Findings:** The Plan did not provide evidence to demonstrate subcontracted network providers only select providers that have a Medical Director who:

- Enrolled with DHCS under applicable state regulations.
- Screened as a “limited” categorical risk within a year prior to serving as a Medical Director.
- Signed a Medicaid provider agreement with DHCS.



**CD 1.2.4:**

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

Attestation

For all network providers who deliver covered services, each provider's application to contract with the Plan must include a signed and dated statement attesting to the following:

- 1. Any limitations or disabilities that affect the provider's ability to perform any of the position's essential functions, with or without accommodation;
- 2. A history of loss of license or felony conviction;
- 3. A history of loss or limitation of privileges or disciplinary activity;
- 4. A lack of present illegal drug use; and
- 5. The application's accuracy and completeness.

42 CFR §438.214

**Findings:** The Plan did not provide evidence to demonstrate the completion of two (2) credentialing attestations for licensed providers employed by Placer County for fiscal 2021/2022.

## **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 deficiency in quality assurance and performance improvement was identified:

### **COMPLIANCE DEFICIENCY:**

#### **CD 3.2.3:**

Intergovernmental Agreement Exhibit A, Attachment I, III, RR, 5, iii

5. The monitoring of accessibility of services outlined in the Quality Improvement (QI) Plan will at a minimum include:
  - iii. Timeliness of services of the first dose of NTP services.

**Findings:** The Plan did not provide evidence to demonstrate monitoring Network providers for accessibility of services as described in a QI Plan, specifically:

- Timeliness of services of the first dose of NTP services.

## **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 4.1.2:**

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

1. The Contractor shall notify the Department of the termination of any subcontract with a certified provider, and the basis for termination of the subcontract, within two business days. The Contractor shall submit the notification using a Secure Managed File Transfer system specified by DHCS.

**Findings:** The Plan did not provide evidence to demonstrate a process to notify DHCS within two (2) business days regarding the termination, and the basis for the termination of a subcontract with a certified provider.

#### **CD 4.3.2:**

Intergovernmental Agreement Exhibit A, Attachment I, III, CC, 15, i-xiii

##### **15. Federal Law Requirements:**

- i. Title VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally funded programs.
- ii. Title IX of the Education Amendments of 1972 (regarding education and programs and activities), if applicable.
- iii. Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing.
- iv. Age Discrimination Act of 1975 (45 CFR Part 90), as amended (42 USC Sections 6101 – 6107), which prohibits discrimination on the basis of age.
- v. Age Discrimination in Employment Act (29 CFR Part 1625).
- vi. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
- vii. Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.
- viii. Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access.
- ix. Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of individuals with disabilities.

- x. Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60) regarding nondiscrimination in employment under federal contracts and construction contracts greater than \$10,000 funded by federal financial assistance.
- xi. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.
- xii. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.
- xiii. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.

Intergovernmental Agreement Exhibit A, Attachment, III, CC, 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 to demonstrate all Federal Law Requirements from the Intergovernmental Agreement, Exhibit A, Attachment I, III, CC, 15, i-xiii, foregoing provision is included in all subcontracts, specifically missing:

- Executive Order 13166 (67 FR 41455).
- The Drug Abuse Office and Treatment Act of 1972.
- The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616).

**CD 4.3.3:**

Intergovernmental Agreement Exhibit A, Attachment I, III, CC, 16, i-v

16. State Law Requirements:

- i. Fair Employment and Housing Act (Gov. Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Code Regs., tit. 2, Div. 4 § 7285.0 et seq.).
- ii. Title 2, Division 3, Article 9.5 of the Gov. Code, commencing with Section 11135.
- iii. Cal. Code Regs., tit. 9, div. 4, chapter 8, commencing with §10800.
- iv. No state or Federal funds shall be used by the Contractor, or its subcontractors, for sectarian worship, instruction, and/or proselytization. No state funds shall be used by the Contractor, or its subcontractors, to provide direct, immediate, or substantial support to any religious activity.
- v. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for state to withhold payments under this Agreement or terminate all, or any type, of funding provided hereunder.

Intergovernmental Agreement Exhibit A, Attachment I, III, CC, 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 to demonstrate all State Law Requirements from the Intergovernmental Agreement, Exhibit A, Attachment I, III, CC, 16, i-v, foregoing provision is included in all subcontracts, specifically missing:

- Fair Employment and Housing Act.
- Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.

## Category 6: PROGRAM INTEGRITY

A review of the compliance program, service verification, and fraud reporting was conducted to ensure compliance with applicable regulations and standards. The following deficiency in program integrity was identified:

### COMPLIANCE DEFICIENCY:

#### **CD 6.3.1**

Intergovernmental Agreement Exhibit A, Attachment I, II, B, 1 iv, a-b

- iv. Compliance with applicable laws and conflict of interest safeguards.
  - a. The Contractor shall comply with all applicable Federal and state laws and regulations including:
    - i. Title VI of the Civil Rights Act of 1964.
    - ii. Title IX of the Education Amendments of 1972 (regarding education programs and activities).
    - iii. The Age Discrimination Act of 1975; the Rehabilitation Act of 1973.
    - iv. The Americans with Disabilities Act of 1990 as amended.
    - v. Section 1557 of the Patient Protection and Affordable Care Act.
  - b. The Contractor shall comply with the conflict of interest safeguards described in 42 CFR §438.58 and with the prohibitions described in section 1902(a)(4)(C) of the Act applicable to contracting officers, employees, or independent contractors.

**Findings:** The Plan did not provide evidence to demonstrate Plan and subcontractor compliance with the conflict of interest safeguards described in 42 CFR §438.58 and with the prohibitions described in section 1902(a)(4)(C) of the Act applicable to contracting officers, employees, or independent contractors.

## **TECHNICAL ASSISTANCE**

Contra Costa County did not request technical assistance.