



August 14, 2023

THIS LETTER SENT VIA EMAIL TO: Nicole.Ebrahimi-Nuyken@edcgov.us

Nicole Ebrahimi-Nuyken, Director
El Dorado County Health and Human Services
768 Pleasant Valley Road, Suite 201
Diamond Springs, CA 95619

SUBJECT: ANNUAL COUNTY COMPLIANCE SECTION DMC-ODS FINDINGS REPORT

Dear Director Ebrahimi-Nuyken:

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 El Dorado County.

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

El Dorado 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 10/13/23. 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.

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

Sincerely,

Susan Volmer | Compliance Monitoring II Analyst

Distribution:

To: Director Nicole Ebrahimi-Nuyken,

Cc: Mateo Hernandez, Audits and Investigations, Contracts and Enrollment Review
Division Chief
Catherine Hicks, Audits and Investigations, Behavioral Health Compliance
Branch Chief
Ayesha Smith, Audits and Investigations, County Compliance Section Chief
Michael Bivians, Audits and Investigations, County Compliance Monitoring II Chief
Cindy Berger, Audits and Investigations, Provider Compliance Section Chief
Sergio Lopez, County/Provider Operations Monitoring Section I Chief
Tony Nguyen, County/Provider Operations Monitoring Section II Chief
MCBHOMDMonitoring@dhcs.ca.gov, County/Provider Operations and
Monitoring Branch
Salina Drennan, El Dorado County Alcohol and Drug Programs Division Manager

COUNTY REVIEW INFORMATION

County:
El Dorado

County Contact Name/Title:
Salina Drennan/Alcohol and Drug Programs Division Manager

County Address:
768 Pleasant Valley Road, Suite 201
Diamond Springs, CA 95619

County Phone Number/Email:
(530) 621-6207
salina.drennan@edcgov.us

Date of Review:
6/15/2023

Date of DMC-ODS Implementation:
6/1/19

Lead CCM Analyst:
Susan Volmer

Assisting CCM 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 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 6/15/2023. The following individuals were present:

- Representing DHCS:
Susan Volmer, County Compliance Monitoring II (CCM II) Analyst

- Representing El Dorado County:
Salina Drennan, Alcohol and Drug Programs Division Manager
Ramona Diaz, HHSA Fiscal Manager
Shaun O'Malley, Supervising Health Education Coordinator-SUDS
Kristin Gula, Supervising Accountant Auditor
Christianne Kernes, LMFT, Behavioral Health Deputy Director
Colleen M. Aiello, Accountant II HHSA Administration

During the Entrance Conference, the following topics were discussed:

- Introductions
- Plan overview of services provided
- DHCS overview of review process

Exit Conference:

An Exit Conference was conducted via WebEx on 6/15/2023. The following individuals were present:

- Representing DHCS:
Susan Volmer, CCM II Analyst

- Representing El Dorado County:
Salina Drennan, Alcohol and Drug Programs Division Manager
Ramona Diaz, HHSA Fiscal Manager
Shaun O'Malley, Supervising Health Education Coordinator-SUDS
Kristin Gula, Supervising Accountant Auditor
Christianne Kernes, LMFT, Behavioral Health Deputy Director
Colleen M. Aiello, Accountant II HHSA Administration

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)

| <u>Section:</u> | <u>Number of CDs</u> |
|---|----------------------|
| 1.0 Availability of DMC-ODS Services | 4 |
| 2.0 Coordination of Care Requirements | 1 |
| 3.0 Quality Assurance and Performance Improvement | 1 |
| 4.0 Access and Information Requirements | 0 |
| 5.0 Beneficiary Rights and Protections | 0 |
| 6.0 Program Integrity | 2 |

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 1.1.4:

Intergovernmental Agreement Exhibit A, Attachment I, III, C, 2, ii-iv

- ii. In accordance with the Early Periodic Screening, Diagnostic and Treatment (EPSDT) mandate under section 1905(r) of the Act, the Contractor shall ensure that all beneficiaries under age 21 receive all applicable SUD services needed to correct or ameliorate health conditions that are coverable under section 1905(a) of the Act. Nothing in the DMC-ODS limits or modifies the scope of the EPSDT mandate, and a participating DMC-ODS County is responsible for the provision of SUD services pursuant to the EPSDT mandate.
- iii. DMC-ODS services must be medically necessary. Pursuant to W&I Code section 14059.5(a) for individuals 21 years of age or older, a service is “medically necessary” or a “medical necessity” when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.
- iv. For individuals under 21 years of age, a service is “medically necessary” or a “medical necessity” if the service is necessary to correct or ameliorate screened health conditions. Consistent with federal guidance, services need not be curative or completely restorative to ameliorate a health condition, including substance misuse and SUDs. Services that sustain, support, improve, or make more tolerable substance misuse or an SUD are considered to ameliorate the condition and are thus covered as EPSDT services. (Section 1396d(r)(5) of Title 42 of the United States Code; W&I Code section 14059.5(b)(1)).

BHIN 22-003

Under the EPSDT mandate, in addition to Medi-Cal managed care plans’ obligation to provide EPSDT screening services and non-specialty mental health services to all members under age 21, as well as provide Alcohol and Drug Screening, Assessment, Brief Interventions and Referral to Treatment (SABIRT) services to members ages 11 years and older with a potential SUD or condition, counties are obligated to provide screening and early intervention services to beneficiaries under the age of 21 at risk of developing an SUD regardless of whether they meet diagnosis criteria for a behavioral health disorder. Any beneficiary under the age of 21 who is screened and determined to be at risk of developing an SUD may receive any service component covered under the outpatient level of care as early intervention services. A diagnosis from the Diagnostic and Statistical Manual or International Classification of Diseases, Tenth Edition (ICD-10) for Substance-

Related and Addictive Disorders is not required for early intervention services. Early intervention services are provided under the outpatient treatment modality and must be made available by counties based on individual clinical need, even if the beneficiary under age 21 is not participating in the full array of outpatient treatment services.

Findings: The Plan did not provide evidence to demonstrate Alcohol and Drug Screening, Assessment, and Brief Interventions and Referral to Treatment (SABIRT) services are available to beneficiaries 11 and older.

CD 1.2.1:

Intergovernmental Agreement Exhibit A, Attachment I, II, H, 6, i-v

- i. The Contractor and its subcontractors shall not knowingly have a relationship of the type described in paragraph (iii) of this subsection with the following:
 - a. An individual or entity that is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549.
 - b. An individual or entity who is an affiliate, as defined in the Federal Acquisition Regulation at 48 CFR 2.101, of a person described in paragraph (a)(1) of this section.
- ii. The Contractor and its subcontractors shall not have a relationship with an individual or entity that is excluded from participation in any Federal Health Care Program under section 1128 or 1128A of the Act.
- iii. The relationships described in paragraph (i) of this section, are as follows:
 - a. A director, officer, or partner of the Contractor.
 - b. A subcontractor of the Contractor, as governed by 42 CFR §438.230.
 - c. A person with beneficial ownership of five percent or more of the Contractor's equity.
 - d. A network provider or person with an employment, consulting, or other arrangement with the Contractor for the provision of items and services that are significant and material to the Contractor's obligations under this Agreement.
- iv. If the Department finds that the Contractor is not in compliance, the Department:
 - a. Shall notify the Secretary of the noncompliance.
 - b. May continue an existing Agreement with the Contractor unless the Secretary directs otherwise.
 - c. May not renew or otherwise extend the duration of an existing Agreement with the Contractor unless the Secretary provides to the state and to Congress a written statement describing compelling reasons that exist for renewing or extending the Agreement despite the prohibited affiliations.
 - d. Nothing in this section shall be construed to limit or otherwise affect any remedies available to the U.S. under sections 1128, 1128A or 1128B of the Act.

- v. The Contractor shall provide the Department with written disclosure of any prohibited affiliation under this section by the Contractor or any of its subcontractors.

Findings: The Plan did not provide evidence to demonstrate compliance with identifying Plan and subcontracted network providers knowingly having prohibited relationships with:

- An individual or entity defined as an affiliate of an individual or entity debarred, suspended, or excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549.

CD 1.3.2:

Intergovernmental Agreement Exhibit A, Attachment I, III, B, 1, vi

- vi. 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 the requested evidence to demonstrate six (6) subcontractor non-physician professional staff (LPHA) received the annual five (5) hours of continuing education units (CEU) in addiction medicine. The Plan did provide five (5) of the requested six (6) sets of annual five (5) hours of continuing education units (CEU) in addiction medicine.

CD 1.3.4:

Intergovernmental Agreement Exhibit A, Attachment I, III, MM, 3, ii, c

- c. The Contractor shall ensure that all personnel who provide WM services or who monitor or supervise the provision of such service shall meet additional training requirements set forth in BHIN 21-001 and its accompanying exhibits.

BHIN 21-001

Findings: The Plan did not provide evidence to demonstrate all personnel who provide Withdrawal Management (WM) services or who monitor or supervise the provision of such service meet the additional training set forth in BHIN 21-001, specifically:

- Certified in cardiopulmonary resuscitation;
- Certified in first aid;
- Trained in the use of Naloxone;
- Six (6) hours of orientation training for all personnel providing WM services, monitoring and supervising the provision of WM services;
- Repeated orientation training within 14-days for returning staff following a 180 continuous day break in employment; and
- Eight (8) hours of training annually that covers the needs of residents who receive WM services.

Category 2: COORDINATION OF CARE

A review of the coordination of care requirements and continuity of care was conducted to ensure compliance with applicable regulations, and standards. The following deficiency in the coordination of care requirements was identified:

COMPLIANCE DEFICIENCY:

CD 2.1.2:

Intergovernmental Agreement Exhibit A, Attachment I, III, WW, 2, iv

- iv. Contractor shall comply with the perinatal program requirements as outlined in the Perinatal Practice Guidelines. The Perinatal Practice Guidelines are attached to this Agreement as Document 1G, incorporated by reference. The Contractor shall comply with the current version of these guidelines until new Perinatal Practice Guidelines are established and adopted. The incorporation of any new Perinatal Practice Guidelines into this Agreement shall not require a formal amendment.

Perinatal Practice Guidelines Section B, 4

SUD providers shall coordinate treatment services with other appropriate services, including health, criminal justice, social, educational, and vocational rehabilitation as well as additional services that are medically necessary to prevent risk to a fetus, infant, or mother. Providers shall also provide or arrange for transportation to ensure access to treatment.

Findings: The Plan did not provide evidence to demonstrate Plan and subcontracted network providers coordinate treatment services with other appropriate services for perinatal beneficiaries that include:

- Criminal Justice services
- Vocational Rehabilitation services

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 3.3.3:

Intergovernmental Agreement Exhibit A, Attachment, III, MM, 6, i, a-d

- i. The DATAR business rules and requirements:
 - a. The Contractor shall be responsible for ensuring that the Contractor-operated treatment services and all treatment providers with whom Contractor subcontracts or otherwise pays for the services, submit a monthly DATAR report in an electronic copy format as provided by DHCS.
 - b. In those instances where the Contractor maintains, either directly or indirectly, a central intake unit or equivalent, which provides intake services including a waiting list, the Contractor shall identify and begin submitting monthly DATAR reports for the central intake unit by a date to be specified by DHCS.
 - c. The Contractor shall ensure that all DATAR reports are submitted to DHCS by the 10th of the month following the report activity month.
 - d. The Contractor shall ensure that all applicable providers are enrolled in DHCS' web-based DATAR program for submission of data, accessible on the DHCS website when executing the subcontract.

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

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 deficiencies in program integrity were identified:

COMPLIANCE DEFICIENCIES:

CD 6.1.1:

Intergovernmental Agreement Exhibit A, Attachment I, II, H, 5, iv

- iv. The Contractor and all its subcontractors shall provide reports to the Department within 60 calendar days when it has identified payments in excess of amounts specified in this Agreement.

Findings: The Plan did not provide evidence to demonstrate Plan and subcontracted network provider compliance to provide reports to the DHCS within 60 calendar days upon identifying payments in excess of amounts specified in the Intergovernmental Agreement.

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

El Dorado County did not request technical assistance during this review: