



July 14, 2023

THIS LETTER SENT VIA EMAIL TO: vkelly@dbh.sbcounty.gov

Veronica Kelley, Director
Orange County Behavioral Health Services
405 West 5th Street, Suite 726
Santa Ana, CA 92701

SUBJECT: ANNUAL COUNTY COMPLIANCE SECTION DMC-ODS 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) and the terms of the Intergovernmental Agreement operated by Orange 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 Orange County's Fiscal Year 2022-23 DMC-ODS compliance review. The report identifies deficiencies, required corrective actions, advisory recommendations, and referrals for technical assistance.

Orange 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 9/13/23. 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 Kelley,

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
Azahar Lopez, Orange County Manager, Authority & Quality Improvement
Services

COUNTY REVIEW INFORMATION

County:
Orange

County Contact Name/Title:
Azahar Lopez/Director, Quality Management Services

County Address:
405 West 5th Street, Suite 726
Santa Ana, CA 92701

County Phone Number/Email:
714-796-0208
AzLopez@ochca.com

Date of DMC-ODS Implementation:
7/1/18

Date of Review:
5/31/2023

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 5/31/2023. The following individuals were present:

- Representing DHCS:
Susan Volmer, County Compliance Monitoring II (CCM II) Analyst
- Representing Orange County:
Azahar Lopez, Director Quality Management Services
Yvonne Brack, LCSW, Service Chief II for the QMS SUD SST
April Thornton, Program Manager for Residential Treatment Services
Heather Balcom, Service Chief II for Children and Youth Services
Dr. Veronica Kelley, Behavioral Health Director
Susie Choi, MPH, Health Program Specialist for QMS SUD ST
Wendy Elliott, Service Chief II for Outpatient SUD
Annette Tran, Health Services Administrator for Managed Care Support Team
Chiyo Matsubayashi, Service Chief II for QMS IRIS Liaison Team
Dolores Castaneda, Service Chief II for the QMS MCST
Michelle Glinski, Health Program Specialist for Outpatient SUD
Juan Corral, Division Manager, HCA Procurement & Contract Services
Glenda Aguilar, Program Manager for SUD Outpatient Services
Carolyn Secrist, Program Manager, SUD - Prevention
Elaine Estrada, Behavioral Health Clinician Managed Care Support Team
Kelly K. Sabet, LCSW, CHC, CHPC Chief Compliance Officer
Tracy Ernt, Program Manager for Substance Use Disorder, DUI Drug Court Programs and Outpatient SUD Clinic Programs
Mark Lawrenz, Interim Assistant Deputy Director, Substance Use Disorders, Mental Health and Recovery Services
Jennifer Fernandez, Behavioral Health Clinician QMS Managed Care Support
Caroline Roberts, Behavioral Clinician II Consultant, QMS, SUD, SST
Esmerelda Carroll, Behavioral Health Clinician II with Managed Care Support
Diane Holley, LCSW Division Manager
Joey Pham, Program Supervisor
Elizabeth Bausman, HCA SUD Administrative Manager
Melody Taylor, MAA/TCM/SUD Claims Manager
Sarah Nguyen, LCSW, Behavioral Health Clinician/SUD Contract Monitor
Christina Weckerly, Senior Manager- Outreach and Engagement

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 5/31/2023. The following individuals were present:

- Representing DHCS:
Susan Volmer, CCM II Analyst
- Representing Orange County:
Azahar Lopez, Director Quality Management Services
Yvonne Brack, LCSW, Service Chief II for the QMS SUD SST
April Thornton, Program Manager for Residential Treatment Services
Heather Balcom, Service Chief II for Children and Youth Services
Susie Choi, MPH, Health Program Specialist for QMS SUD ST
Wendy Elliott, Service Chief II for Outpatient SUD
Annette Tran, Health Services Administrator for Managed Care Support Team
Chiyo Matsubayashi, Service Chief II for QMS IRIS Liaison Team
Michelle Glinski, Health Program Specialist for Outpatient SUD
Glenda Aguilar, Program Manager for SUD Outpatient Services
Elaine Estrada, Behavioral Health Clinician Managed Care Support Team
Kelly K. Sabet, LCSW, CHC, CHPC Chief Compliance Officer
Tracy Ernt, Program Manager for Substance Use Disorder, DUI Drug Court Programs and Outpatient SUD Clinic Programs
Mark Lawrenz, Interim Assistant Deputy Director, Substance Use Disorders, Mental Health and Recovery Services
Jennifer Fernandez, Behavioral Health Clinician QMS Managed Care Support
Caroline Roberts, Behavioral Clinician II Consultant, QMS, SUD, SST
Esmerelda Carroll, Behavioral Health Clinician II with Managed Care Support
Diane Holley, LCSW Division Manager
Joey Pham, Program Supervisor
Elizabeth Bausman, HCA SUD Administrative Manager

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	3
2.0 Coordination of Care Requirements	0
3.0 Quality Assurance and Performance Improvement	2
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 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 1.2.1:

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 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.
- 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 1.3.1:

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

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

Findings: The Plan did not provide the requested evidence to demonstrate physicians from two (2) subcontracted Network Providers received the annual five (5) hours of continuing medical education in addiction medicine. The Plan provided evidence for only one (1) of two (2) requested continuing medical education units for Network Provider physicians.

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:

- 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 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 3.3.1:

Intergovernmental Agreement Exhibit A, Attachment I, III, LL, 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.

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 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 4.2.2:

Intergovernmental Agreement Exhibit A, Attachment I, III, G, 3, xi

- xi. 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.

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:

Conducted on 5/23/23 at 4:01 pm

Phone number called: 855-625-4657

Vanessa answered after a brief hold (less than 90 seconds). Caller asked about getting step son into a rehab program for alcoholism. Caller stated they were in the Irvine area and needed the location of a nearby facility for an appointment/walk in or assessment. Operator asked for step son's name and date of birth. Operator referred caller to College Hospital at 949-642-2734. This call was determined to be in compliance.

Test call 2:

Conducted 5/23/23 at 10:05 pm

Number called: 866-845-8975

Call answered promptly by Theresa after a brief hold (less than 30 seconds).

Caller stated their friend was in crisis and going through withdrawals. Operator stated they did not have a list of facilities to help with the situation. Operator stated to call back during business hours and a counselor would assist. Operator asked for a phone number and email address; as well as inquiring about any major health or legal problems the person would have; and also wanted to know which substance was causing the user to have withdrawals. Caller stated they would take their friend to any facility that could help with this crisis; however the operator could not provide any further direction. The operator was thanked and the call was discontinued. This call was determined to be out of compliance.

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:

- 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:

- Fair Employment and Housing Act.
- Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.
- Noncompliance with the requirements of nondiscrimination in services constitutes grounds for state to withhold payments or terminate all, or any type, of funding provided.

TECHNICAL ASSISTANCE

Orange County did not request technical assistance during this review: