



MICHELLE BAASS
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

07/13/2022

Sent via e-mail to: Georgina.Yoshioka@dbh.sbcounty.gov

Georgina Yoshioka, Interim Behavioral Health Director
San Bernardino County Behavioral Health
303 East Vanderbilt Way
San Bernardino, CA 92415

SUBJECT: Annual DMC-ODS County Compliance Unit Findings Report

Dear Interim Director Georgina Yoshioka:

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 San Bernardino 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 San Bernardino 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.

San Bernardino 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 9/13/2022. Please use the enclosed CAP form and submit the completed the 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 emanuel.hernandez@dhcs.ca.gov.

Sincerely,

Emanuel Hernandez
(916) 713-8667

Audits and Investigations Division
Medical Review Branch
Behavioral Health Compliance Section
County Compliance Unit
1500 Capitol Ave., MS 2305
Sacramento, CA 95814
<http://www.dhcs.ca.gov>

Distribution:

To: Interim Director Yoshioka,

CC: Mateo Hernandez, Audits and Investigations, Medical Review Branch Acting Chief
Lanette Castleman, 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
MCBHDMonitoring@dhcs.ca.gov, County/Provider Operations and Monitoring Branch
Catherine Smith, San Bernardino County Substance Use Disorder & Recovery Services
Program Manager I

COUNTY REVIEW INFORMATION

County:

San Bernardino

County Contact Name/Title:

Catherine Smith, Substance Use Disorder & Recovery Services Program Manager I

County Address:

658 E. Brier Drive, Suite 250, San Bernardino, CA 92408

County Phone Number/Email:

909-501-0803/csmith@dbh.sbcounty.gov

Date of DMC-ODS Implementation:

03/01/2018

Date of Review:

04/12/2022

Lead CCU Analyst:

Emanuel Hernandez

Assisting CCU 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'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 04/12/2022. The following individuals were present:

- Representing DHCS:
Emanuel Hernandez, Associate Governmental Program Analyst (AGPA)
Macia Casado, AGPA
- Representing San Bernardino County:
Catherine Smith, San Bernardino County (SBC) Program Manager I
Patricia Grace, SBC Supervising Automated Systems Analyst I
Barbara Knutson, SBC Business Applications Manager/Information Technology
Christopher Bailey, SBC Program Specialist I
Natalie Sanders, SBC Program Specialist I
Mark Kennedy, SBC Social Worker II
Lois Mergener, SBC Program Specialist II
Michael Sweitzer, SBC Program Manager II
Anabelle Miranda-Muniz, SBC Mental Health Clinic Supervisor
Erica Ochoa, SBC, Chief Compliance/Privacy Officer
Jennifer Alsina, SBC Deputy Director
Jonathan Avalos, SBC Associate Medical Director
Kim Carson, SBC Chief Quality Management Officer
Luis Castillo, SBC Social Worker II
Briceida Tompkins, SBC Ethics and Compliance Coordinator
Donald Harris, SBC Mental Health Education Consultant
Maria Arroyo, SBC Social Worker II
Marina Espinosa, SBC Deputy Director Program Support Services
Matty Landa, SBC Program Manager I
Thelma Rodriguez, SBC Program Specialist I
Jeron Crawford, SBC Social Worker II
Emily Cambell, SBC Administrative Supervisor II
Maria Harigan SBC Accounting Technician

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 04/12/2022. The following individuals were present:

- Representing DHCS:
 - Emanuel Hernandez, AGPA
 - Macia Casado, AGPA

- Representing San Bernardino County:
 - Catherine Smith, San Bernardino County (SBC) Program Manager I
 - Patricia Grace, SBC Supervising Automated Systems Analyst I
 - Barbara Knutson, SBC Business Applications Manager/Information Technology
 - Christopher Bailey, SBC Program Specialist I
 - Natalie Sanders, SBC Program Specialist I
 - Mark Kennedy, SBC Social Worker II
 - Lois Mergener, SBC Program Specialist II
 - Michael Sweitzer, SBC Program Manager II
 - Anabelle Miranda-Muniz, SBC Mental Health Clinic Supervisor
 - Erica Ochoa, SBC, Chief Compliance/Privacy Officer
 - Jennifer Alsina, SBC Deputy Director
 - Jonathan Avalos, SBC Associate Medical Director
 - Kim Carson, SBC Chief Quality Management Officer
 - Luis Castillo, SBC Social Worker II
 - Briceida Tompkins, SBC Ethics and Compliance Coordinator
 - Donald Harris, SBC Mental Health Education Consultant
 - Maria Arroyo, SBC Social Worker II
 - Marina Espinosa, SBC Deputy Director Program Support Services
 - Matty Landa, SBC Program Manager I
 - Thelma Rodriguez, SBC Program Specialist I
 - Jeron Crawford, SBC Social Worker II
 - Emily Cambell, SBC Administrative Supervisor II
 - Maria Harigan SBC Accounting Technician

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	2
2.0 Coordination of Care	1
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 1.4.8:

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 RIM Family Services, Inc., physician received the annual five (5) hours of continuing medical education in addiction medicine. Specifically:

- The continuing medical education were not submitted for calendar years 2019 and 2020.

The Plan did not provide evidence demonstrating the Mental Health Services physician received the annual five (5) hours of continuing medical education in addiction medicine. Specifically:

- The continuing medical education for calendar year 2020 for Mental Health Services physician was not provided. Mental Health Services advises that CMEs were not available for Hossein Samadi, however they offered no CME submissions for another physician in his place.

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 RIM Family Services, Inc., professional staff (LPHA) received the annual five (5) hours of continuing education in addiction medicine. The County advises that RIM Family Services does not provide DMC-ODS services. RIM is DMC certified and does require monitoring.

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 2.2.2:

Intergovernmental Agreement Exhibit A, Attachment I, III, G, 2

1. In addition to specifying how beneficiaries will transition across levels of acute and short-term SUD care without gaps in treatment, the Contractor shall ensure that beneficiaries have access to recovery supports and services immediately after discharge or upon completion of an acute care stay, with the goal of sustained engagement and long-term retention in SUD and behavioral health treatment.

BHIN 21-020

POLICY:

As part of CalAIM, DHCS is clarifying (1) the allowable components of recovery services, described below; (2) when and how beneficiaries, including justice-involved individuals, may access recovery services; and (3) the availability of recovery services to individuals receiving Medication-Assisted Treatment (MAT). Recovery services may be delivered concurrently with other DMC-ODS services and levels of care as clinically appropriate. Beneficiaries without a remission diagnosis may also receive recovery services and do not need to be abstinent from drugs for any specified period of time. The service components of recovery services are:

- Individual and/or group outpatient counseling services;
- Recovery Monitoring: Recovery coaching and monitoring delivered in-person, by synchronous telehealth, or by telephone/audio-only;
- Relapse Prevention: Relapse prevention, including attendance in alumni groups and recovery focused events/activities;
- Education and Job Skills: Linkages to life skill services and supports, employment services, job training, and education services;
- Family Support: Linkages to childcare, parent education, child development support services, family/marriage education;
- Support Groups: Linkages to self-help and support services, spiritual and faith-based support;
- Ancillary Services: Linkages to housing assistance, transportation, case management, and other individual services coordination.

Beneficiaries may receive recovery services based on a self-assessment or provider assessment of relapse risk. Beneficiaries receiving MAT, including Narcotic (Opioid) Treatment Program services, may receive recovery services. Beneficiaries may receive recovery services immediately after incarceration regardless of whether or not they received SUD treatment during incarceration. Recovery services may be provided in-person, by synchronous telehealth, or by telephone/audio-only. Recovery services may be provided in the home or the community.

Findings: The Plan did not provide evidence demonstrating beneficiaries have access to recovery supports and services immediately after discharge or upon completion of an acute care stay.

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 3.2.4:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 6, iii, a-i

- i. 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 San Bernardino County'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 the implemented annual mechanism for monitoring the safety and effectiveness of medication practices is under the supervision of a person licensed to prescribe or dispense prescription drugs.

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.

CD 3.4.2:

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 Provider 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, 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: This call was determined to be in compliance. Call was completed during normal business hours on April 11, 2022 at approximately 9:30 am. Caller requested substance abuse services for a family member in need. The operator was professional, polite, provided clear direction, and attempted to establish eligibility.

Test Call 2: This call was determined to be out of compliance. Call was completed outside of normal business hours at approximately 03:00 am. The phone rang five (5) times before the operator answered and subsequently hung up on the caller. Caller called back and the phone was answered by an operator identifying himself as Frank. The operator did not seem prepared and could not articulate the intake process for the potential client in need. The operator asked caller to call back in the morning. The operator did not seem to be working off of a script. The caller was made to feel like his phone call was inconvenient. The caller attempted to ask questions for a family member in crisis (the callers' brother in-law), He again explained that the office was closed and that either the caller or brother in-law would need to call back when the office was open. The caller attempted to have him explain the process and he again advised to call back when the office was open.

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.

CD 4.3.2:

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 5, i

5. No Unlawful Use or Unlawful Use Messages Regarding Drugs

- i. Contractor agrees that information produced through these funds, and which pertains to drug and alcohol related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug or alcohol related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). By signing this Agreement, Contractor agrees that it shall enforce, and shall require its subcontractors to enforce, these requirements.

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 No Unlawful Use or Unlawful Use Messages Regarding Drugs.

TECHNICAL ASSISTANCE

San Bernardino County did not request any technical assistance.