DHCS
CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES
Michelle Baass | Director

March 10, 2023

THIS LETTER SENT VIA EMAIL TO CBoyden@smcgov.org

Clara Boyden, Interim Director
San Mateo Behavioral Health and Recovery Services
310 Harbor Boulevard, Building E
San Mateo, CA 94002

SUBJECT: ANNUAL COUNTY COMPLIANCE SECTION DMC-ODS FINDINGS REPORT

Dear Director Boyden:

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 San Mateo 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 San Mateo County's Fiscal Year 2022-23 DMC-ODS compliance review. The report identifies deficiencies, required corrective actions, advisory recommendations, and referrals for technical assistance.

San Mateo 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 5/10/2023. 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.

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

Sincerely,

Susan Volmer | Compliance Monitoring II Analyst

Distribution:

To: Director Boyden,

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
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MCBHOMDMonitoring@dhcs.ca.gov, County/Provider Operations and Monitoring Branch
Lisa Mancini, San Mateo County Interim BHRS Director
Betty Ortiz Gallardo, San Mateo County QM Manager

COUNTY REVIEW INFORMATION

County:
San Mateo

County Contact Name/Title:
Isabelle Valderrama/BHRS Administrative Assistant

County Address:
310 Harbor Blvd, Building E
San Mateo, CA 94002

County Phone Number/Email:
650-802-6538
ivalderrama@smcgov.org

Date of DMC-ODS Implementation:
2/1/2017

Date of Review:
1/24/2023

Lead CCS Analyst:
Susan Volmer

Assisting CCS 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 1/24/2023. The following individuals were present:

- Representing DHCS:
  Susan Volmer, County Compliance Monitoring II Analyst (CCM II)
- Representing San Mateo County:
  Clara Boyden, Deputy Director of Alcohol and Drug Services
  Matthew Boyle, Treatment Program Analyst, BHRS AOD
  Denise Mosely, Treatment Program Analyst, BHRS AOD
  Diana Campos-Gomez, Program Analyst, BHRS AOD
  Christine O'Kelly, BHRS AOD Supervisor
  Yadhira Christensen, Program Analyst, BHRS AOD
  Stella Chau, Prevention Program Analyst, BHRS AOD

During the Entrance Conference, the following topics were discussed:

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

Exit Conference:

An Exit Conference was conducted via WebEx on 1/24/2023. The following individuals were present:

- Representing DHCS:
  Susan Volmer, CCM II Analyst

- Representing San Mateo County:
  Clara Boyden, Deputy Director of Alcohol and Drug Services
  Matthew Boyle, Treatment Program Analyst, BHRS AOD
  Denise Mosely, Treatment Program Analyst, BHRS AOD
  Diana Campos-Gomez, Program Analyst, BHRS AOD
  Christine O'Kelly, BHRS AOD Supervisor
  Yadhira Christensen, Program Analyst, BHRS AOD
  Stella Chau, Prevention Program Analyst, BHRS AOD

During the Exit Conference, the following topics were discussed:

- Submitting follow-up evidence
- Due date for evidence submission
- Technical Assistance referral

SUMMARY OF FY 2022-23 COMPLIANCE DEFICIENCIES (CD)

	Section:	Number of CD's
1.0	Availability of DMC-ODS Services	8
2.0	Coordination of Care Requirements	1
3.0	Quality Assurance and Performance Improvement	6
4.0	Access and Information Requirements	3
5.0	Beneficiary Rights and Protections	1
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 1.1.5:

Intergovernmental Agreement Exhibit A, Attachment I, II, B, 4, vi-x

4. Requirements that Apply to American Indian and Alaska Native (AI/AN), Indian Health Care Providers (IHCPs), and Indian Managed Care Entities (IMCEs) (42 CFR §438.14; BHIN 21-075).
   vi. The Contractor shall permit AI/AN beneficiaries to obtain services covered under this Agreement between the State and the Contractor from out-of-network DMC-certified IHCPs from whom the beneficiary is otherwise eligible to receive such services.
   vii. If timely access to covered services cannot be ensured due to few or no DMC-certified IHCPs, the Contractor will be considered to have demonstrated that there are sufficient IHCPs participating in the Contractor's provider network to ensure timely access to services by permitting AI/AN beneficiaries to access out-of-state DMC-certified IHCPs.
   viii. The Contractor shall permit an out-of-network DMC-certified IHCP to refer an AI/AN beneficiary to a network provider.
   ix. All AI/AN Medi-Cal beneficiaries whose county of responsibility is a DMC-ODS county may choose to receive DMC-ODS services at any DMC-certified IHCP, whether or not the IHCP has a current contract with the beneficiary's county of responsibility and whether or not the IHCP is located in the beneficiary's county of responsibility. The Contractor shall reimburse DMC-certified IHCPs for the provision of these services to AI/AN Medi-Cal beneficiaries, even if the Contractor does not have a contract with the IHCP. The Contractor is not obligated to pay for services provided to non-AI/AN beneficiaries by IHCPs that are not contracted with the DMC-ODS County.
   x. AI/AN individuals who are eligible for Medicaid and reside in counties that have opted into the DMC-ODS can also receive DMC-ODS services through IHCPs.

BHIN 21-075

BHIN 20-065

Findings: The Plan did not provide evidence to demonstrate eligible AI/AN beneficiaries receive referrals for the provision of DMC-ODS services. Specifically, the Plan did not demonstrate:

- Permitting AI/AN individuals eligible for Medicaid and reside in a County that opted into DMC-ODS, to receive DMC-ODS services through IHCPs.
- Permitting eligible AI/AN beneficiaries to obtain services from out-of-network DMC-certified IHCPs.
- Permitting an out-of-network DMC-certified IHCP to refer an eligible AI/AN beneficiary to a network provider.

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 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.
- An individual or entity excluded from participation in Federal Health Care Program under section 1128 or 1128A of the Act.

The Plan did not provide evidence to demonstrate compliance with providing the Department written notification of any known prohibited affiliations by subcontracted network providers.

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 has been:

- 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 1.2.3:

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.
      iii.

MHSUDS Information Notice: 18-019

Findings: The Plan did provide evidence to demonstrate implemented policies and procedures for the selection and retention of network providers however, the policies and procedures are missing the following elements:

- Evidence of graduation or completion of any required education, as required for the particular provider type;
- Proof of completion of any relevant medical residency and/or specialty training, as required for the particular provider type; and
- Satisfaction of any applicable continuing education requirements, as required for the particular provider type.

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 evidence to demonstrate physicians from subcontracted Network Providers received the annual five (5) hours of continuing medical education in addiction medicine. The Plan provided only one (1) of two (2) requested examples of Physician annual continuing medical education units (CME) in addiction medicine.

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 subcontractor non-physician professional staff (LPHA) received the annual five (5) hours of continuing education units in addiction medicine. The Plan provided only one (1) of six (6) requested examples of LPHA annual continuing education (CEU) in addiction medicine.

CD 1.3.3:

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

b. The Contractor shall ensure that all residential service providers meet the established ASAM criteria for each level of residential care they provide, receive either a DHCS Level of Care Designation or an ASAM Level of Care Certification for every Level of Care that they offer prior to providing DMC-ODS services, and adhere to all applicable requirements in BHIN 21-001 and its accompanying exhibits.

BHIN 21-001

Findings: The Plan did not provide evidence to demonstrate residential service providers receive either a DHCS Level of Care Designation or an ASAM Level of Care Certification for each level of residential care provided.

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 requirements, 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 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 2.1.4:

Intergovernmental Agreement Exhibit A, Attachment I, III, CC, 13, i

13. Youth Treatment Guidelines
    i. Contractor shall follow the guidelines in Document 1V, incorporated by this reference, "Youth Treatment Guidelines," in developing and implementing adolescent treatment programs funded under this Exhibit, until such time new Youth Treatment Guidelines are established and adopted. No formal amendment of this Agreement is required for new guidelines to be incorporated into this Agreement.

Adolescent Best Practices Guide
4.6 Transportation

> Access to safe, affordable transportation for adolescents with SUDs can increase their engagement and retention in treatment, aid in accessing other treatment-related services, and assist in achieving treatment and recovery plan goals. Transportation assistance may be accomplished in a variety of ways, such as provision of public transportation passes; and identification of and access to other community transportation resources (NASADAD, 2014).

Findings: The Plan did not provide evidence to demonstrate access to safe, affordable transportation to assist with engagement and retention in treatment and, assist in achieving recovery plan goals for adolescents.

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 3.1.4:

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

vii. Have a mechanism in place to ensure that there is consistent application of review criteria for authorization decisions and shall consult with the requesting provider when appropriate.

Findings: The Plan did not provide evidence to demonstrate the subcontracted network providers have a mechanism in place to ensure that there is consistent application of review criteria for authorization decisions and shall consult with the requesting provider when appropriate.

CD 3.1.5:

Exhibit A, Attachment I, III, G, 3, viii

viii. Track the number, percentage of denied, and timeliness of requests for authorization for all DMC-ODS services that are submitted, processed, approved, and denied.

Findings: The Plan did not provide evidence to demonstrate the Plan and subcontracted network providers have a mechanism to track the number, percentage of denied requests and timeliness of requests for authorizations for all DMC-ODS services submitted, processed, approved and denied.

CD 3.2.2:

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

5. The monitoring of accessibility of services outlined in the Quality Improvement (QI) Plan will at a minimum include:
   i. Timeliness of first initial contact to face-to-face appointment.

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

- Timeliness with first initial contact to face-to face appointments

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 3.3.2:

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 Provider 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 4.1.1:

Intergovernmental Agreement Exhibit A, Attachment I, III, OO, 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 W&I Code section 14124.1 and 42 CFR 438.3(h) and 438.3(u).

WIC 14124.1

Findings: The Plan did not provide evidence to demonstrate instructions on record retention and a mandate for all providers 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) are included in any subcontract with a network provider.

The Plan did not provide evidence to demonstrate subcontracted network providers ensure 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, pursuant to WIC 14124.1 and CFR 438.3(h) and 438.3(u).

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:

- Title I of the Americans with Disabilities Act (29 CFR Part 1630).
- Americans with Disabilities Act (28 CFR Part 35).
- Rehabilitation Act of 1973, as amended (29 USC Section 794).
- 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.
- Title 9, Division 4, Chapter 8, commencing with Section 10800.
- No state or Federal funds are used by the Contractor, or its subcontractors, for sectarian worship, instruction, and/or proselytization.
- No state funds are used by the Contractor, or its subcontractors, to provide direct, immediate, or substantial support to any religious activity.
- Noncompliance with the requirements of nondiscrimination in services constitutes grounds for state to withhold payments or terminate all, or any type, of funding provided.

Category 5: BENEFICIARY RIGHTS AND PROTECTIONS

A review of the grievance and appeals was conducted to ensure compliance with applicable regulations and standards. The following deficiency in beneficiary rights and protections for regulations, standards, or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

CD 5.2.1:

Intergovernmental Agreement Exhibit A, Attachment I, II, L, 1-3, i-iii

1. The Contractor shall designate a Discrimination Grievance Coordinator who is responsible for ensuring compliance with federal and state nondiscrimination requirements and investigating Discrimination Grievances related to any action that would be prohibited by, or out of compliance with, federal or state nondiscrimination law.
2. The Contractor shall adopt Discrimination Grievance procedures that ensure the prompt and equitable resolution of discrimination-related complaints. The Contractor shall not require a beneficiary to file a Discrimination Grievance with the Contractor before filing the grievance directly with DHCS Office of Civil Rights and the U.S. Health and Human Services Office for Civil Rights.
3. The Discrimination Grievance Coordinator shall be available to:
    i. Answer questions and provide appropriate assistance to the Contractor staff and members regarding the Contractor's state and federal nondiscrimination legal obligations.
    ii. Advise the Contractor about nondiscrimination best practices and accommodating persons with disabilities.
    iii. Investigate and process any Americans with Disabilities Act, Section 504 of the Rehabilitation Act, section 1557 of the Affordable Care Act, and/or Gov. Code section 11135 grievances received by the Contractor.

Findings: The Plan did not provide evidence to demonstrate the investigation of grievances related to any action prohibited by or out of compliance with federal or state nondiscrimination law based on the following characteristics, specifically:

- Religion
- Ancestry
- Ethnic Group Identification
- Medical Condition
- Genetic Information
- Marital Status
- Gender
- Gender Identity
- Sexual Orientation

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 6.1.2:

Intergovernmental Agreement Exhibit A, Attachment I, II, H, 5, ii, a, vii

vii. Establishment and implementation of procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence, and ongoing compliance with the requirements under this Agreement.

Findings: The Plan did not provide evidence to demonstrate compliance with implementation of agreements or procedures for monitoring and auditing of compliance risks, specifically:

- Establishment and implementation of procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks;
- Prompt response to compliance issues as they are raised;
- Investigation of potential compliance problems as identified in the course of self-evaluation and audits;
- Correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence; and
- Ongoing compliance with the requirements under this Agreement.

TECHNICAL ASSISTANCE

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

Availability of DMC-ODS Services: The Plan would like to request TA about Recovery Services to better support network providers in offering this benefit.

Access and Information Requirements: The Plan requests information on the termination of a PCP and how to determine if they have assigned clients active in care (4.1.2) T/A also requested on how to track paper files and electronic health records for the 10 year period.