



May 15, 2023

THIS LETTER SENT VIA EMAIL TO: luke.bergmann@sdcounty.ca.gov

Mr. Luke Bergmann, Director
San Diego County Behavioral Health Services
3255 Camino Del Rio South
San Diego, CA 92108

SUBJECT: ANNUAL COUNTY COMPLIANCE SECTION DMC-ODS FINDINGS
REPORT

Dear Director Bergmann:

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 Diego 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 Diego 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 Diego 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 7/14/2023. 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 katrina.beedy@dhcs.ca.gov.

Sincerely,

Katrina Beedy | Analyst

California Department of Health Care Services
Audits and Investigations/County Compliance Section
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State of California 
Gavin Newsom, Governor

California Health and Human Services Agency

Distribution:

To: Director Bergmann,

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MCBHOMDMonitoring@dhcs.ca.gov, County/Provider Operations and Monitoring Branch
Tabatha Lang, San Diego County Assistant Medical Services Administrator
Erin Shapira, San Diego County Program Coordinator

COUNTY REVIEW INFORMATION

County:

San Diego

County Contact Name/Title:

Erin Shapira/Program Coordinator

County Address:

3255 Camino Del Rio South
San Diego, CA 92108

County Phone Number/Email:

619-678-2824
erin.shapira@sdcounty.ca.gov

Date of DMC-ODS Implementation:

6/18/2018

Date of Review:

4/4/2023

Lead CCM Analyst:

Katrina Beedy

Assisting CCM Analyst:

N/A

Report Prepared by:

Katrina Beedy

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 4/4/2023. The following individuals were present:

- Representing DHCS:
Katrina Beedy, County Compliance Monitoring II (CCM II) Analyst
- Representing San Diego County:
Tabatha Lang, Assistant Medical Services Administrator
Michael Blanchard, Behavioral Health Program Coordinator
Erin Shapira, Program Coordinator
Alfie Gonzaga, Program Coordinator
Yael Koenig, Deputy Director, Children, Youth, and Families System of Care
Shannon Jackson, Behavioral Health Program Coordinator
Terri Kang, Behavioral Health Program Coordinator
Rizza Rodriguez, Principal Administrative Analyst
Kevin Harrison, Administrative Analyst II
Jing Hua, Principal Administrative Analyst
Maria Morgan, Assistant Medical Services Administrator
Stacey Kneeshaw, Assistant Medical Services Administrator
Charity White Voth, Deputy Director, Adult/Older Adult Services
Alisha Eftekhari, Assistant Medical Services Administrator

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 4/4/2023. The following individuals were present:

- Representing DHCS:
Katrina Beedy, CCM II Analyst

- Representing San Diego County:
Tabatha Lang, Assistant Medical Services Administrator
Michael Blanchard, Behavioral Health Program Coordinator
Erin Shapira, Program Coordinator
Alfie Gonzaga, Program Coordinator
Yael Koenig, Deputy Director, Children, Youth, and Families System of Care
Shannon Jackson, Behavioral Health Program Coordinator
Terri Kang, Behavioral Health Program Coordinator
Rizza Rodriguez, Principal Administrative Analyst
Kevin Harrison, Administrative Analyst II
Jing Hua, Principal Administrative Analyst
Maria Morgan, Assistant Medical Services Administrator
Stacey Kneeshaw, Assistant Medical Services Administrator
Charity White Voth, Deputy Director
Alisha Eftekhari, Assistant Medical Services Administrator

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	2
2.0	Coordination of Care Requirements	0
3.0	Quality Assurance and Performance Improvement	1
4.0	Access and Information Requirements	4
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 1.2.2:

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

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

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

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

CD 1.3.4:

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;

- Eight (8) hours of training annually that covers the needs of residents who receive WM services;
- Training documentation must be maintained in personnel records; and
- Personnel training shall be implemented and maintained by the licensee pursuant to CCR, Title 9, Section 10564(k).

Category 3: QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT

A review of the practice guidelines, monitoring, and other quality assurance requirements was conducted to ensure compliance with applicable regulations and standards. The following deficiency in quality assurance and performance improvement was identified:

COMPLIANCE DEFICIENCY:

CD 3.2.5:

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

5. The monitoring of accessibility of services outlined in the Quality Improvement (QI) Plan will at a minimum include:
 - vii. Coordination of physical and mental health services with waiver services at the provider level.

Findings: The Plan did not provide evidence to demonstrate the monitoring of network providers for accessibility of services outlined in the QI Plan includes:

- Coordination of physical and mental health services with waiver services at the provider level.

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.

CD 4.3.1:

Intergovernmental Agreement Exhibit A, Attachment I, II, E, 8, i-iii, a-e, i-iv

8. Subcontractual Relationships and Delegation
 - i. The requirements of this section apply to any contract or written arrangement that the Contractor has with any subcontractor.
 - ii. Notwithstanding any relationship(s) that Contractor may have with any subcontractor, the Contractor shall maintain ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of this agreement.
 - iii. All contracts or written arrangements between the Contractor and any subcontractor shall specify the following:
 - a. The delegated activities or obligations, and related reporting responsibilities, are specified in the contract or written agreement.
 - b. The subcontractor agrees to perform the delegated activities and reporting responsibilities specified in compliance with the Contractor's Agreement obligations.
 - c. The contract or written arrangement shall either provide for revocation of the delegation of activities or obligations, or specify other remedies in instances where the Department or the Contractor determine that the subcontractor has not performed satisfactorily.

- d. The subcontractor agrees to comply with all applicable Medicaid laws, regulations, including applicable sub-regulatory guidance and contract provisions.
- e. The subcontractor agrees: —
 - i. The Department, CMS, the Health and Human Services (HHS) Inspector General, the Comptroller General, or their designees have the right to audit, evaluate, and inspect any books, records, contracts, computer or other electronic systems of the subcontractor, or of the subcontractor's Contractor, that pertain to any aspect of services and activities performed, or determination of amounts payable under this Agreement at any time.
 - ii. The subcontractor will make available, for purposes of an audit, evaluation, or inspection, its premises, physical facilities, equipment, books, records, contracts, computer or other electronic systems relating to its Medicaid beneficiaries.
 - iii. The Department, CMS, the HHS Inspector General, the Comptroller General, or their designees' right to audit the subcontractor will exist through 10 years from the final date of the contract period or from the date of completion of any audit, whichever is later.
 - iv. If the Department, CMS, or the HHS Inspector General determines that there is a reasonable possibility of fraud or similar risk, the Department, CMS, or the HHS Inspector General may inspect, evaluate, and audit the subcontractor at any time.

Findings: The Plan did not provide evidence to demonstrate contracts or written arrangements between the Plan and subcontractors, or subcontractor and providers, include all required elements, specifically:

- The Department, CMS, the HHS Inspector General, the Comptroller General, or their designees' right to audit the subcontractor will exist through 10 years from the final date of the contract period or from the date of completion of any audit, whichever is later.

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 VI of the Civil Rights Act of 1964, Section 2000d.
- Title IX of the Education Amendments of 1972.
- Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.).
- Age Discrimination in Employment Act (29 CFR Part 1625).
- Rehabilitation Act of 1973, as amended (29 USC Section 794).
- Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60).
- 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.

TECHNICAL ASSISTANCE

San Diego County did not request technical assistance during this review.