

March 7, 2023

THIS LETTER SENT VIA EMAIL TO: Edwin.Poon@hhs.sccgov.org

Mr. Edwin Poon, Deputy Director of Managed Care, AOD Administrator
Santa Clara Behavioral Health Services Department
828 S. Bascom Avenue, 2nd Floor, Suite 200
San Jose, CA 95128

SUBJECT: ANNUAL COUNTY COMPLIANCE SECTION DMC-ODS FINDINGS
REPORT

Dear Deputy Director Poon:

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

Santa Clara 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 5/8/2023. 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

Distribution:

To: Deputy Director Poon,

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
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
MCBHOMDMonitoring@dhcs.ca.gov, County/Provider Operations and Monitoring Branch
Tammy Ramsey, Santa Clara County Program Manager III DMC-ODS

COUNTY REVIEW INFORMATION

County:

Santa Clara

County Contact Name/Title:

Tammy Ramsey/Program Manager III DMC-ODS

County Address:

828 S. Bascom Avenue, 2nd Floor, Suite 200
San Jose, CA 95128

County Phone Number/Email:

(408) 793-1809
Tammy.Ramsey@hhs.sccgov.org

Date of DMC-ODS Implementation:

6/15/2017

Date of Review:

2/14/2023

Lead CCS Analyst:

Katrina Beedy

Assisting CCS 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 2/14/2023. The following individuals were present:

- Representing DHCS:
Katrina Beedy, County Compliance Monitoring II (CCM II) Analyst
- Representing Santa Clara County:
Edwin Poon, Deputy Director and AOD Administrator
Alejandro Villalobos, Program Manager I
Amanda Vierra, Program Manager III, Service Delivery System
Bruce Copley, Director of Access and Unplanned Services
Courtney Gray, Behavioral Health Services Dept. Quality Director
Domingo Acevedo, Program Manager III
Jennifer Pham, Behavioral Health Division Director - Children, Youth & Family
Katelyn Lu, Financial and Administrative Services Manager
Kimberly Doe, Program Manager II
Leilani Villanueva, Program Manager III
Mira Parwiz, Behavioral Health Division Director
Rachel Talamantez, Behavioral Health Division Director - Children, Youth & Family
Margaret Obilor, Director, Adult and Older Adult System of Care
Tova Sweet, Program Manager II
Vanessa Cornejo, Program Manager II - Children, Youth & Family
Zelia Faria Costa, Director - Children, Youth & Family System of Care
Hung Nguyen, Behavioral Health Division Director
Rachel Potens, Program Manager II
Roberto Ibarra, Program Manager III - Children, Youth & Family
Vincent Robben, Health Care Financial Manager
Joe Tansek, Program Manager II
Lara Alkoraishi, Program Manager II
Tammy Ramsey, Program Manager III DMC-ODS

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 2/14/2023. The following individuals were present:

- Representing DHCS:
Katrina Beedy, CCM II Analyst
- Representing Santa Clara County:
Edwin Poon, Deputy Director and AOD Administrator
Alejandro Villalobos, Program Manager I
Amanda Vierra, Program Manager III, Service Delivery System
Bruce Copley, Director of Access and Unplanned Services
Courtney Gray, Behavioral Health Services Dept. Quality Director
Domingo Acevedo, Program Manager III
Jennifer Pham, Behavioral Health Division Director - Children, Youth & Family
Katelyn Lu, Financial and Administrative Services Manager
Kimberly Doe, Program Manager II
Leilani Villanueva, Program Manager III
Mira Parwiz, Behavioral Health Division Director
Rachel Talamantez, Behavioral Health Division Director - Children, Youth & Family
Margaret Obilor, Director, Adult and Older Adult System of Care
Tova Sweet, Program Manager II
Vanessa Cornejo, Program Manager II - Children, Youth & Family
Zelia Faria Costa, Director - Children, Youth & Family System of Care
Hung Nguyen, Behavioral Health Division Director
Rachel Potens, Program Manager II
Roberto Ibarra, Program Manager III - Children, Youth & Family
Vincent Robben, Health Care Financial Manager
Joe Tansek, Program Manager II
Lara Alkoraishi, Program Manager II
Tammy Ramsey, Program Manager III DMC-ODS

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	3
5.0	Beneficiary Rights and Protections	3
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 1.2.2:

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 Plan and 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 requirements set forth in BHIN 21-001, specifically:

- Trained in the use of Naloxone;
- Six (6) hours of orientation training for all personnel providing WM services, monitoring and supervising the provision of WM services;

- Repeated orientation training within 14-days for returning staff following a 180 continuous day break in employment; and
- Eight (8) hours of training annually that covers the needs of residents who receive WM services.

Category 3: QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT

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

COMPLIANCE DEFICIENCY:

CD 3.3.1:

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.

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 Plan and 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 4.1.2:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 1

1. The Contractor shall notify the Department of the termination of any subcontract with a certified provider, and the basis for termination of the subcontract, within two business days. The Contractor shall submit the notification using a Secure Managed File Transfer system specified by DHCS.

Findings: The Plan did not provide evidence to demonstrate a process to notify DHCS within two (2) business days regarding the termination, and the basis for the termination of a subcontract with a certified provider.

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 one of the test calls resulted in a barrier to access DMC-ODS services.

The test calls are summarized below:

Test Call 1: CCM II analyst completed a test call prior to business hours at approximately 7:30 am on January 4, 2023. Analyst dialed the 24/7 behavioral health access line number at 1-800-704-0900. Call was immediately triaged to an automated phone tree with language options. Analyst pressed one for English as instructed. Another phone tree listed additional options. Analyst pressed 2 for mental health and substance use services, and 2 again specifically for substance use services. Another automated voicemail message stated Gateway's business hours, and listed additional phone tree options for perinatal and detox services, as well as residential services. The automated message noted that callers must call Gateway during business hours for screening. Analyst ended the call.

Analyst repeated call again, going through all phone tree options, and then dialed 4 for Pathway residential services. The call rang twice then immediately disconnected.

Analyst could not reach a live representative on this call, and therefore this call was out of compliance.

Test Call 2: CCM II analyst completed a second test call during business hours at approximately 12:00 pm on January 4, 2023. Analyst was placed on a brief hold, then a call representative named Crystal answered the call. Crystal was polite, helpful, and knowledgeable. She was able to accurately and appropriately answer all questions posed by the analyst. Overall, this call was in compliance.

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 deficiencies in beneficiary rights and protections for regulations, standards, or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

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 characteristic:

- Genetic Information

CD 5.2.2:

Intergovernmental Agreement Exhibit A, Attachment I, II, L, 4, j, a-f

4. The Contractor shall comply with the following discrimination grievances reporting requirements.

- i. Within ten calendar days of mailing a Discrimination Grievance resolution letter to a beneficiary, the Contractor shall submit detailed information regarding the grievance to DHCS Office of Civil Rights' designated Discrimination Grievance email box. The Contractor shall submit the following detailed information in a secure format to DHCS.DiscriminationGrievances@dhcs.ca.gov:
 - a. The original complaint.
 - b. The provider's or other accused party's response to the grievance.
 - c. Contact information for the Contractor's personnel responsible for the Contractor's investigation and response to the grievance.
 - d. Contact information for the beneficiary filing the grievance and for the provider or other accused party that is the subject of the grievance.
 - e. All correspondence with the beneficiary regarding the grievance, including, but not limited to, the Discrimination Grievance acknowledgment and resolution letter(s) sent to the beneficiary.
 - f. The results of the Contractor's investigation, copies of any corrective action taken, and any other information that is relevant to the allegation(s) of discrimination.

Findings: The Plan did not provide evidence to demonstrate compliance with reporting requirements regarding Discrimination Grievance, specifically:

- Discrimination Grievance information is submitted to the DHCS Office of Civil Rights within ten (10) calendar days of mailing a Discrimination Grievance resolution letter to a beneficiary.
- Discrimination Grievance information is submitted to the DHCS Office of Civil Rights in a secure format to DHCS.DiscriminationGrievances@dhcs.ca.gov.
- The original complaint.
- The provider's or other accused party's response to the grievance.
- Contact information for the beneficiary filing the complaint.
- Contact information for the provider or other accused party that is the subject of the complaint.
- All correspondence with the beneficiary regarding the complaint, including, but not limited to, the Discrimination Grievance acknowledgement letter sent to the beneficiary.
- Results of the Contractor's investigation, copies of any corrective action taken, and any other information that is relevant to the allegation(s) of discrimination.

CD 5.2.3:

Intergovernmental Agreement Exhibit A, Attachment I, II, E, 7, i-ii

7. Grievance and Appeal Systems (42 CFR §438.228).
 - i. The Contractor shall have in effect, a grievance and appeal system that meets the requirements outlined in Article II.G of this Agreement.

- ii. The Contractor shall be responsible for issuing any NOABD under 42 CFR Part 431, subpart E. The Department shall conduct random reviews of the Contractor and its providers and subcontractors to ensure that they are notifying beneficiaries in a timely manner.

MHSUDS Information Notice 18-010E

Findings: The Plan did not provide evidence to demonstrate compliance with the documentation requirements for each Grievance and Appeal, specifically:

- Acknowledgement Letter
- Provider notification of the grievance, appeal, expedited appeal results.

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 6.2.1:

Intergovernmental Agreement Exhibit A, Attachment III, NN, 3

3. Suspected Medi-Cal fraud, waste, or abuse shall be reported to: DHCS Medi-Cal Fraud: (800) 822-6222 or Fraud@dhcs.ca.gov.

Findings: The Plan did not provide evidence to demonstrate Plan and subcontractor compliance with reporting suspected Medi-Cal fraud, waste, or abuse specifically to DHCS Medi-Cal Fraud at (800) 822-6222 or Fraud@dhcs.ca.gov.

TECHNICAL ASSISTANCE

DHCS's County Compliance Monitoring II Analyst made referrals to the DHCS CPOMB County Liaison for the training and/or technical assistance areas identified below:

Beneficiary Rights and Protections: The County requests clarification on reporting requirements for discrimination and non-discrimination grievances.

Program Integrity: The County requests clarification on requirements related to excess payments over contracted amounts.