



WILL LIGHTBOURNE
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

June 30, 2021

Sent via e-mail to: skennelly@buttecounty.net

Scott Kennelly, Director
Butte County Department of Behavioral Health
3211 Cohasset Ave.
Chico, CA 95973

SUBJECT: Annual DMC State Plan County Compliance Unit Findings Report

Dear Director Kennelly:

The Department of Health Care Services (DHCS) is responsible for monitoring compliance to requirements of the State Plan Drug Medi-Cal (DMC) Contract operated by Butte 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 Butte County's State Fiscal Year 2020-21 State Plan DMC Contract compliance review. The report identifies deficiencies, required corrective actions, advisory recommendations, and referrals for technical assistance.

Butte County is required to submit a Corrective Action Plan (CAP) addressing each deficiency noted to the Medi-Cal Behavioral Health Division (MCBHD), Plan and Network Monitoring Branch (PNMB), County/Provider Operations and Monitoring Branch (CPOMB) liaison by 8/30/2021. Please use the enclosed CAP form and submit the completed CAP and supporting documentation via email to the CPOMB analyst at MCBHDMonitoring@dhcs.ca.gov.

If you have any questions or need assistance, please contact me at michael.bivians@dhcs.ca.gov.

Sincerely,
Michael Bivians
Michael Bivians
(916) 713-8966
michael.bivians@dhcs.ca.gov

Audits and Investigations Division
Medical Review Branch
Behavioral Health Compliance Section
County Compliance Unit
1500 Capitol Ave., MS 2305
Sacramento, CA 95814
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Distribution:

To: Director Kennelly,

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Monitoring Branch Chief
MCBHDMonitoring@dhcs.ca.gov, County/Provider Operations and Monitoring Branch
Jacob Read, Butte County Department of Behavioral Health Program Manager
Jennifer Stofa, Butte County Department of Behavioral Health Assistant Director

COUNTY REVIEW INFORMATION

County:

Butte

County Contact Name/Title:

Juliet Avalos / Administrative Assistant

County Address:

3211 Cohasset Avenue

Chico, CA 95973

County Phone Number/Email:

(530) 552-4869

bcdbsudreporting@buttecounty.net

Date of Review:

3/10/2021

Lead CCU Analyst:

Michael Bivians

Assisting CCU Analysts:

Susan Volmer

Katrina Beedy

Report Prepared by:

Michael Bivians

Report Approved by:

Ayesha Smith

REVIEW SCOPE

- I. Regulations:
 - a. California Code of Regulations, Title 22, section 51341.1, 51490.1 and 51516.1 – Drug Medi-Cal Substance Use Disorder Services
 - b. California Code of Regulations, Title 9, Division 4: Department of Alcohol and Drug Programs
 - c. Health and Safety Code, Division 10.5, Section 11750 – 11970: Alcohol and Drug Programs
 - d. Welfare and Institutions Code, Division 9, Part 3, Chapter 7, Sections 14021.51-14021.53 and 14124.20-14124.25: Basic Health Care – Drug Medi-Cal Treatment Program

- II. Program Requirements:
 - a. Fiscal Year (FY) 2020-21 State-County Contract, herein referred to as State County Contract
 - b. Mental Health and Substance Use Disorders Services (MHSUDS) Information Notices
 - c. Behavioral Health Information Notices (BHIN)

ENTRANCE AND EXIT CONFERENCE SUMMARIES

Entrance Conference:

An Entrance Conference was conducted via WebEx on 3/10/2021. The following individuals were present:

- Representing DHCS:
Michael Bivians, Staff Services Manager I (SSM I)
Susan Volmer, Associate Governmental Program Analyst (AGPA)
Katrina Beedy, AGPA
Jamari Robinson, AGPA
- Representing Butte County:
Jacob Read, Program Manager, Clinical Services
Jennifer Stofa, Assistance Director, Clinical Services
Madeline Irving, Managed Care Coordinator
Denise Norwood, Counseling Supervisor
Daniel Moore, Counseling Supervisor

During the Entrance Conference, the following topics were discussed:

- Introductions
- Overview of the review process

Exit Conference:

An Exit Conference was conducted via WebEx on 3/10/2021. The following individuals were present:

- Representing DHCS:
Michael Bivians, SSM I
Susan Volmer, AGPA
Katrina Beedy, AGPA
Jamari Robinson, AGPA
- Representing Butte County:
Jacob Read, Program Manager, Clinical Services
Jennifer Stofa, Assistance Director, Clinical Services
Madeline Irving, Managed Care Coordinator
Denise Norwood, Counseling Supervisor
Daniel Moore, Counseling Supervisor

During the Exit Conference, the following topics were discussed:

- Submitting follow-up evidence
- Due date for evidence submission

SUMMARY OF FY 2020-21 COMPLIANCE DEFICIENCIES (CD)

<u>Section</u>	<u>Number of CD's</u>
1.0 Administration	2
2.0 Covered Services	0
3.0 DMC Certification & Continued Certification	1
4.0 Monitoring	3
5.0 General Provisions	0

CORRECTIVE ACTION PLAN (CAP)

Pursuant to the State County Contract, Exhibit A, Attachment I A1, Part I, Section 4, 6 a-b 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 2020- 21 CAP:

- a) A statement of the CD.
- b) A list of action steps to be taken to correct the CD.
- c) A date of completion for each CD.
- d) Who will be responsible for correction and ongoing compliance.

The CPOMB analyst will monitor progress of the CAP completion.

Category 1: ADMINISTRATION

A review of the County's services, contracts, and training was conducted to ensure compliance with applicable regulations and standards. The following deficiencies in regulations, standards or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 1.3:

State Plan DMC Contract, Exhibit A, Attachment I, Part I, Section 4, A, 3, a

3. Training

- a) The Contractor shall ensure subcontractors complete training on the requirements of Title 22 regulations and DMC program requirements at least annually from either DHCS' MCBHD or the Contractor. The Contractor shall provide documentation of attendance at the annual training to DHCS' e-mail address MCBHDMonitoring@dhcs.ca.gov annually as part of the DHCS Contractor monitoring process.

Findings: The County does not ensure subcontractor staff complete annual training on Title 22 regulations and DMC program requirements.

CD 1.6:

State Plan DMC Contract, Exhibit A, Attachment I, Part I, Section 4, B, 4, a

- a) The Contractor shall include instructions on record retention in any subcontract with providers and mandate all providers 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.

W&I Code, Section 14124.1

... Records required to be kept and maintained under this section shall be retained by the provider for a period of 10 years from the final date of the contract period between the plan and the provider, from the date of completion of any audit, or from the date the service was rendered, whichever is later, in accordance with Section 438.3(u) of Title 42 of the Code of Federal Regulations.

Findings: The County did not provide evidence that 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.

Category 3: DMC CERTIFICATION & CONTINUING CERTIFICATION

A review of the County's certification and re-certification was conducted to ensure compliance with applicable regulations, and standards. The following DMC deficiency in regulations, standards or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

CD 3.4:

State Plan DMC Contract, Exhibit A, Attachment I, Part 1, Section 4, B, 2, a-b

- a) The Contractor shall, on a monthly basis, monitor the status of all subcontractors to ensure they maintain active enrollment in the DMC program. Any subcontractor that surrenders its certification or closes its facility shall be reported by the Contractor to DHCS' Provider Enrollment Division at DHCSDMCRECERT@dhcs.ca.gov within five business days of notification or discovery.

- b) During the monthly status check, the Contractor shall monitor for a triggering recertification event (including but not limited to; change in ownership, change in scope of services, remodeling of facility, or change in location) and report any triggering events to DHCS' Provider Enrollment Division at DHCSDMCRECERT@dhcs.ca.gov within five business days of notification or discovery.

Findings: The County does not have a process to monitor subcontractors for a triggering recertification event on a monthly basis.

Category 4: MONITORING

A review of the County's monitoring and program integrity was conducted to ensure compliance with applicable regulations, and standards. The following DMC deficiencies in regulations, standards or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 4.2

State Plan DMC Contract, Exhibit A, Attachment I, Part I, Section 3, A, 4, c

4. Contractor shall require all the subcontracted providers of services to be licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations. The Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:

Minimum Quality Treatment Standards, Document 2F(a)

Compliance with the following Minimum Quality Treatment Standards is required in addition to CCR Title 9 and 22 regulations for all SUD treatment programs either partially or fully funded through DMC. If conflict between regulations and standards occurs, the most restrictive shall apply.

Minimum Quality Treatment Standards, Document 2F(a), A, 3

A. Personnel Policies

3. Written 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 beneficiary's or their family members for personal gain;
 - c) Prohibition of sexual contact with beneficiary's;
 - d) Conflict of interest;
 - e) Providing services beyond scope;
 - f) Discrimination against beneficiary's or staff;
 - g) Verbally, physically, or sexually harassing, threatening, or abusing beneficiary's, family members or other staff;
 - h) Protection beneficiary confidentiality;
 - i) The elements found in the code of conduct(s) for the certifying organization(s) the program's counselors are certified under; and
 - j) Cooperate with complaint investigations.

Minimum Quality Treatment Standards, Document 2F(a), A, 5

A. Personnel Policies

4. Written roles and responsibilities and a code of conduct for the medical director shall be clearly documented, signed and dated by a program representative and physician.

Findings: The Code of Conduct for the Medical Director of Butte County Department of Behavioral Health did not include the following requirements:

- Use of drugs and/or alcohol; and

- Prohibition of sexual contact with beneficiaries.

CD 4.3

State Plan DMC Contract, Exhibit A, Attachment I, Part I, Section 3, A, 4, c

4. Contractor shall require all the subcontracted providers of services to be licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations. The Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:

Minimum Quality Treatment Standards, Document 2F(a)

Compliance with the following Minimum Quality Treatment Standards is required in addition to CCR Title 9 and 22 regulations for all SUD treatment programs either partially or fully funded through DMC. If conflict between regulations and standards occurs, the most restrictive shall apply.

Minimum Quality Treatment Standards, Document 2F(a), A, 5

A. Personnel Policies

5. Written roles and responsibilities and a code of conduct for the medical director shall be clearly documented, signed and dated by a program representative and physician.

22 CCR § 51341.1 (b) (28) (A) (i) (a)-(f)

(A) For outpatient drug free, day care habilitative, perinatal residential and naltrexone treatment services programs the following shall apply:

- (i) The substance use disorder medical director's responsibilities shall at a minimum include all of the following:
 - (a) Ensure that medical care provided by physicians, registered nurse practitioners, and physician assistants meets the applicable standard of care.
 - (b) Ensure that physicians do not delegate their duties to non-physician personnel.
 - (c) Develop and implement medical policies and standards for the provider.
 - (d) Ensure that physicians, registered nurse practitioners, and physician assistants follow the provider's medical policies and standards.
 - (e) Ensure that the medical decisions made by physicians are not influenced by fiscal considerations.
 - (f) Ensure that provider's physicians are adequately trained to perform diagnosis of substance use disorders for beneficiaries, determine the medical necessity of treatment for beneficiaries and perform other physician duties, as outlined in this section.

Finding: The written roles and responsibilities for the Medical Director of Aegis did not include the following requirements:

- Signed and dated by a provider representative; and
- Develop and implement medical policies and standards for the provider.

CD 4.4

State Plan DMC Contract, Exhibit A, Attachment I, Part I, Section 4, B, 1, a-b

1. Program Integrity: The Contractor is responsible for ensuring program integrity of its services and its subcontractors through a system of oversight, which shall include at least the following:
 - a) Compliance with state and federal law and regulations, including, but not limited to, 42 CFR 433.51, 42 CFR 431.800 *et seq.*, 42 CFR 440.230, 42 CFR 440.260, 42 CFR 455 *et seq.*, 42 CFR 456 *et seq.*, 42 CFR 456.23, 22 Cal. Code Regs. 51490, 22 Cal. Code Regs. 51490.1, 22 Cal. Code Regs. 51159, WIC 14124.1, WIC 14124.2, 42 CFR 438.320, 42 CFR 438.416, 42 CFR 438.10, and 42 CFR 438.206.
 - b) The Contractor shall conduct, at least annually, a programmatic and utilization review of DMC providers to assure covered services are being appropriately rendered. The annual review shall include an on-site visit of the DMC provider. Reports of the annual review shall be provided to the Medi-Cal Behavioral Health Division (MCBHD) at:

DHCS
Medi-Cal Behavioral Health Division
1500 Capitol Avenue, MS# 2623
Sacramento, CA 95814

Or by secure, encrypted email to: MCBHDMonitoring@dhcs.ca.gov

The review reports shall be provided to DHCS within two weeks of completion by the Contractor.

Technical assistance is available to counties from DHCS' MCBHD.

Finding: The County did not provide evidence it conducts an audit of all DMC providers at least annually to assure services are being appropriately rendered.

- The County monitored 11 of 12 DMC providers and submitted audits reports of these annual reviews to DHCS.

TECHNICAL ASSISTANCE

Butte County is seeking technical assistance on subject matter related to Quality Improvement.