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DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

October 20, 2021

Sent via e-mail to: Walt@co.calaveras.ca.us

Wendy Alt, SUD Administrator, Mental Health Director of Behavioral Health Services
Calaveras Health and Human Services Agency
891 Mountain Ranch Road
San Andreas, CA 95249

SUBJECT: Annual DMC State Plan County Compliance Unit Findings Report

Dear Administrator Alt:

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 Calaveras 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 Calaveras 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.

Calaveras 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 12/20/2021. 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 susan.volmer@dhcs.ca.gov.

Sincerely,

Susan Volmer
Susan Volmer
(916) 713-8677

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

Distribution:

To: Administrator Alt,

CC: Mateo Hernandez, Audits and Investigations, Medical Review Branch Acting Chief
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Robb Fulgham, Calaveras County Supervising SUD Counselor
Stacy Meily, Calaveras County Program Manager
Dianne Johnson, Calaveras County Quality Assurance

COUNTY REVIEW INFORMATION

County:

Calaveras

County Contact Name/Title:

Robb Fulgham, Supervising SUD Counselor

County Address:

891 Mountain Ranch Road

San Andreas, CA 95248

County Phone Number/Email:

(209) 754-2804

Rfulgham@co.calaveras.ca.us

Date of Review:

9/2/2021

Lead CCU Analyst:

Susan Volmer

Assisting CCU Analyst:

N/A

Report Prepared by:

Susan Volmer

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 9/2/2021. The following individuals were present:

- Representing DHCS:
Susan Volmer, Associate Government Program Analyst (AGPA)
Cristina Whitlock, AGPA
- Representing Calaveras County:
Robb Fulgham, Supervising SUD Counselor
Wendy Alt, Deputy Director BHS
Stacey Meily, Program Manager
Dianne Johnson, Quality Assurance

During the Entrance Conference, the following topics were discussed:

- Introductions
- Calaveras County overview of services
- Overview of monitoring process

Exit Conference:

An Exit Conference was conducted via WebEx on 9/2/2021. The following individuals were present:

- Representing DHCS:
Susan Volmer, AGPA
Cristina Whitlock, AGPA
- Representing Calaveras County:
Robb Fulgham, Supervising SUD Counselor
Wendy Alt, Deputy Director BHS
Stacey Meily, Program Manager
Dianne Johnson, Quality Assurance

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	0
2.0 Covered Services	1
3.0 DMC Certification & Continued Certification	0
4.0 Monitoring	3
5.0 General Provisions	1

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 2: COVERED SERVICES

A review of the County's covered services 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 2.2:

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

1. Subject to DHCS provider enrollment requirements, the Contractor shall maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services through use of DMC enrolled providers. Such services shall not be limited due to budgetary constraints
 - a) When a request for covered services is made by a beneficiary, the Contractor shall require services to be initiated with reasonable promptness. The Contractor shall have a documented system for monitoring and evaluating accessibility of care, including a system for addressing problems that develop regarding waiting times and appointments.

Findings: The County does not have a process to monitor and evaluate accessibility of care.

The County does not have a process for addressing problems that develop regarding wait times for appointments.

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 was 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, Shane Patterson M.D. of Calaveras County did not meet the following requirements:

- Signed and dated by the physician
- Signed and dated by a provider representative

The Code of Conduct for the Medical Director, Michael D. Fox M.D. of Aegis Treatment Centers did not meet the following requirement:

- Signed and dated by a provider representative

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, Michael D. Fox MD of Aegis Treatment Centers did not meet the following requirements:

- Signed and dated by a provider representative
- Ensure that medical care provided by physicians, registered nurse practitioners, and physician assistants meets the applicable standard of care
- Ensure that physicians do not delegate their duties to non-physician personnel;
- Develop and implement medical policies and standards for the provider
- Ensure that physicians, registered nurse practitioners, and physician assistants follow the provider's medical policies and standards
- Ensure that the medical decisions made by physicians are not influenced by fiscal considerations
- Ensure that provider's physicians are adequately trained to perform other physician duties

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 zero (0) of eight (8) DMC providers and did not submit audit reports of annual reviews to DHCS.

Category 5: GENERAL PROVISIONS

A review of the County's contract general provisions 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 5.3:

State Plan DMC Contract, Exhibit A, Attachment I, Part II, P, 1-2, a-d

P. Information Access for Individuals with Limited English Proficiency and/or Disabilities

1. The Contractor shall comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8) regarding access to materials that explain services available to the public as well as providing language interpretation services.
2. The Contractor shall comply with the applicable provisions of Section 1557 of the Affordable Care Act (45 CFR Part 92), including, but not limited to, 45 CFR 92.201, when providing access to:
 - a) Materials explaining services available to the public
 - b) Language assistance
 - c) Language interpreter and translation services
 - d) Video remote language interpreting services

State Plan DMC Contract, Exhibit A, Attachment I, Part II, Q

Q. Subcontract Provisions

Contractor shall include the foregoing Part II general provisions in all of its subcontracts.

Findings: The County did not provide evidence to demonstrate all of the foregoing State County Contract Exhibit A, Attachment I, Part II general provisions are included in all executed subcontracts, including the Dymally-Alatorre Bilingual Services Act provision.

TECHNICAL ASSISTANCE

DHCS's County Compliance Unit Analyst will make referrals to the DHCS' CPOMB Liaison for the training and technical assistance areas identified below:

The County requested Technical Assistance on all areas for DMC protocols, as there was a change in key staff (SUD Director) who had the majority of oversight for program operations.