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



GAVIN NEWSOM
GOVERNOR

April 12, 2022

Sent via email to: kpier@inyocounty.us

Kimball Pier
Deputy Director, Inyo County Behavioral Health
1360 N. Main Street
Bishop, CA 93514

SUBJECT: Annual DMC State Plan County Compliance Unit Findings Report

Dear Deputy Director Pier:

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 Inyo 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 Inyo County's State Fiscal Year 2021-22 State Plan DMC Contract compliance review. The report identifies deficiencies, required corrective actions, advisory recommendations, and referrals for technical assistance.

Inyo 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 6/13/2022. 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 katrina.beedy@dhcs.ca.gov.

Sincerely,

Katrina Beedy

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>

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Catie Grisham, Inyo County Addictions Programs Supervisor
Ralph Cataldo, Inyo County HHS Administrative Analyst III
Gina McKinzey, Inyo County MHSA Coordinator/Compliance Manager
Marilyn Mann, Inyo County HHS Director

COUNTY REVIEW INFORMATION

County:

Inyo

County Contact Name/Title:

Stephanie Tanksley/Inyo County HHS Senior Program Integrity and Quality Assurance Manager

County Address:

1360 N. Main Street, Bishop, CA 93514

County Phone Number/Email:

760-872-3273

stanksley@inyocounty.us

Date of Review:

3/8/2022

Lead CCU Analyst:

Katrina Beedy

Assisting CCU Analyst:

N/A

Report Prepared by:

Katrina Beedy

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. Fiscal Year (FY) 2021-22 State-County Contract, herein referred to as State County Contract
 - 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 3/8/2022. The following individuals were present:

- Representing DHCS:
Katrina Beedy, Associate Governmental Program Analyst (AGPA)
Angela Rankin, AGPA
- Representing Inyo County:
Kimball C. Pier, Deputy Director, Behavioral Health Services
Catie Grisham, Addictions Programs Supervisor
Gina McKinzey, MHSA Coordinator/Compliance Manager
Ralph Cataldo, HHS Administrative Analyst III
Stephanie Tanksley, HHS Senior Program Integrity and Quality Assurance Manager

During the Entrance Conference, the following topics were discussed:

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

Exit Conference:

An Exit Conference was conducted via WebEx on 3/8/2022. The following individuals were present:

- Representing DHCS:
Katrina Beedy, AGPA
Angela Rankin, AGPA
- Representing Inyo County:
Kimball C. Pier, Deputy Director, Behavioral Health Services
Catie Grisham, Addictions Programs Supervisor
Gina McKinzey, MHSA Coordinator/Compliance Manager
Ralph Cataldo, HHS Administrative Analyst III
Stephanie Tanksley, HHS Senior Program Integrity and Quality Assurance Manager

During the Exit Conference, the following topics were discussed:

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

SUMMARY OF FY 2021-22 COMPLIANCE DEFICIENCIES (CD)

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

CORRECTIVE ACTION PLAN (CAP)

Pursuant to the State County Contract, Exhibit A, Attachment I A1, Part I, Section 4, B, 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 2021- 22 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 1.1:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 2, A, 1, a-e

A. Covered Services

1. Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area. Covered services include:
 - a) Outpatient drug-free treatment
 - b) Narcotic replacement therapy
 - c) Naltrexone treatment
 - d) Intensive Outpatient Treatment
 - e) Perinatal Residential Substance Abuse Services (excluding room and board)

MHSUDS Information Notice No: 18-009

The DMC contract between the Department and a contracting county specifies that the contracting county "shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area." (See Fiscal Year 2017-2020 DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection A, Paragraph 1.) The contract goes on to define "covered services" to include the following:

- a) Outpatient drug-free treatment;
- b) Narcotic replacement therapy;
- c) Naltrexone treatment;
- d) Intensive Outpatient Treatment; and
- e) Perinatal Residential Substance Abuse Services (excluding room and board).

(DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection A, Paragraph 1) The contract further requires that a contracting county "maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services." (DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection B, Paragraph 1.) These services must be provided to Medi-Cal beneficiaries with reasonable promptness, may not be limited due to budgetary constraints, and must be provided to requesting beneficiaries without regard to the county of residence (DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection B, Paragraphs 1 and 2.). A referral to a non-contracting provider or to another county without an appropriate funding agreement does not fulfill a county's contractual obligation to arrange, provide or subcontract for DMC services.

Findings: The County did not provide evidence demonstrating the County arranges, provides or subcontracts the following DMC Services:

- Narcotic replacement therapy;
- Naltrexone treatment;
- Intensive Outpatient Treatment

CD 1.3:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part II, T, 1-2

T. Discrimination Grievances

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.

Findings: The County did not provide evidence demonstrating that each Discrimination Grievance included all required documentation. Specifically, the County did not provide blank copies of the following documents:

- Acknowledgement Letter;
- Disposition/Resolution Letter;
- Corresponding NOABD if applicable;
- Supporting documentation/evidence;
- Provider notification of the grievance, appeal, expedited appeal results.

CD 1.5:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 4, B, 4, a

- a) 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.

WIC 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.

Finding: The County did not provide evidence demonstrating it includes instructions on record retention in any subcontract with providers mandating 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.

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 3.1:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 3, A, 3

3. The Contractor shall require that providers of perinatal DMC services are properly certified to provide these services and comply with the requirements contained in Title 22, Section 51341.1, Services for Pregnant and Postpartum Women.

Findings: The County did not provide evidence demonstrating providers of perinatal DMC services comply with the requirements contained in Title 22, Section 51341.1, Services for Pregnant and Postpartum Women. The following requirements are missing, specifically:

- Any of the substance use disorder services listed in Subsection (d) shall be reimbursed at enhanced perinatal rates pursuant to Section 51516.1(a)(3) only when delivered by providers who have been certified pursuant to Section 51200 to provide perinatal Medi-Cal services to pregnant and postpartum women;
- Only pregnant and postpartum women are eligible to receive residential substance use disorder services;
- Perinatal services shall address treatment and recovery issues specific to pregnant and postpartum women, such as relationships, sexual and physical abuse, and development of parenting skills;
- Mother/child habilitative and rehabilitative services (i.e., development of parenting skills, training in child development, which may include the provision of cooperative child care pursuant to Health and Safety Code Section 1596.792);
- Service access (i.e., provision of or arrangement for transportation to and from medically necessary treatment);
- Education to reduce harmful effects of alcohol and drugs on the mother and fetus or the mother and infant; and
- Coordination of ancillary services (i.e., assistance in accessing and completing dental services, social services, community services, educational/vocational training and other services which are medically necessary to prevent risk to fetus or infant).

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 A1, 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:

c) Minimum Quality Drug 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.

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:
- Use of drugs and/or alcohol;
 - Prohibition of social/business relationship with beneficiary's or their family members for personal gain;
 - Prohibition of sexual contact with beneficiary's;
 - Conflict of interest;
 - Providing services beyond scope;
 - Discrimination against beneficiary's or staff;
 - Verbally, physically, or sexually harassing, threatening, or abusing beneficiary's, family members or other staff;
 - Protection beneficiary confidentiality;
 - The elements found in the code of conduct(s) for the certifying organization(s) the program's counselors are certified under; and
 - Cooperate with complaint investigations.

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.

Findings: The County did not provide evidence demonstrating the Code of Conduct for Inyo County's Medical Director includes all required elements. The following required element is missing, specifically:

- Providing services beyond scope.

CD 4.3:

State Plan DMC Contract, Exhibit A, Attachment I A1, 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:

c) 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.

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 nonphysician 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 County did not provide evidence demonstrating the written roles and responsibilities for Inyo County's Medical Director includes all required elements. The following required elements are missing, specifically:

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

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 deficiencies in regulations, standards or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 5.1:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part II, L, 12

L. Federal Law Requirements:

12. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part2, Subparts A - E).

Exhibit A, Attachment I, Part II, Q

Q. Subcontract Provisions

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

Behavioral Health Information Notice (BHIN) 20-066

Findings: The County did not provide evidence demonstrating subcontractor compliance with the Confidentiality of Alcohol and Drug Abuse Patients Records (42 CFR Part 2, Subparts A-E) provision.

CD 5.2:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part II, E

E. Counselor Certification

Any counselor or registrant providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in a DHCS licensed or certified program is required to be registered or certified as defined in Title 9, Division 4, Chapter 8 (Document 3H).

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 demonstrating subcontractor compliance with the Counselor Certification provision.

CD 5.3:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part II, G

G. Trafficking Victims Protection Act of 2000

Contractor and its subcontractors that provide services covered by this Contract shall comply with the Trafficking Victims Protection Act of 2000 (22 USC 7104(g)), as amended by section 1702 of Pub. L. 112-239.

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 demonstrating subcontractor compliance with the Trafficking Victims Protection Act of 2000 (22 USC 7104(g)) provision.

TECHNICAL ASSISTANCE

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

Other Topics: The County seeks DMC onboarding and training materials for a new SUD supervisor.