



BRADLEY P. GILBERT
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

March 19, 2020

Sent via e-mail to: bwalker@kernbhcs.org

Bill Walker, Director
Kern Behavioral Health & Recovery Services
P.O. Box 1000
Bakersfield, CA 93302-1000

SUBJECT: Annual County Compliance Report

Dear Director Walker:

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) Waiver and the terms of the Intergovernmental Agreement operated by Kern 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 Kern County's State Fiscal Year 2019-20 DMC-ODS compliance review. The report identifies deficiencies, required corrective actions, new requirements, advisory recommendations, and referrals for technical assistance.

Kern County is required to submit a Corrective Action Plan (CAP) addressing each compliance deficiency (CD) noted to the Medi-Cal Behavioral Health Division (MCBHD), Plan and Network Monitoring Branch (PNMB), County Monitoring Unit (CMU) Analyst by 4/20/2020. Please use enclosed CAP plan form when completing the CAP. CAP and supporting documentation to be e-mailed to the CMU analyst at MCBHDMonitoring@dhcs.ca.gov.

If you have any questions regarding this report or need assistance, please contact me.

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 Walker,

CC: Mateo Hernandez, Audits and Investigations, Medical Review Branch Acting Chief
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MCBHDMonitoring@dhcs.ca.gov, County and Provider Monitoring Unit
Ana Olvera, Kern Behavioral Health & Recovery Services, SUD Administrator
Melanie Olcott, Kern Behavioral Health & Recovery Services, Behavioral Health Unit Supervisor

Lead CCU Analyst: Michael Bivians	Date of Review: 2/11/2020 - 2/12/2020
Assisting CCU Analyst(s): Emanuel Hernandez	Date of DMC-ODS Implementation: 1/1/2019
County: Kern	County Address: 2001 28 th Street Bakersfield, CA 93301
County Contact Name/Title: Melanie Olcott, Behavioral Health Unit Supervisor	County Phone Number/Email: 661-868-7848 molcott@kernbhhs.org
Report Prepared by: Michael Bivians	Report Approved by: Mayumi Hata

REVIEW SCOPE

- I. Regulations:
 - a. Special Terms and Conditions (STCs) for California's Medi-Cal 2020 section 1115(a) Medicaid Demonstration STC, Part X: Drug Medi-Cal Organized Delivery System
 - b. Code of Federal Regulations, Title 42, Chapter IV, Subchapter C, Part 438; section 438.1 through 438.930: Managed Care
- II. Program Requirements:
 - a. State Fiscal Year (SFY) 2019-20 Intergovernmental Agreement (IA)
 - b. Mental Health and Substance Use Disorders Services (MHSUDS) Information Notices

ENTRANCE AND EXIT CONFERENCE SUMMARIES

Entrance Conference:

An entrance conference was conducted at 2001 28th Street Bakersfield, CA 93301 on 2/11/2020. The following individuals were present:

- Representing DHCS:
Michael Bivians, Associate Governmental Program Analyst (AGPA)
Emanuel Hernandez, Associate Governmental Program Analyst (AGPA)
- Representing Kern County:
Bill Walker, Director, Kern Behavioral Health & Recovery Services
Melanie Olcott, Behavioral Health Supervisor QID SUD
Ana Olvera, Substance Use Disorder Division Administrator
Alison Burrowes, Deputy Director, Adult Clinical Services
Stacy Kuwahara, Deputy Director, Administrative Services
Liz Brown, Human Resources Manager
Candee Del Rio, Finance Manager
Jessica Armstrong, Contracts Division Administrator
Robert Farmer, Information Technology Manager
Lesliegh Davis, Quality Improvement Division Administrator
Amber Lopez, Quality Improvement Division Analyst
Jamie Alexander, EHR Supervisor
Karina Leonzo, Quality Improvement Division Supervisor
Joy Quinton-Buaya, Department Supports Administrator
Sylvia Petitt, Behavioral Health Unit Supervisor
Gregory Gonzalez, Behavioral Health Unit Supervisor
Liz Bailey, Interim Medical Services Administrator
Rafael Lopez, Behavioral Health Analyst
Lorena Boykins, Program Coordinator
Kendall McClanahan, Human Resources Specialist
Jennifer Arnold, PRA Unit Supervisor
Selma Gonzalez, Quality Improvement Division Administrative Coordinator
Shandy Henry, Quality Improvement Division Support
Cynthia Jackson, Quality Improvement Division Support
Cindy Childs, Quality Improvement Division Support
Dissary Chairez, PRA Program Tech
Jonathan Monsibais, OST-PRA

During the Entrance Conference the following topics were discussed:

- Introductions
- Overview of the Monitoring Process
- DHCS Re-Organization
- Medi-Cal Healthier California for All (CalAIM)
- Kern County Overview of Services

Exit Conference:

An exit conference was conducted at 2001 28th Street Bakersfield, CA 93301 on 2/12/2020. The following individuals were present:

- Representing DHCS:
Michael Bivians, AGPA
Emanuel Hernandez, AGPA

- Representing Kern County:
Bill Walker, Director, Kern Behavioral Health & Recovery Services
Melanie Olcott, Behavioral Health Supervisor QID SUD
Ana Olvera, Substance Use Disorder Division Administrator
Alison Burrowes, Deputy Director, Adult Clinical Services
Jessica Armstrong, Contracts Division Administrator
Robert Farmer, Information Technology Manager
Lesliegh Davis, Quality Improvement Division Administrator
Amber Lopez, Quality Improvement Division Analyst
Rafael Lopez, Behavioral Health Analyst
Lorena Boykins, Program Coordinator

During the Exit Conference the following topics were discussed:

- Review of Compliance Deficiencies
- Follow Up Deadlines
- CAP Distribution to DHCS

SUMMARY OF SFY 2019-20 COMPLIANCE DEFICIENCIES (CD)

Section:	Number of CD's:
1.0 Administration	2
2.0 Member Services	0
3.0 Service Provisions	0
4.0 Access	0
5.0 Coordination of Care	0
6.0 Monitoring	1
7.0 Program Integrity	4
8.0 Compliance	2

CORRECTIVE ACTION PLAN

Pursuant to the Intergovernmental Agreement, Exhibit A, Attachment I, Part II, Section EE, 2 each CD identified must be addressed via a CAP. The CAP is due within thirty (30) calendar days of the date of this monitoring report. Advisory Recommendations (AR) are not required to be addressed in the CAP.

Please provide the following within the completed SFY 2019-20 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) The name of the person who will be responsible for corrections and ongoing compliance.

The CMU liaison will monitor progress of the CAP completion.

1.0 ADMINISTRATION

A review of the administrative trainings, policies, and procedures was conducted to ensure compliance with applicable regulations and standards. The following deficiencies in administration requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 1.1:

Intergovernmental Agreement Exhibit A, Attachment I, III, A, 1, iv-v

- iv. Physicians shall receive a minimum of five hours of continuing medical education related to addiction medicine each year.
- v. Professional staff (LPHAs) shall receive a minimum of five (5) hours of continuing education related to addiction medicine each year.

Finding: The Plan does not ensure SUD program professional staff have five (5) hours of continuing education units in addiction medicine annually.

CD 1.7:

Intergovernmental Agreement Exhibit A, Attachment I, 5, i, a, i-ii

- i. The Contractor shall follow the state's established uniform credentialing and re-credentialing policy that addresses behavioral and substance use disorders, outlined in DHCS Information Notice 18-019.
- ii. The Contractor shall follow a documented process for credentialing and re-credentialing of network providers.

MHSUDS Information Notice: 18-019

Effective immediately, Plans must implement and maintain written policies and procedures for the initial credentialing and re-credentialing of their providers in accordance with the policy outlined in this IN...

Credentialing Policy

For all licensed, waived, registered and/or certified providers, the Plan must verify and document the following items through a primary source, as applicable. The listed requirements are not applicable to all provider types. When applicable to the provider type, the information must be verified by the Plan unless the Plan can demonstrate the required information has been previously verified by the applicable licensing, certification and/or registration board.

1. The appropriate license and/or board certification or registration, as required for the particular provider type;
2. Evidence of graduation or completion of any required education, as required for the particular provider type;
3. Proof of completion of any relevant medical residency and/or specialty training, as required for the particular provider type; and
4. Satisfaction of any applicable continuing education requirements, as required for the particular provider type.

In addition, Plans must verify and document the following information from each network provider, as applicable, but need not verify this information through a primary source:

1. Work history;
2. Hospital and clinic privileges in good standing;
3. History of any suspension or curtailment of hospital and clinic privileges;
4. Current Drug Enforcement Administration identification number;
5. National Provider Identifier number;
6. Current malpractice insurance in an adequate amount, as required for the particular provider type;
7. History of liability claims against the provider;
8. Provider information, if any, entered in the National Practitioner Data Bank, when applicable. See <https://www.npdb.hrsa.gov/>;
9. History of sanctions from participating in Medicare and/or Medicaid/Medi-Cal: providers terminated from either Medicare or Medi-Cal, or on the Suspended and Ineligible Provider List, may not participate in the Plan's provider network. This list is available at: <http://files.medi-cal.ca.gov/pubsdoco/SandILanding.asp>; and
10. History of sanctions or limitations on the provider's license issued by any state's agencies or licensing boards...

Provider Re-credentialing

DHCS requires each Plan to verify and document at a minimum every three years that each network provider that delivers covered services continues to possess valid credentials, including verification of each of the credentialing requirements listed above. The Plan must require each provider to submit any updated information needed to complete the re-credentialing process, as well as a new signed attestation. In addition to the initial credentialing requirements, re-credentialing should include documentation that the Plan has considered information from other sources pertinent to the credentialing process, such as quality improvement activities, beneficiary grievances, and medical record reviews.

Finding: The Plan does not verify, and document that the following elements are within the policy:

- Provider information, if any, entered in the National Practitioner Data Bank.

6.0 MONITORING

The following deficiency in monitoring was identified:

COMPLIANCE DEFICIENCY:

CD 6.26

Intergovernmental Agreement Exhibit A, Attachment I, III, OO, 1, i, d

1. Monitoring

- i. Contractor's performance under this Exhibit A, Attachment I, shall be monitored by DHCS annually during the term is the Agreement. Monitoring criteria shall include, but not be limited to:
 - d. Contractor shall conduct annual onsite monitoring reviews of services and subcontracted services for programmatic and fiscal requirements. Contractor shall submit copy of their monitoring and audit reports to DHCS within two weeks of issuance. Reports should be sent by secure, encrypted e-mail to:

sudcountyreports@dhcs.ca.gov

Alternatively, mail to:

Department of Health Care Services
SUD - Program, Policy and Fiscal Division
Performance & Integrity Branch
PO Box 997413, MS-2627
Sacramento, CA 95899-7413

Finding: The Plan indicated a total of 23 DMC-ODS monitoring reports were sent to DHCS for SFY 2018-19. The Plan did not monitor all providers for DMC-ODS programmatic and fiscal requirements. The Plan did monitor 20 of 23 Plan and sub-contracted providers for DMC-ODS programmatic and fiscal requirements. The Plan did submit 20 DMC-ODS programmatic and fiscal monitoring reports to DHCS within two weeks of report issuance.

7.0 PROGRAM INTEGRITY

The following deficiencies in quality regulations, standards, or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 7.43:

Intergovernmental Agreement Exhibit A, Attachment I, II, H, 5, v, c

- v. Treatment of recoveries made by the Contractor of overpayments to providers.
- c. The Contractor shall annually report to the Department on their recoveries of overpayments.

MHSUDS Information Notice 19-022

Consistent with Exhibit A, Attachment I of the Intergovernmental Agreement (IA), DMC-ODS counties must submit a completed and signed certification statement on county letterhead to ODSSubmissions@dhcs.ca.gov. The certification is required with each submission of the following data, documentation, and information:

- Annual report of overpayment recoveries;

The certification statement must be on county letterhead and conform to the following requirements:

- Indicate the current month during which all data, information, and documentation submitted to DHCS, as described above, is certified;
- Reference, with specificity, all types of data, information, and documentation described in the bulleted list above; and
- State that the data, information, and documentation to which the certification statement applies is “accurate, complete, and truthful” to the declarant’s “best information, knowledge, and belief.”

The Chief Executive Officer (CEO), the Chief Financial Officer (CFO), or an individual who reports to the CEO or CFO with the delegated authority to sign for the CEO or CFO, so that the CEO or CFO is ultimately responsible for the certification, must sign the certification statement. The attached DMC-ODS County Certification template includes the requirements described above.

Finding: The Plan does not ensure overpayments are properly communicated to DHCS.

CD 7.44:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 6, i-ii

- i. The SUD 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 written 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 and LPHAs are adequately trained to perform diagnosis of substance use disorders for beneficiaries, and determine the medical necessity of treatment for beneficiaries.
 - g. Ensure that provider's physicians are adequately trained to perform other physician duties, as outlined in this section.
- II. The SUD Medical Director may delegate his/her responsibilities to a physician consistent with the provider's medical policies and standards; however, the SUD Medical Director shall remain responsible for ensuring all delegated duties are properly performed.

Finding: The written roles and responsibilities provided for the SUD program Medical Directors of American Health Services are missing the following criteria:

- Develop and implement written medical policies and standards for the provider.

CD 7.45:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 7, iii, a-i

- iii. Written provider 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 beneficiaries or their family members for personal gain
 - c. Prohibition of sexual contact with beneficiaries
 - d. Conflict of interest
 - e. Providing services beyond scope
 - f. Discrimination against beneficiaries or staff
 - g. Verbally, physically, or sexually harassing, threatening or abusing beneficiaries, family members or other staff
 - h. Protection of beneficiary confidentiality
 - i. Cooperate with complaint investigations

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 7, v

- v. Written roles and responsibilities and a code of conduct for the Medical Director shall be clearly documented, signed and dated by a provider representative and the physician.

Finding: The Plan's SUD program Medical Director's signed Code of Conduct for Community Service Organization Behavioral Health Programs is missing the following elements:

- Shall be clearly documented, signed and dated by a provider representative and the physician.

The Plan's SUD program Medical Director's signed Code of Conduct for College Community Services is missing the following elements:

- Conflict of interest
- Providing services beyond scope
- Cooperate with complaint investigations
- Shall be clearly documented, signed and dated by a provider representative and the physician.

CD 7.46:

Intergovernmental Agreement Exhibit A, Attachment I, III, AA, 1-2 iv

1. In addition to complying with the subcontractual relationship requirements set forth in Article II E 8 of this Agreement, the Contractor shall ensure that all subcontracts require that the Contractor oversee and is held accountable for any functions and responsibilities that the Contractor delegates to any subcontractor.
2. Each subcontract shall:
 - iv. Ensure the Contractor monitors the subcontractor's performance on an ongoing basis and subject it to an annual onsite review, consistent with statutes, regulations, and Article III.PP.

Intergovernmental Agreement Exhibit A, Attachment I, III, FF, 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.

Finding: The following CalOMS Tx report(s) are non-compliant:

- Open Admissions Report
- Open Providers Report

8.0 COMPLIANCE

The following program integrity deficiencies in regulations, standards, or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 8.47:

MHSUDS Information Notice IN 18-043

Intergovernmental Agreement Exhibit A, Attachment I, II, B, 2, iv, a-b

Intergovernmental Agreement Exhibit A, Attachment I, II, B, 2, xiv, d, i-iv

Intergovernmental Agreement Exhibit A, Attachment I, II, B, 2, xvii, a-e

Finding: The Plan's member handbook does not match the DHCS approved template.

CD 8.48:

MHSUDS Information Notice IN 18-020

Intergovernmental Agreement Exhibit A, Attachment I, II, B, 2, iv, a-b

Intergovernmental Agreement Exhibit A, Attachment I, II, B, 2, xviii, a-d

Finding: The Plan's Provider Directory posted to the Plan's website did not include all DMC-ODS providers within the Plan's network.

TECHNICAL ASSISTANCE

Kern County did not request Technical Assistance during this review.