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



GAVIN NEWSOM
GOVERNOR

November 5, 2021

Sent via e-mail to: april.giambra@lakecountyca.gov

April Giambra, Administrator
Lake County Behavioral Health
6302 Thirteenth Avenue
Lucerne, CA 95458

SUBJECT: Annual DMC State Plan County Compliance Unit Findings Report

Dear Administrator Giambra:

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 Lake 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 Lake 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.

Lake 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 1/5/2022. 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 susan.volmer@dhcs.ca.gov.

Sincerely,

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 Giambra

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Monitoring Branch Chief
MCBHDMonitoring@dhcs.ca.gov, County/Provider Operations and Monitoring Branch
Robert Chalmers, Lake County Staff Services Analyst II, SUDS Compliance

COUNTY REVIEW INFORMATION

County:

Lake

County Contact Name/Title:

Robert Chalmers, Staff Services Analyst II, SUDS Compliance

County Address:

6302 Thirteenth Avenue

Lucerne, CA 95458

County Phone Number/Email:

robert.chalmers@lakecountyca.gov

707-274-9101

Date of Review:

9/16/2021

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 9/16/21. The following individuals were present:

- Representing DHCS:
Susan Volmer, Associate Governmental Program Analyst (AGPA)
Angela Rankin, AGPA
- Representing Lake County:
April Giambra, Programs Manager, Substance Use Disorder Services Administrator
Elise Jones, Deputy Director, Administration
Christine Andrus, Program Manager, Fiscal
Vanessa Mayer, Staff Services Analyst, Senior, Compliance
Kate Lewis, Staff Services Analyst, Compliance
Robert Chalmers, Staff Services Analyst II, SUDS Compliance

During the Entrance Conference, the following topics were discussed:

- Introductions
- Overview of monitoring process

Exit Conference:

An Exit Conference was conducted via WebEx on 9/16/2021. The following individuals were present:

- Representing DHCS:
Susan Volmer, AGPA
Angela Rankin, AGPA
Jamie Saunders, Staff Services Manager I (SSMI)
- Representing Lake County:
April Giambra, Programs Manager, Substance Use Disorder Services Administrator
Elise Jones, Deputy Director, Administration
Christine Andrus, Program Manager, Fiscal
Vanessa Mayer, Staff Services Analyst, Senior, Compliance
Kate Lewis, Staff Services Analyst, Compliance
Robert Chalmers, Staff Services Analyst II, SUDS Compliance

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	1
2.0 Covered Services	0
3.0 DMC Certification & Continued Certification	0
4.0 Monitoring	3
5.0 General Provisions	2

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 deficiency in regulations, standards or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

CD 1.5:

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

B. It is further agreed this Contract is controlled by applicable provisions of: (a) the W&I 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, and Article 1.3, Sections 14043, *et seq.*, (b) Title 22, including but not limited to Sections 51490.1, 51341.1 and 51516.1; and (c) Division 4 of Title 9 of the California Code Regulations (hereinafter referred to as Title 9).

22 CCR 51341.1 (h) (7) (i)

- (7) Except where share of cost, as defined in Section 50090, is applicable, providers shall accept proof of eligibility for Drug Medi-Cal as payment in full for treatment services rendered. Providers shall not charge fees to a beneficiary for access to Drug Medi-Cal substance use disorder services or for admission to a Drug Medi-Cal treatment slot.
- (i) For each beneficiary, providers shall maintain all of the documentation in the beneficiary's individual patient record established pursuant to Subsection (g)(1) for a minimum of three (3) years from the date of the last face-to-face contact between the beneficiary and the provider.

Finding: The County does not ensure County and subcontracted providers are accepting proof of DMC eligibility as payment in full for drug treatment services.

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 County did not provide a copy of the Code of Conduct for the Medical Director of Lake County, Dr. Hardeep Singh.

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 Lake County, Dr. Hardeep Singh did not meet the following requirement:

- Signed and dated by a provider representative.

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 four (4) of seven (7) DMC providers and submitted audit reports of these 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 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, B

B. No Unlawful Use or Unlawful Use Messages Regarding Drugs

Contractor agrees that information produced through these funds, and which pertains to drugs and alcohol - related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug or alcohol related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). By signing this Contract, Contractor agrees that it will enforce, and will require its subcontractors to enforce, these requirements.

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 County and Subcontractor compliance with the No Unlawful Use or Unlawful Use Messages Regarding Drugs provision.

The County did not demonstrate all of the foregoing State County Contract Exhibit A, Attachment I, Part II general provisions are included in all executed subcontracts, including the No Unlawful Use or Unlawful Use Messages Regarding Drugs provision.

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 County and Subcontractor compliance with the Dymally-Alatorre Bilingual Services Act provision.

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

Lake County did not request Technical Assistance during this review.