



WILL LIGHTBOURNE
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

August 11, 2020

Sent via e-mail to: tarmstrong@co.lassen.ca.us

Tiffany Armstrong, Director of Behavioral Health
Lassen County Health and Social Services
555 Hospital Lane
Susanville, CA 96130-4302

SUBJECT: Annual County Compliance Unit Report

Dear Director Armstrong:

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 Lassen 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 Lassen County's State Fiscal Year 2019-20 State Plan DMC Contract compliance review. The report identifies deficiencies, required corrective actions, advisory recommendations, and referrals for technical assistance.

Lassen 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 Monitoring Unit (CMU) Analyst by 9/11/2020. 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
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michael.bivians@dhcs.ca.gov

Audits and Investigations Division
Medical Review Branch
Behavioral Health Compliance Section
County Compliance Unit
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Kamilah Holloway, Medi-Cal Behavioral Health Division, Plan and Network Monitoring Branch Chief
MCBHDMonitoring@dhcs.ca.gov, County and Provider Monitoring Unit

Lead CCU Analyst: Michael Bivians	Date of Review: June 2020
Assisting CCU Analyst(s): N/A	
County: Lassen	County Address: 555 Hospital Lane Susanville, CA 96130-4302
County Contact Name/Title: Tiffany Armstrong / Director of Behavioral Health	County Phone Number/Email: 530-251-8108 tarmstrong@co.lassen.ca.us
Report Prepared by: Michael Bivians	Report Approved by: Mayumi Hata

REVIEW SCOPE

- I. Regulations:
 - a. California Code of Regulations, Title 22, section 51341.1 – Drug Medi-Cal Substance Use Disorder Services
 - b. Health and Safety Code, Division 10.5, Section 11750 – 11970: Alcohol and Drug Programs
 - c. 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
 - d. 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 State County Contract, herein referred to as State County Contract
 - b. Mental Health and Substance Use Disorders Services (MHSUDS) Information Notices
 - c. State Fiscal Year (SFY) 2019-20 Intergovernmental Agreement (IA)

SUMMARY OF SFY 2019-20 COMPLIANCE DEFICIENCIES (CD)

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

CORRECTIVE ACTION PLAN

Pursuant to the State County Contract, Exhibit A, Attachment I A1, Part I, Section 3, 7, (a-d) each compliance deficiency (CD) identified must be addressed via a Corrective Action Plan (CAP). The CAP is due within thirty (30) calendar days of the date of this monitoring report. Advisory recommendations 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) Who will be responsible for correction and ongoing compliance.

The CMU analyst will monitor progress of the CAP completion.

1.0 ADMINISTRATION

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

COMPLIANCE DEFICIENCIES:

CD 1.3:

Exhibit A, Attachment I, Part I, Section 4, A, 2, g

g) Contractor shall assure that subcontractor sites keep a record of the clients/patients being treated at each location. Contractor shall retain client records for a minimum of ten years after the completion of the final settlement process.

Exhibit A, Attachment I A2, Part I, Section 4, B, 5, 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.

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.

Finding: 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.

CD 1.4:

Exhibit A, Attachment I, Part I, Section 2, A, 1, a-e

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.

If a county does not fulfill its contractual obligations to arrange, provide or subcontract for the provision of **all** DMC covered services, the Department may, at its discretion, require that the contracting county forfeit its county realignment funds, pursuant to Government Code Section 30027.10, and may require that the county surrender its authority to function as the administrator of DMC services (Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection C, Paragraph 3.). Additionally, the Department will enter into direct contracts with providers and will invoice the county for all DMC claims for services provided to the residents of that county (Contract, Exhibit B, Part II, Section 3, Subsection B).

Finding: The County did not provide evidence of procedures for DMC beneficiary assessment and referral for covered services.

5.0 MONITORING

The following DMC deficiency in regulations, standards, or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

CD 5.11:

Exhibit A, Attachment I, Part I, Section 4, B, 1, b

- b) Contractor shall conduct, at least annually, an audit of DMC providers to assure covered services are being appropriately rendered. The annual audit must include an on-site visit of the service provider. Reports of the annual review shall be provided to DHCS's Performance Management Branch at:

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

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

Finding: The County did monitor zero (0) of three (3) service area providers for DMC covered services. The County did not monitor all service area providers for DMC covered services.

6.0 PROGRAM INTEGRITY

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

COMPLIANCE DEFICIENCIES:

CD 6.17:

Exhibit A, Attachment I, Part I, 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))

Document 2F(a), A, 5

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.

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)

- 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 other physician duties, as outlined in this section.

Finding: The written roles and responsibilities for the Medical Director of Lassen County Behavioral Health did not include the following requirements:

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

CD 6.18:

Document 2F(a), A, 5

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.

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.

Document 2F(a), A, 3

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.

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 beneficiaries;
 - 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.

Finding: The Code of Conduct for Medical Directors for Progress House Perinatal Facility did not include the following requirements:

- Prohibition of sexual contact with beneficiaries.
- Providing services beyond scope.
- Cooperate with complaint investigations.

The County did not provide evidence the Lassen County Behavioral Health Medical Director has a signed Code of Conduct.

7.0 COMPLIANCE

During the SFY 2019-20 review, the following CAPs with CDs were discussed and are still outstanding.

State Fiscal Year: 2018-19

CD #: 9.58

Finding: The County did not review and verify that claims submitted were accurate and legitimate.

Reason for non-clearance of CD: No reason provided.

County plan to remediate: 1. 06-07-2019: LCBH is currently using the Summary of Service form to validate that the services was provided and attest that the submitted claims have been subject to review and verification process for accuracy and legitimacy. (See attached form).

2. 11-14-2019 In addition to the Summary of Service form that clients sign. QA staff also follows up with random clients to complete a phone call to verify services were actually provided. All information provided is logged onto our Service Verification Call Log (See attached Forms).

3. 11-14-2019 LCBH also called the sheriff department and still waiting for a response about the death index.

4. 12-03-2019 Started receiving death index from the County and now verifying claims submitted are accurate and legitimate.

5. 02-08-2020: On 12/04/19 DHCS wants LCBH to submit logs/policy in order to review claims against the monthly death index to verify claims for services rendered to a beneficiary do not take place after the beneficiary's date of death. Since no client has died we do not have any logs to submit to DHCS. No policy has been developed only for CD. 9.59.

6. 04-02-2020: Submitted Policy BH 18-41 Revision 1

Original expected date of completion: 12/1/2019

Updated/ revised date of completion: No revised date provided.

State Fiscal Year: 2018-19

CD #: 9.65

Finding: The County did not provide evidence that all DMC programs have medical policies and standards developed and approved by the program medical director.

Reason for non-clearance of CD: No reason provided.

County plan to remediate: 1. 06-07-2019: BH currently has a medical director and is in the process of providing evidence that all DMC programs have medical policies and standards developed and approved by the program medical director.

2. Our current medical director provides treatment and signs off on SUD treatment plans. Still searching for a medical director to sign off on policies.
3. 11-14-2019: BH is still working on obtaining a medical director in order to sign off on this policy. We have set up a new date of completion.
4. 01-20-2020: Attached is medical director's resume to show she has sufficient continuing education in addiction medicine. Waiting for a response from DHCS to see if the attached medical director meets the minimum standard to review polices.
5. 02-08-2020: Still waiting for a response from Locums to see if the psychiatrist wants to become a medical director for Lassen County. The current applicant does not have enough CEU's to be a medical director for Lassen County according to DHCS.
6. 04-24-2020: LCBH sent DHCS a copy of a psychiatrist's resume and her certificate of attending 40 hours of Addiction Medicine.

Original expected date of completion: 12/1/2019

Updated/ revised date of completion: No revised date provided.

TECHNICAL ASSISTANCE

Lassen County did not request Technical Assistance during this review.