



MICHELLE BAASS
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

July 7, 2022

Sent via e-mail to: rroberts@mono.ca.gov

Robin Roberts, Director
Mono County Behavioral Health
1290 Tavern Rd.
Mammoth Lakes, CA 93546

SUBJECT: Annual DMC State Plan County Compliance Unit Findings Report

Dear Director Roberts:

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 Mono 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 Mono 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.

Mono 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 9/7/2022. 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 question, please contact me at katrina.beedy@dhcs.ca.gov.

Sincerely,

Katrina Beedy
(916) 713-8811

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: Director Roberts:

CC: Mateo Hernandez, Audits and Investigations, Medical Review Branch Acting Chief
Lanette Castleman, Audits and Investigations, Behavioral Health Compliance Section Chief
Ayesha Smith, Audits and Investigations, Behavioral Health Compliance Unit Chief
Michael Bivians, Audits and Investigations, County Compliance Monitoring II Chief
Cindy Berger, Audits and Investigations, Provider Compliance Unit Chief
Sergio Lopez, County/Provider Operations Monitoring Section I Chief
Tony Nguyen, County/Provider Operations Monitoring Section II Chief
MCBHDMonitoring@dhcs.ca.gov, County/Provider Operations and Monitoring Branch
Debra Stewart, SUD Supervisor, Mono County Behavioral Health
Stephany Mejia, Staff Services Analyst, Mono County Behavioral Health

COUNTY REVIEW INFORMATION

County:

Mono

County Contact Name/Title:

Stephany Mejia, Staff Services Analyst

County Address:

1290 Tavern Road, Mammoth Lakes, CA 93546

County Phone Number/Email:

760-924-1740

smejia@mono.ca.gov

Date of Review:

6/8/2022

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 6/8/2022. The following individuals were present:

- Representing DHCS:
Katrina Beedy, Associate Governmental Program Analyst (AGPA)
Alexandra Clark, AGPA
- Representing Mono County:
Robin Roberts, Behavioral Health Director
Debra Stewart, SUD Supervisor, Mono County Behavioral Health
Stephany Mejia, Staff Services Analyst, Mono County Behavioral Health

During the Entrance Conference, the following topics were discussed:

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

Exit Conference:

An Exit Conference was conducted via WebEx on 6/8/2022. The following individuals were present:

- Representing DHCS:
Katrina Beedy, AGPA
Alexandra Clark, AGPA
- Representing Mono County:
Robin Roberts, Behavioral Health Director
Debra Stewart, SUD Supervisor, Mono County Behavioral Health
Stephany Mejia, Staff Services Analyst, Mono County Behavioral Health

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	2
2.0 Covered Services	3
3.0 DMC Certification & Continued Certification	2
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, 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 1.3:

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. The following documentation was missing from the examples provided:

- 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 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.

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 deficiencies in regulations, standards or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 2.2:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 2, B, 3-4

3. The Contractor is financially responsible for all covered services provided to beneficiaries that reside in the Contractor's county.
4. The Contractor shall accept claims from any DMC enrolled provider, regardless of the location of the provider, for any covered services provided to beneficiaries residing in the Contractor's county. The Contractor shall reimburse the provider through a contract or other agreement.

Findings: The County did not provide evidence demonstrating it accepts claims from any DMC enrolled provider, regardless of the location of the provider, for any covered services provided to beneficiaries residing in the Contractor's county.

CD 2.3:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 2, B, 5

5. The Contractor shall require all subcontractors to inform the Contractor when a beneficiary that resides in the Contractor's county is referred to, and served by, an out-of-county provider.

Findings: The County did not provide evidence demonstrating that subcontractors notify the County when beneficiaries who reside in that County are referred to and receive treatment from an out-of-county provider.

CD 2.4:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 2, B, 1, d

- d) The Contractor shall not unlawfully discriminate against beneficiaries and potential beneficiaries on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, genderidentity, or sexual orientation (45 C.F.R. § 92.8; Gov. Code § 11135).

Findings: The County did not provide evidence demonstrating a process to notify beneficiaries and potential beneficiaries the provider does not discriminate in the provision of services based on the following:

- Religion;
- Ancestry;
- Ethnic group identification;
- Medical condition;
- Genetic information;

- Marital status;
- Gender;
- Gender identity and
- Sexual orientation.

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 deficiencies in regulations, standards or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 3.3:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part V, Section 4, B, 1, 2, a

- a) Contractor shall, on a monthly basis, monitor the status of all providers to ensure they maintain active enrollment in the DMC program. Any subcontracted provider that surrenders its certification or closes its facility must be reported by the Contractor to DHCS' Provider Enrollment Division at DHCSDMCRECERT@dhcs.ca.gov within five business days of notification or discovery.

Findings: The County did not provide evidence demonstrating a process to identify changes to a provider's DMC certification on a monthly basis.

CD 3.4:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part V, Section 4, B, 1, 2, b

- a) During the monthly status check, the Contractor shall monitor for a triggering recertification event (including but not limited to; change in ownership, change in scope of services, remodeling of facility, or change in location) and report any triggering events to DHCS' Provider Enrollment Division at DHCSDMCRECERT@dhcs.ca.gov within five business days of notification or discovery.

Findings: The County did not provide evidence demonstrating a process to monitor subcontractors for a triggering recertification event on a monthly basis.

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 4.1:

State Plan DMC Contract, Exhibit A, Attachment I A1, 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 (b) (28) (A) (i) (f) (iii)

(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
- (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.
- (iii) A substance use disorder medical director shall receive a minimum of five (5) hours of continuing medical education in addiction medicine each year.

Findings: The County did not provide evidence demonstrating Tarzana's Medical Director, E. Duane Carmalt, received the annual five (5) hours of continuing medical education in addiction medicine. Specifically:

- The County did not provide evidence of continuing medical education for Tarzana's Medical Director for calendar year 2020.

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:
 - 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.

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 that Mono County's SUD program Medical Director has a Code of Conduct.

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

- Signed and dated by a provider representative; and
- Prohibition of sexual contact with beneficiaries.

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

- Signed and dated by a provider representative.

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 Mono County's Medical Director includes all required elements. The following required element is missing, specifically:

- Signed and dated by a provider representative.

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

- 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 deficiency in regulations, standards or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

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 Part 2, 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.

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:

Covered Services: Q2.2 (Claims for covered services)

DMC Certification & Continued Certification: Q3.3 (Monthly checks on DMC certification)