



BRADLEY P. GILBERT
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

February 25, 2020

Sent via e-mail to: vkelly@dbh.sbcounty.gov

Veronica Kelley, DSW, LCSW, Director
San Bernardino County Department of Behavioral Health
303 E. Vanderbilt Way
San Bernardino, CA 92415-0026

SUBJECT: Annual County Compliance Report

Dear Director Kelley:

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 San Bernardino 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 San Bernardino 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.

San Bernardino 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 3/25/2020. 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,

Jessica Jenkins
(916) 713-8577

jessica.jenkins@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
<http://www.dhcs.ca.gov>

Distribution:

To: Director Kelley;

CC: Mateo Hernandez, Audit and Investigation, Medical Review Branch Chief
Lanette Castleman, Audit and Investigation, Behavioral Health Compliance Section Chief
Mayumi Hata, Audit and Investigation, County Compliance Unit Chief
Janet Rudnick, Audit and Investigation, Provider Compliance Unit Chief
Kamilah Holloway, Medi-Cal Behavioral Health, Plan and Network Monitoring Branch Chief
MCBHDMonitoring@dhcs.ca.gov, County and Provider Monitoring Unit
Alyce Belford, PhD, San Bernardino County Senior Program Manager
Tamara Weaver MPA, LCSW, San Bernardino County
Erica Porteous MBA CHC, San Bernardino County

Lead CCU Analyst: LaMonte Love	Date of Review: December 2019 Date of DMC-ODS Implementation: 3/1/2018
County: San Bernardino	County Address: 303 E. Vanderbilt Way San Bernardino, CA 92415-0026
County Contact Name/Title: Alyce Belford, PhD Senior Program Manager	County Phone Number/Email: (909) 386-9761 Alyce.Belford@dbh.sbcounty.gov
Report Prepared by: Jessica Jenkins	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

SUMMARY OF SFY 2019-20 COMPLIANCE DEFICIENCIES (CD)

Section:	Number of CD's:
1.0 Administration	0
2.0 Member Services	0
3.0 Service Provisions	0
4.0 Access	1
5.0 Coordination of Care	0
6.0 Monitoring	3
7.0 Program Integrity	3
8.0 Compliance	3

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.

4.0 ACCESS

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

COMPLIANCE DEFICIENCY:

CD 4.16:

Intergovernmental Agreement Exhibit A, Attachment I, II, E, 1, iii, d-f

- iii. The Contractor shall comply with the following timely access requirements:
 - d. Establish mechanisms to ensure compliance by network providers.
 - e. Monitor network providers regularly to determine compliance.
 - f. Take corrective action if there is a failure to comply by a network provider.

Finding: The Plan has not established mechanisms to ensure timely access compliance by network providers' for residential treatment facilities.

6.0 MONITORING

The following deficiencies in monitoring were identified:

COMPLIANCE DEFICIENCIES:

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 of 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 County did not submit all DMC-ODS programmatic and fiscal monitoring reports to DHCS within two weeks of report issuance.

CD 6.28

Intergovernmental Agreement Exhibit A, Attachment I, III, EE, 2 & 5

2. If significant deficiencies or significant evidence of noncompliance with the terms of the DMC-ODS waiver, or this Agreement, are found in a county, DHCS shall engage the Contractor to determine if there are challenges that can be addressed with facilitation and technical assistance. If the Contractor remains noncompliant, the Contractor shall submit a CAP to DHCS. The CAP shall detail how and when the Contractor shall remedy the issue(s). DHCS may remove the Contractor from participating in the Waiver if the CAP is not promptly implemented.
5. The Contractor shall monitor and attest compliance and/or completion by providers with CAP requirements (detailed in Article III.DD) of this Exhibit as required by any PSPP review. The Contractor shall attest to DHCS, using the form developed by DHCS that the requirements in the CAP have been completed by the Contractor and/or the provider.

Submission of DHCS Form 8049 by Contractor shall be accomplished within the timeline specified in the approved CAP, as noticed by DHCS.

Finding: The Plan did not submit Form 8049 attesting to compliance with CAPs by network providers regarding Post Service Post Payment.

CD 6.30

Intergovernmental Agreement Exhibit A, Attachment I, III, E, 1, iii, d-e

- iii. The Contractor shall comply with the following timely access requirements:
 - d. Establish mechanisms to ensure compliance by network providers.
 - e. Monitor network providers regularly to determine compliance.

Finding: The Plan did not monitor to ensure network provider's compliance with timely access of residential treatment facilities.

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.

MHSUD 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 7.45:

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 WCHS, INC, DBA Colton Clinical Services and St. John God Health Care Services are not signed and dated by the 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 reports are non-compliant:

- Open Admissions Report
- Open Providers Report

8.0 COMPLIANCE

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

COMPLIANCE DEFICIENCY:

CD 8.49:

Intergovernmental Agreement Exhibit A, Attachment I, III, F, 3, x

- i. Have a 24/7 toll free number for prospective beneficiaries to call to access DMC-ODS services and make oral

Finding: The Plan's access line is non-compliant.

CD 8.50

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 8, ii, v, a

- a. The Contractor agrees to cure transactions errors or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the Contractor is acting as a clearinghouse for that provider. If the Contractor is a clearinghouse, the Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

Finding: The Plan has not resolved the following previous deficiencies identified by DHCS in SFY 2018-19 CD: #7.43

CD 8.51

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 8, ii, v, a

- a. The Contractor agrees to cure transactions errors or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the Contractor is acting as a clearinghouse for that provider. If the Contractor is a clearinghouse, the Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

Finding: The Plan has not resolved the following previous deficiencies identified by DHCS in SFY 2018-19 CD #7.50

TECHNICAL ASSISTANCE

DHCS's County Compliance Analyst will make referrals to the DHCS County Monitoring Liaison for the technical assistance area identified below:

CalOMS