



MICHELLE BAASS
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

April 1, 2022

Sent via e-mail to: Luke.Bergmann@sdcountry.ca.gov

Luke Bergmann, Director
San Diego County Behavioral Health Services
3255 Camino Del Rio South
San Diego, CA 92108

SUBJECT: Annual DMC-ODS County Compliance Unit Findings Report

Dear Director Bergmann:

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 Diego 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 Diego County's State Fiscal Year 2021-22 DMC-ODS compliance review. The report identifies deficiencies, required corrective actions, new requirements, advisory recommendations, and referrals for technical assistance.

San Diego 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/Provider Operation and Monitoring Branch (CPOMB) Analyst by 6/1/2022. Please use the enclosed CAP form and submit the completed CAP and supporting documentation via email to the CPOMB liaison at MCBHDMonitoring@dhcs.ca.gov.

If you have any questions, 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: Director Bergmann

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
MCBHDMonitoring@dhcs.ca.gov, County Provider Operations and Monitoring Branch
Michael Blanchard, San Diego County Behavioral Health Program Coordinator, Quality Management

COUNTY REVIEW INFORMATION

County:
San Diego

County Contact Name/Title:
Michael Blanchard, Behavioral Health Program Coordinator, Quality Management

County Address:
3255 Camino Del Rio South
San Diego, CA 92108

County Phone Number/Email:
619-606-6535
michael.blanchard@sdcounty.ca.gov

Date of DMC-ODS Implementation:
7/1/2018

Date of Review:
1/20/2022

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. 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. Fiscal Year (FY) 2020-21 Intergovernmental Agreement (IA)
 - b. Fiscal Year (FY) 2021-22 Intergovernmental Agreement (IA)
 - 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 1/20/2022. The following individuals were present:

- Representing DHCS:
Susan Volmer, Associate Governmental Program Analyst (AGPA)
Suarna Allen, AGPA
- Representing San Diego County:
Luke Bergmann, Director, Behavioral Health Services.
Cecily A. Thornton-Stearns, Assistant Director and Chief Program Officer
Aurora Kiviat Nudd, Assistant Director and Chief Operations Officer
Nadia Privara Brahms, BHS Acting Assistant Director, Chief Strategy & Finance Officer
Nilanie Ramos Chief, Agency Operations, Clinical Director's Office
Yael Koenig, Deputy Director, Dept. Ops, Children, Youth, and Families System of Care
Pie dad Garcia, Deputy Director, Dept. Ops, Adult and Older Adult Systems of Care
Raul Loyo Rodriguez, Dept. Budget Manager, Administrative Services
Alfie Gonzaga, Program Coordinator, Clinical Director's Office
Cara Evans Murray, Asst. Med Services Admin, Adult and Older Adult Systems of Care
Michael Blanchard, Behavioral Health Program Coordinator, Quality Management – Substance Use Disorders Unit
Shannon Jackson, Behavioral Health Program Coordinator, Children, Youth, and Families System of Care
Stacey Kneeshaw, Behavioral Health Program Coordinator, Adult and Older Adult Systems of Care
Terri Kang, Behavioral Health Program Coordinator, Children, Youth, and Families System of Care
Danyte Mockus-Valenzuela, Health Planning & Program Specialist
Alfie Valdes, Utilization Review Quality Improvement Supervisor
Diana Daitch, Utilization Review Quality Improvement Supervisor
Erin Shapira, Administrative Analyst III
Kimberly Pauly, Chief, Agency Ops, Program and Operations

During the Entrance Conference, the following topics were discussed:

- Introductions
- County overview of services provided
- DHCS overview of review process

Exit Conference:

An Exit Conference was conducted via WebEx on 1/20/2022. The following individuals were present:

- Representing DHCS:
Susan Volmer AGPA
Suarna Allen AGPA

- Representing San Diego County:
Luke Bergmann, Director, Behavioral Health Services.
Cecily A. Thornton-Stearns, Assistant Director and Chief Program Officer
Aurora Kiviat Nudd, Assistant Director and Chief Operations Officer
Nadia Privara Brahms, BHS Acting Assistant Director, Chief Strategy & Finance Officer
Nilanie Ramos Chief, Agency Operations, Clinical Director's Office
Yael Koenig, Deputy Director, Dept. Ops, Children, Youth, and Families System of Care
Pie dad Garcia, Deputy Director, Dept. Ops, Adult and Older Adult Systems of Care
Raul Loyo Rodriguez, Dept. Budget Manager, Administrative Services
Alfie Gonzaga, Program Coordinator, Clinical Director's Office
Cara Evans Murray, Asst. Med Services Admin, Adult and Older Adult Systems of Care
Michael Blanchard, Behavioral Health Program Coordinator, Quality Management – Substance Use Disorders Unit
Shannon Jackson, Behavioral Health Program Coordinator, Children, Youth, and Families System of Care
Stacey Kneeshaw, Behavioral Health Program Coordinator, Adult and Older Adult Systems of Care
Terri Kang, Behavioral Health Program Coordinator, Children, Youth, and Families System of Care
Danyte Mockus-Valenzuela, Health Planning & Program Specialist
Alfie Valdes, Utilization Review Quality Improvement Supervisor
Diana Daitch, Utilization Review Quality Improvement Supervisor
Erin Shapira, Administrative Analyst III
Kimberly Pauly, Chief, Agency Ops, Program and Operations

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 Availability of DMC-ODS Services | 3 |
| 2.0 Coordination of Care | 0 |
| 3.0 Quality Assurance and Performance Improvement | 2 |
| 4.0 Access and Information Requirements | 4 |
| 5.0 Beneficiary Rights and Protections | 0 |
| 6.0 Program Integrity | 0 |

CORRECTIVE ACTION PLAN (CAP)

Pursuant to the Intergovernmental Agreement, Exhibit A, Attachment I, Part III, Section KK, 2, j 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) DHCS' CAP Template used to document process.
- b) A list of action steps to be taken to correct the CD.
- c) The name of the person who will be responsible for corrections and ongoing compliance.
- d) Provide a specific description on how ongoing compliance is ensured
- e) A date of completion for each CD.

The CPOMB liaison will monitor progress of the CAP completion.

Category 1: AVAILABILITY OF DMC-ODS SERVICES

A review of the administrative trainings, policies and procedures was conducted to ensure compliance with applicable regulations, and standards. The following deficiencies in availability of DMC-ODS services were identified:

COMPLIANCE DEFICIENCIES:

CD 1.2.2:

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

- i. The Contractor shall implement written policies and procedures for selection and retention of network providers and the implemented policies and procedures, at a minimum, meet the following requirements:
 - a. Credentialing and re-credentialing requirements.
 - 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

Attestation

For all network providers who deliver covered services, each provider's application to contract with the Plan must include a signed and dated statement attesting to the following:

1. Any limitations or inabilities that affect the provider's ability to perform any of the position's essential functions, with or without accommodation;
2. A history of loss of license or felony conviction;
3. A history of loss or limitation of privileges or disciplinary activity;
4. A lack of present illegal drug use; and
5. The application's accuracy and completeness.

Findings: The Plan did not provide evidence demonstrating all network providers who deliver covered services sign and date a written attestation regarding their credentials.

The Plan did not provide evidence for two (2) completed credentialing attestations for licensed providers employed from subcontractors as requested. The credentialing attestations were not completed for the following provider:

- HealthRIGHT360 Serenity Center

The Plan did not provide evidence demonstrating the credentialing attestation form from Mission Treatment Center, Dr. Kevin Feig, contains the required elements. Specifically:

- The application's accuracy and completeness.

CD 1.4.8:

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

iv. Physicians shall receive a minimum of five hours of continuing medical education related to addiction medicine each year.

Findings: The Plan did not provide evidence demonstrating the McAlister Institute for Treatment and Education, Inc. (South Bay Women’s Recovery Center) physician, Dr. James Dunford, received the annual five (5) hours of continuing medical education in addiction medicine. Specifically:

- The continuing medical education submitted for calendar year 2020 for Dr. Dunford totaled only 2 hours.

CD 1.4.9:

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

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

Findings: The Plan did not provide evidence demonstrating HealthRIGHT 360 Serenity Center’s professional staff (LPHA) received the annual five (5) hours of continuing education in addiction medicine. Specifically:

- The Plan submitted continuing education units for only two (2) of three (3) requested subcontractor LPHA staff for calendar year 2020.

The Plan did not provide evidence demonstrating the McAlister Institute for Treatment and Education, Inc. (South Bay Women’s Recovery Center) professional staff (LPHA) received the annual five (5) hours of continuing education in addiction medicine. Specifically:

- The Plan submitted continuing education units for only two (2) of three (3) requested subcontractor LPHA staff for calendar year 2020.

Category 3: QUALITY ASSURANCE AND PERFORMANCE IMPROVEMENT

A review of the practice guidelines, monitoring, and other quality assurance requirements was conducted to ensure compliance with applicable regulations and standards. The following deficiencies in quality assurance and performance improvement were identified:

COMPLIANCE DEFICIENCIES:

CD 3.2.3:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 5, 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.

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 6, 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.

Findings: The Plan did not provide evidence demonstrating the written roles and responsibilities for HealthRIGHT 360 Serenity Center's Medical Director, Dr. Heinrich, includes all required elements. The following required elements are missing, specifically:

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

The Plan did not provide evidence demonstrating the written roles and responsibilities for McAlister Institute for Treatment and Education, Inc. (South Bay Women's Recovery Center) Medical Director, Dr. Dunford, includes all required elements. The following required elements are missing, specifically:

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

CD 3.2.4:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 6, 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, 6, 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.

Findings: The Plan did not provide evidence demonstrating the Code of Conduct for HealthRIGHT 360 Serenity Center's Medical Director, Dr. Khan, includes all required elements. The following required elements are missing, specifically:

- Prohibition of social/business relationship with beneficiary's or their family members for personal gain;
- Providing services beyond scope.

Category 4: ACCESS AND INFORMATION REQUIREMENTS

A review of the access and information requirements for the access line, language and format requirements and general information was conducted to ensure compliance with applicable regulations and standards. The following deficiencies in access and information requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 4.3.1:

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 4, i

4. Hatch Act

- i. Contractor agrees to comply with the provisions of the Hatch Act (Title 5 USC, Sections 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 18, i

18. Subcontract Provisions

- i. Contractor shall include all of the foregoing provisions in all of its subcontracts.

Findings: The Plan did not provide evidence demonstrating all of the foregoing Intergovernmental Agreement, Exhibit A, Attachment I, Section III, Y, general provisions are included in all executed subcontracts, specifically the Hatch Act.

CD 4.3.2:

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 5, i

5. No Unlawful Use or Unlawful Use Messages Regarding Drugs

- i. Contractor agrees that information produced through these funds, and which pertains to drug 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 Agreement, Contractor agrees that it shall enforce, and shall require its subcontractors to enforce, these requirements.

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 18, i

18. Subcontract Provisions

- i. Contractor shall include all of the foregoing provisions in all of its subcontracts.

Findings: The Plan did not provide evidence demonstrating all of the foregoing Intergovernmental Agreement, Exhibit A, Attachment I, Section III, Y, general provisions are included in all executed subcontracts, specifically No Unlawful Use or Unlawful Use Messages Regarding Drugs.

CD 4.3.3:

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 7, i

7. Limitation on Use of Funds for Promotion of Legalization of Controlled Substances

- i. None of the funds made available through this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of Section 202 of the Controlled Substances Act (21 USC 812).

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 18, i

18. Subcontract Provisions

- i. Contractor shall include all of the foregoing provisions in all of its subcontracts.

Findings: The Plan did not provide evidence demonstrating all of the foregoing Intergovernmental Agreement, Exhibit A, Attachment I, Section III, Y, general provisions are included in all executed subcontracts, specifically the Limitation on Use of Funds for Promotion of Legalization of Controlled Substances.

CD 4.3.4:

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 11, i

11. Trafficking Victims Protection Act of 2000

- i. Contractor and its subcontractors that provide services covered by this Agreement shall comply with Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) as amended by section 1702. For full text of the award term, go to:

<http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title22-section7104d&num=0&edition=prelim>

Intergovernmental Agreement Exhibit A, Attachment I, III, Y, 18, i

18. Subcontract Provisions

- i. Contractor shall include all of the foregoing provisions in all of its subcontracts.

Findings: The Plan did not provide evidence demonstrating all of the foregoing Intergovernmental Agreement, Exhibit A, Attachment I, Section III, Y, general provisions are included in all executed subcontracts, specifically the Trafficking Victims Protection Act of 2000 (22 USC 7104(g)) provision.

TECHNICAL ASSISTANCE

San Diego County did not request technical assistance during this review.