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DIRECTOR

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



GAVIN NEWSOM  
GOVERNOR

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Sent via e-mail to: [bruce.copley@hhs.sccgov.org](mailto:bruce.copley@hhs.sccgov.org)

Bruce Copley, Director, AOD Administrator  
Behavioral Health Services Department  
828 S. Bascom Avenue, Suite 200  
San Jose, CA 95128

SUBJECT: Annual DMC-ODS County Compliance Unit Findings Report

Dear Director Copley:

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 Santa Clara 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 Santa Clara 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.

Santa Clara 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 6/22/2022. 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](mailto:MCBHDMonitoring@dhcs.ca.gov).

If you have any questions, please contact me at [susan.volmer@dhcs.ca.gov](mailto: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  
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Sacramento, CA 95814  
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Maria Bernardez, Santa Clara County Senior Health Care Program Analyst  
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Leilani Villanueva, Santa Clara County Administrative Services Manager

## COUNTY REVIEW INFORMATION

**County:**

Santa Clara

**County Contact Name/Title:**

Maria Bernardez/Senior Health Care Program Analyst

**County Address:**

828 S. Bascom Avenue, Suite 200  
San Jose, CA 95128

**County Phone Number/Email:**

408-479-0458  
maria.bernardez@hhs.sccgov.org

**Date of DMC-ODS Implementation:**

6/15/2017

**Date of Review:**

2/22/2022

**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 2/22/2022. The following individuals were present:

- Representing DHCS:  
Susan Volmer, Associate Governmental Program Analyst (AGPA)
- Representing Santa Clara County:  
Domingo Acevedo, Program Manager  
Lara Alkoraishi, Program Manager  
Peter Antons, Behavioral Health Division Director  
Saakshi Arora, Health Care Compliance Analyst  
Kakoli Naerjee, Director of Research & Outcome  
Maria Bernardez, Senior Health Care Program Analyst  
LouMeshia Brown, Senior Mental Health Program Specialist  
Steve Castro, Mental Health Program Specialist  
Dinh Quang Chu, Senior Mental Health Program Specialist  
Bruce Copley, Director, Alcohol Drug Access Services  
Kimberly C'zatko, Senior Research & Evaluation Specialist  
Robin Daniels-Wilson, Senior Mental Health Program Specialist  
Zelia Faria Costa, Director, CYF System of Care  
Courtney Grey, Behavioral Health Services Department Quality Director  
Tiffany Ho, Behavioral Health Medical Director  
Sheryl Hogan, Senior Health Care Program Analyst  
Michelle Honda, Program Manager  
Linh Hong, Mental Health Program Specialist  
Duy Le, Mental Health Program Specialist  
Leilani Villanueva, Administrative Services Manager  
Angeleah Macatiag, Administrative Services Manager  
Mira Parwiz, Behavioral Health Division Director  
Victoria Phan, Compliance Officer  
Edwin Poon, BHS Department Deputy Director  
Tammy Ramsey, Senior Health Care Program Analyst  
Rachel Talamantez, Behavioral Health Division Director  
Darren Tan, BHS Department Deputy Director  
Sherri Terao, Director Behavioral Health Services  
Lily Vu, Program Manager

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 2/22/2022. The following individuals were present:

- Representing DHCS:  
Susan Volmer, AGPA
  
- Representing Santa Clara County:  
Domingo Acevedo, Program Manager  
Lara Alkoraishi, Program Manager  
Peter Antons, Behavioral Health Division Director  
Saakshi Arora, Health Care Compliance Analyst  
Kakoli Naerjee, Director of Research & Outcome  
Maria Bernardez, Senior Health Care Program Analyst  
LouMeshia Brown, Senior Mental Health Program Specialist  
Steve Castro, Mental Health Program Specialist  
Dinh Quang Chu, Senior Mental Health Program Specialist  
Bruce Copley, Director, Alcohol Drug Access Services  
Kimberly C'zatko, Senior Research & Evaluation Specialist  
Robin Daniels-Wilson, Senior Mental Health Program Specialist  
Zelia Faria Costa, Director, CYF System of Care  
Courtney Grey, Behavioral Health Services Department Quality Director  
Tiffany Ho, Behavioral Health Medical Director  
Sheryl Hogan, Senior Health Care Program Analyst  
Michelle Honda, Program Manager  
Linh Hong, Mental Health Program Specialist  
Duy Le, Mental Health Program Specialist  
Leilani Villanueva, Administrative Services Manager  
Angeleah Macatiag, Administrative Services Manager  
Mira Parwiz, Behavioral Health Division Director  
Victoria Phan, Compliance Officer  
Edwin Poon, BHS Department Deputy Director  
Tammy Ramsey, Senior Health Care Program Analyst  
Rachel Talamantez, Behavioral Health Division Director  
Darren Tan, BHS Department Deputy Director  
Sherri Terao, Director Behavioral Health Services  
Lily Vu, Program Manager

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	1
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	1
6.0 Program Integrity	4

## **CORRECTIVE ACTION PLAN (CAP)**

Pursuant to the Intergovernmental Agreement, Exhibit A, Attachment I, Part III, Section KK, 2, i 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 deficiency in availability of DMC-ODS services was identified:

### COMPLIANCE DEFICIENCY:

#### **CD 1.4.9:**

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

iv. 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 Caminar Family and Children's Services professional staff (LPHA) received the annual five (5) hours of continuing education in addiction medicine. Specifically:

- The certificates submitted for calendar year 2019 for Yun Chien Ku did not indicate any continuing education units were received.
- The certificates submitted for calendar year 2020 for Zenna Vivaina did not indicate any continuing education units were received.

The Plan did not provide evidence demonstrating Momentum for Mental Health professional staff (LPHA) received the annual five (5) hours of continuing education in addiction medicine. Specifically:

- The continuing education units submitted for calendar year 2020 for Eric Covotta totaled only 2.75 hours.
- The continuing education units submitted for calendar year 2020 for Rosemary Najjar totaled only 1.75 hours.

## 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 3.3.1:**

##### Intergovernmental Agreement Exhibit A, Attachment I, III, LL, 1-3

1. Contractor shall establish an ongoing quality assessment and performance improvement program consistent with Article II.F.1 of this Agreement.
2. CMS, in consultation with DHCS and other stakeholders, may specify performance measures and topics for performance improvement projects to be required by DHCS in this Agreement.
3. Performance improvement projects shall be designed to achieve, through ongoing measurements and intervention, significant improvement, sustained over time, in clinical care and non-clinical care areas that are expected to have a favorable effect on health outcomes and beneficiary satisfaction.

**Findings:** The Plan did not provide evidence demonstrating information regarding current performance improvement programs (PIPs) are disseminated to applicable network providers.

#### **CD 3.3.2:**

##### Intergovernmental Agreement Exhibit A, Attachment I, III, LL, 4, i-ix

4. The monitoring of accessibility of services outlined in the Quality Improvement (QI) Plan will at a minimum include:
  - i. Timeliness of first initial contact to face-to-face appointment.
  - ii. Frequency of follow-up appointments in accordance with individualized treatment plans.
  - iii. Timeliness of services of the first dose of OTP/NTP services.
  - iv. Access to after-hours care.
  - v. Responsiveness of the beneficiary access line.
  - vi. Strategies to reduce avoidable hospitalizations.
  - vii. Coordination of physical and mental health services with waiver services at the provider level.
  - viii. Assessment of the beneficiaries' experiences.
  - ix. Telephone access line and services in the prevalent non-English languages.

**Findings:** The Plan did not provide evidence demonstrating how County and subcontractor staff are monitored for the accessibility of services outlined in the Quality Improvement (QI) Plan including:

- Responsiveness of the beneficiary access line.

## 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 4.1.1:**

##### Intergovernmental Agreement Exhibit A, Attachment I, III, II, 1

1. Contractor shall include instructions on record retention and include in any subcontract with providers the mandate to keep and maintain records for each service rendered, to whom it was rendered, and the date of service, pursuant to WIC 14124.1 and 42 CFR 438.3(h) and 438.3(u).

##### WIC 14124.1

Each provider, as defined in Section 14043.1, of health care services rendered under the Medi-Cal program or any other health care program administered by the department or its agents or contractors, shall keep and maintain records of each service rendered under the Medi-Cal program or any other health care program administered by the department or its agents or contractors, the beneficiary or person to whom rendered, the date the service was rendered, and any additional information as the department may by regulation require. 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.

**Findings:** The Plan 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.

#### **CD 4.1.3:**

##### Intergovernmental Agreement Exhibit A, Attachment I, III, HH, 2

1. Complaints for Residential Adult Alcoholism or Drug Abuse Recovery or Treatment Facilities, and counselor complaints may be made by using: The Complaint Form which is available and may be submitted online: <https://www.dhcs.ca.gov/individuals/Pages/Sud-Complaints.aspx>

**Findings:** The Plan did not provide evidence demonstrating program complaints received by the County regarding Residential Adult Alcoholism or Drug Abuse Treatment Facilities, and counselor complaints are communicated to DHCS using the online complaint form.

#### **CD 4.2.2:**

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

- x. Have a 24/7 toll free number for prospective beneficiaries to call to access DMC-ODS services and make oral interpretation services available for beneficiaries, as needed.

Intergovernmental Agreement Exhibit A, Attachment I, III, CC, 5

5. The QM Program shall conduct performance-monitoring activities throughout the Contractor's operations. These activities shall include, but not be limited to, beneficiary and system outcomes, utilization management, utilization review, provider appeals, credentialing and monitoring, and resolution of beneficiary grievances.

**Findings:** A minimum of two test calls were conducted for the Plan's 24/7 toll free number posted on the County's website. The responses to the test calls resulted in a barrier to access DMC-ODS services for prospective beneficiaries calling. The test calls are summarized below:

Call # 1 - On 2/18/2022 at 3:30 pm, call was placed to the 1-800-704-0900 Gateway number. An automated system gave a series of options. Upon choosing option #4 at Prompt 2 "Referral to Mental Health or SUD", the caller was asked for 3 more prompts: 1) Medical Record number, 2) Calling for an Adult or Child, and 3) Mental Health or SUD. After these selections, the phone was answered by Mia (1:50 minutes into call) who advised about treatment options. Mia stated they can be contacted again before 5pm. When asked if anyone was available after 5pm, the response was non-committal for speaking to someone or providing referral options. The amount of prompts to navigate the access line and response time to speak to a live person results in a barrier to access services.

Call # 2 - On 2/22/2022 at 7:49 am, call was placed to the 1-800-704-0900 Gateway number. An automated system stated the Gateway office hours were Monday through Friday 8 – 5 pm and also noted they are closed on all County Holidays. After choosing option #4, at Prompt 2 "Referral to Mental Health or SUD". The caller was asked for 3 more prompts: 1) Medical Record number, 2) Calling for an Adult or Child, and 3) Mental Health or SUD. After these selections, a recording went on to state "If this is an Emergency, dial 911. If you have thoughts of harming yourself or in crisis PLEASE press 1 or call 1-855-278-4204." After pressing "1", the call was transferred to another extension. There were several rings, with a broken recording of "Your call is...." followed by a series of several rings, then the broken recording again. After 3 minutes on the call, without being connected to a live person, the call was discontinued. The amount of prompts to navigate the access line and not being able to speak to a live person after hours results in a barrier to access services.

**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 make available evidence demonstrating County and subcontractor compliance with the Limitation on Use of Funds for Promotion of Legalization of Controlled Substances.

## Category 5: BENEFICIARY RIGHTS AND PROTECTIONS

A review of the grievance and appeals was conducted to ensure compliance with applicable regulations and standards. The following deficiency in beneficiary rights and protections for regulations, standards or protocol requirements was identified:

### COMPLIANCE DEFICIENCY:

#### **CD 5.1.2:**

Intergovernmental Agreement Exhibit A, Attachment I, II, E, 7, i-ii

7. Grievance and Appeal Systems (42 CFR §438.228).

- i. The Contractor shall have in effect, a grievance and appeal system that meets the requirements outlined in Article II.G of this Agreement.
- ii. The Contractor shall be responsible for issuing any NOABD under 42 CFR Part 431, subpart E. The Department shall conduct random reviews of the Contractor and its providers and subcontractors to ensure that they are notifying beneficiaries in a timely manner.

MHSUDS Information Notice 18-010E

**Findings:** The Plan provided evidence for only five (5) of six (6) requested Grievance and Appeal information requested by DHCS for this review.

## Category 6: PROGRAM INTEGRITY

A review of the compliance program, service verification, and fraud reporting was conducted to ensure compliance with applicable regulations and standards. The following deficiencies in program integrity were identified:

### COMPLIANCE DEFICIENCIES:

#### **CD 6.1.1:**

Intergovernmental Agreement Exhibit A, Attachment I, II, H, 5, ii, c

- c. Provision for prompt notification to the Department when it receives information about changes in a beneficiary's circumstances that may affect the beneficiary's eligibility including all of the following:
- i. Changes in the beneficiary's residence.
  - ii. The death of a beneficiary.

**Findings:** The Plan did not provide evidence demonstrating prompt notification to DHCS regarding changes to a beneficiary's circumstances that may affect eligibility, including:

- Changes in the beneficiary's residence.
- The death of a beneficiary.

#### **CD 6.1.2:**

Intergovernmental Agreement Exhibit A, Attachment I, II, H, 5, ii, e

- e. Provision for a method to verify, by sampling or other methods, whether services that have been represented to have been delivered by network providers were received by beneficiaries and the application of such verification processes on a regular basis.

**Findings:** The Plan did not provide evidence demonstrating the application of a verification process where services represented to have been delivered by network providers are verified as being received by beneficiaries.

#### **CD 6.2.1:**

Intergovernmental Agreement Exhibit A, Attachment I, III, HH, 3

3. Suspected Medi-Cal fraud, waste, or abuse must be reported to: DHCS Medi-Cal Fraud: (800) 822-6222 or [Fraud@dhcs.ca.gov](mailto:Fraud@dhcs.ca.gov).

**Findings:** The Plan did not provide evidence demonstrating County and subcontractor compliance with reporting suspected Medi-Cal fraud to DHCS.

**CD 6.3.1**

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

1. **Service Verification.** To assist DHCS in meeting its obligation under 42 CFR 455.1(a)(2), the Contractor shall establish a mechanism to verify whether services were actually furnished to beneficiaries.

**Findings:** The Plan did not provide evidence demonstrating an established mechanism to verify whether services were actually furnished to beneficiaries.

## TECHNICAL ASSISTANCE

DHCS's County Compliance Unit Analyst will make referrals to the DHCS' CPOMB County Liaison for the training and/or technical assistance areas identified below:

**Availability of DMC-ODS Services:** Provider training – The Plan requests clarity on this section.