



WILL LIGHTBOURNE
DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

October 14, 2020

Sent via e-mail to: bruce.copley@hhs.sccgov.org

Bruce Copley, Director
Santa Clara County Department of Alcohol and Drug Services
976 Lenzen Avenue, 3rd Floor
San Jose, CA 95126-8703

SUBJECT: Annual County Compliance 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 2019-20 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 Monitoring Unit (CMU) Analyst by 11/16/2020. Please use the enclosed CAP form and submit the completed the CAP and supporting documentation via email to the CMU analyst at MCBHDMonitoring@dhcs.ca.gov.

If you have any questions or need assistance, please contact me at emanuel.hernandez@dhcs.ca.gov.

Sincerely,

Emanuel Hernandez
(916) 713-8667
emanuel.hernandez@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
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Distribution:

To: Director Copley,

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Monitoring Branch Chief
MCBHDMonitoring@dhcs.ca.gov, County and Provider Monitoring Unit
Tammy Ramsey, Santa Clara County, Sr. Health Care Program Analyst

Lead CCU Analyst: Emanuel Hernandez	Date of Review: August 2020
Assisting CCU Analyst(s): N/A	Date of DMC-ODS Implementation: 6/15/2017
County: Santa Clara	County Address: 976 Lanzen Avenue, 3 rd Floor San Jose, CA 95126-8703
County Contact Name/Title: Bruce Copley/Director	County Phone Number/Email: 408-792-5691 bruce.copley@hhs.sccgov.org
Report Prepared by: Emanuel Hernandez	Report Approved by: Lanette Castleman

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	0
5.0 Coordination of Care	0
6.0 Monitoring	3
7.0 Program Integrity	2
8.0 Compliance	1

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.

6.0 MONITORING

The following deficiencies in monitoring were identified:

COMPLIANCE DEFICIENCIES:

CD 6.25:

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 is 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
Audits and Investigations Division
Medical Review Branch
Behavioral Health Compliance Section
County Compliance Unit
1500 Capitol Ave., MS 2305
Sacramento, CA 95814

Findings: The Plan did not monitor all county and subcontracted providers for compliance with DMC-ODS programmatic and fiscal requirements. Specifically:

- For SFY 2018-2019 the County monitored 15 of 38 County and subcontracted providers for DMC-ODS programmatic and fiscal requirements, and submitted reports of these monitoring reviews to DHCS.
- The County submitted only 14 of 15 DMC-ODS programmatic and fiscal monitoring reports secure and encrypted.

CD 6.27

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.

Findings: The Plan did not submit Form 8049 attesting to compliance with CAPs by network providers regarding DMCM Postservice Prepayment.

CD 6.29

Intergovernmental Agreement Exhibit A, Attachment I, III, AA, 3, iii

3. The Contractor shall include the following provider requirements in all subcontracts with providers:
 - iii. Evidence Based Practices (EBPs): Providers will implement at least two of the following EBPs based on the timeline established in the county implementation plan. The two EBPs are per provider per service modality. Counties will ensure the providers have implemented EBPs.
 - a. Motivational Interviewing
 - b. Cognitive-Behavioral Therapy
 - c. Relapse Prevention
 - d. Trauma-Informed Treatment
 - e. Psycho-Education

Findings: The Plan does not ensure that providers have monitored implementation and utilization of Evidence Based Practices of the Plan's network providers.

7.0 PROGRAM INTEGRITY

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

COMPLIANCE DEFICIENCIES:

CD 7.44:

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

Findings: The written roles and responsibilities provided for the SUD program Medical Director of Momentum for Mental Health are missing the following criteria:

- Ensure that medical care provided by physicians, registered nurse practitioners, and physician assistants meets the applicable standard of care.
- Ensure that physicians, registered nurse practitioners, and physician assistants follow the provider's medical policies and standards.
- 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.
- Ensure that provider's physicians are adequately trained to perform other physician duties, as outlined in this section.

The written roles and responsibilities provided for the SUD program Medical Director of Santa Clara County are missing the following criteria:

- Ensure that medical care provided by physicians, registered nurse practitioners, and physician assistants meets the applicable standard of care.
- Ensure that physicians do not delegate their duties to non-physician personnel.
- Develop and implement written medical policies and standards for the provider.

- Ensure that physicians, registered nurse practitioners, and physician assistants follow the provider's medical policies and standards.
- Ensure that the medical decisions made by physicians are not influenced by fiscal considerations.
- 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.
- Ensure that provider's physicians are adequately trained to perform other physician duties, as outlined in this section.

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.

Findings: The Plan's SUD program Medical Director's signed Code of Conduct for Pathway Society, Inc. is missing the following elements:

- Prohibition of sexual contact with beneficiaries.
- Conflict of interest.
- Cooperate with complaint investigations.

The Plan's SUD program Medical Director's signed Code of Conduct for Momentum for Mental Health, is missing the following elements:

- Use of drugs and/or alcohol.
- Prohibition of social/business relationship with beneficiaries or their family members for personal gain.
- Prohibition of sexual contact with beneficiaries.
- Conflict of interest.
- Providing services beyond scope.
- Discrimination against beneficiaries or staff.

- Verbally, physically, or sexually harassing, threatening or abusing beneficiaries, family members or other staff.
- Protection of beneficiary confidentiality.
- Cooperate with complaint investigations.

The Plan's SUD program Medical Director's signed Code of Conduct for The County of Santa Clara is missing the following elements:

- Use of drugs and/or alcohol.
- Conflict of interest.

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 interpretation services available for beneficiaries, as needed.

Findings: The Plan's access line is non-compliant. On Sept 23, 2020, at approximately 07:32 am, I attempted to call the 1-800-488-9919 Hotline number for information. The automated system gave a series of options. I chose option #3 for Men's Withdrawal Management. The phone was answered by a person named, Juanita who advised me that I would need to call Gateway at 09:00 am during normal business hours. The automated system stated the Gateway office hours were from 08:00 to 05:00 pm. She was rather dismissive and offered no information or help at all.

TECHNICAL ASSISTANCE

Santa Clara County did not request any technical assistance for SFY 2019-20