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



GAVIN NEWSOM
GOVERNOR

November 1, 2021

Sent via email to: erik.riera@santacruzcounty.us

Erik Riera, Behavioral Health Director
Santa Cruz County Behavioral Health Plan
1400 Emeline Ave.
Santa Cruz, CA 95060

SUBJECT: Annual DMC-ODS County Compliance Unit Findings Report

Dear Director Riera:

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 Cruz 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 Cruz County's State Fiscal Year 2020-21 DMC-ODS compliance review. The report identifies deficiencies, required corrective actions, new requirements, advisory recommendations, and referrals for technical assistance.

Santa Cruz 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 1/3/2022. 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 or need assistance, please contact me at michael.bivians@dhcs.ca.gov.

Sincerely,

Michael Bivians

Michael Bivians
(916) 713-8966

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 Riera,

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Monitoring Branch Chief
MCBHDMonitoring@dhcs.ca.gov, County/Provider Operations and Monitoring Branch
Anthony Jordan, Santa Cruz County Substance Use Disorder Services Director

COUNTY REVIEW INFORMATION

County:
Santa Cruz

County Contact Name/Title:
Anthony Jordan, Substance Use Disorder Services Director

County Address:
1440 Emeline Ave.
Santa Cruz, CA 95060

County Phone Number/Email:
(831) 454-4220
anthony.jordan@santacruzcounty.us

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

Date of Review:
9/29/2021

Lead CCU Analyst:
Michael Bivians

Assisting CCU Analyst:
Katrina Beedy

Report Prepared by:
Michael Bivians

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. Mental Health and Substance Use Disorders Services (MHSUDS) Information Notices
 - c. Behavioral Health Information Notices (BHIN)

ENTRANCE AND EXIT CONFERENCE SUMMARIES

Entrance Conference:

An Entrance Conference was conducted via WebEx on 9/29/2021. The following individuals were present:

- Representing DHCS:
Michael Bivians, Staff Services Manager I (SSM I)
Michael Ulibarri, SSM I
Christina Whitlock, Associate Governmental Program Analyst (AGPA)
- Representing Santa Cruz County:
Anthony Jordan, Substance Use Disorder Services Director
Casey Swank, Outpatient Services Manager
Cybele Lolly, Quality Improvement/Compliance Manager
Sube Robertson, Utilization Review Specialist
Lisa Todd, SUDS Senior Analyst
Michelle Sapena, Administrative Analyst
Sara Avila, Quality Improvement
Emily Kenville, Fiscal

During the Entrance Conference, the following topics were discussed:

- Introductions
- Overview of the review process

Exit Conference:

An Exit Conference was conducted via WebEx on 9/29/2021. The following individuals were present:

- Representing DHCS:
Michael Bivians, SSM I
Michael Ulibarri, SSM I
Christina Whitlock, AGPA
- Representing Santa Cruz County:
Anthony Jordan, Substance Use Disorder Services Director
Casey Swank, Outpatient Services Manager
Cybele Lolly, Quality Improvement/Compliance Manager
Sube Robertson, Utilization Review Specialist
Lisa Todd, SUDS Senior Analyst
Michelle Sapena, Administrative Analyst
Sara Avila, Quality Improvement
Emily Kenville, Fiscal

During the Exit Conference, the following topics were discussed:

- Follow-up documentation due date
- Feedback on monitoring protocols

SUMMARY OF FY 2020-21 COMPLIANCE DEFICIENCIES (CD)

| <u>Section:</u> | <u>Number of CD's</u> |
|---|-----------------------|
| 1.0 Availability of DMC-ODS Services | 4 |
| 2.0 Coordination of Care | 0 |
| 3.0 Quality Assurance and Performance Improvement | 0 |
| 4.0 Access and Information Requirements | 0 |
| 5.0 Beneficiary Rights and Protections | 0 |
| 6.0 Program Integrity | 1 |

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 2020-21 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 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 1.3.2:

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

- iv. Physicians shall receive a minimum of five hours of continuing medical education related to addiction medicine each year.
- v. Professional staff (LPHAs) shall receive a minimum of five (5) hours of continuing education related to addiction medicine each year.

Findings: The Plan does not ensure all physicians and professional staff receive a minimum of five (5) hours of continuing education related to addiction medicine annually. Specifically:

- For FY 2019-20, the Plan's physicians did not receive the required minimum five (5) hours of continuing medical education related to addiction medicine.

CD 1.3.3:

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 written roles and responsibilities provided for the Medical Director of Encompass Community Services is missing the following criteria:

- Develop and implement written medical policies and standards for the provider.

CD 1.3.4:

Intergovernmental Agreement Exhibit A, Attachment I, III, PP, 5, i, c

- i. The SUD Medical Director's responsibilities shall, at a minimum, include all of the following:
 - c. Develop and implement written medical policies and standards for the provider.

Findings: The Plan does not ensure SUD Medical Directors develop and implement written policies and standards for the provider. Specifically:

- For FY 2019-20, the Plan did not provide evidence the Plan's Medical Director developed and implemented a written medical policy and standard.
- For FY 2019-20, the Plan did not provide the requested medical policy and standard developed and implemented by the Medical Director for two (2) of three (3) subcontracted network providers.

CD 1.3.5:

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 Code of Conduct provided for the Medical Director of Sobriety Works (Rikki Rap) is missing the following element:

- Verbally, physically, or sexually harassing, threatening or abusing beneficiaries, family members or other staff.

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 deficiency in program integrity was identified:

COMPLIANCE DEFICIENCY:

CD 6.2.2

Intergovernmental Agreement Exhibit A, Attachment I, II, H, 5, ii, b & g

- ii. The arrangements or procedures shall include the following:
 - b. Provision for prompt reporting of all overpayments identified or recovered, specifying the overpayments due to potential fraud, to the Department.
 - g. Provision for the prompt referral of any potential fraud, waste, or abuse that the Contractor identifies to the Department Medicaid program integrity unit or any potential fraud directly to the State Medicaid Fraud Control Unit.

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.

MHSUDS 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:

- Enrollee encounter data;
- Documentation to demonstrate compliance with DHCS' requirements for availability and accessibility of services, including the adequacy of the provider network;
- Information on ownership and control;
- Annual report of overpayment recoveries;
- Quarterly data submitted to DHCS on beneficiary grievance and appeals;
- Monthly American Society of Addiction Medicine Level of Care data; and
- Other data, information, or documentation related to the performance of the county's obligations as required by DHCS or the Secretary of Health and Human Services, and in the DMC-ODS IA.

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.

Findings: The Plan did not provide evidence demonstrating a completed and signed certification statement on County letterhead was sent with the data, documentation and information regarding the annual reporting of overpayment recoveries to DHCS, consistent with the requirements found in MHSUDS Information Notice 19-022.

TECHNICAL ASSISTANCE

Santa Cruz County requested Technical Assistance regarding monitoring for the safety and effectiveness of medication practices.