



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



GAVIN NEWSOM
GOVERNOR

June 23, 2020

Sent via e-mail to: mwilson@co.tuolumne.ca.us

Michael Wilson, LMFT, AOD Administrator
Tuolumne County Behavioral Health Department
105 Hospital Road
Sonora, CA 95370

SUBJECT: Annual County Compliance Unit Report

Dear Administrator Wilson:

The Department of Health Care Services (DHCS) is responsible for monitoring compliance to requirements of the State Plan Drug Medi-Cal (DMC) Contract operated by Tuolumne 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 Tuolumne County's State Fiscal Year 2019-20 State Plan DMC Contract compliance review. The report identifies deficiencies, required corrective actions, advisory recommendations, and referrals for technical assistance.

Tuolumne County is required to submit a Corrective Action Plan (CAP) addressing each deficiency noted to the Medi-Cal Behavioral Health Division (MCBHD), Plan and Network Monitoring Branch (PNMB), County Monitoring Unit (CMU) Analyst by 7/23/2020. 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,

Becky Counter
(916) 713-8567
becky.counter@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: Administrator Wilson,

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Chief
MCBHDMonitoring@dhcs.ca.gov, County and Provider Monitoring Unit
Debora Dietz-Neves, MSW, Tuolumne County SUD Program Supervisor

Lead CCU Analyst: Becky Counter	Date of Review: May 2020
Assisting CCU Analyst(s): N/A	
County: Tuolumne	County Address: 105 Hospital Road Sonora, CA 95370
County Contact Name/Title: Debora Dietz-Neves / SUD Program Supervisor	County Phone Number/Email: (209) 533- 7019 Ddietz-neves@co.tuolumne.ca.us
Report Prepared by: Becky Counter	Report Approved by: Mayumi Hata

REVIEW SCOPE

- I. Regulations:
 - a. California Code of Regulations, Title 22, section 51341.1 – Drug Medi-Cal Substance Use Disorder Services
 - b. Health and Safety Code, Division 10.5, Section 11750 – 11970: Alcohol and Drug Programs
 - c. 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
 - d. 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 State County Contract, herein referred to as State County Contract
 - b. Mental Health and Substance Use Disorders Services (MHSUDS) Information Notices
 - c. State Fiscal Year (SFY) 2019-20 Intergovernmental Agreement (IA)

SUMMARY OF SFY 2019-20 COMPLIANCE DEFICIENCIES (CD)

Section:	Number of CD's:
1.0 Administration	3
2.0 Beneficiary Services	0
3.0 Service Provisions	1
4.0 Access	1
5.0 Monitoring	3
6.0 Program Integrity	2
7.0 Compliance	9

CORRECTIVE ACTION PLAN

Pursuant to the State County Contract, Exhibit A, Attachment I A1, Part I, Section 3, 7, (a-d) each compliance deficiency (CD) identified must be addressed via a Corrective Action Plan (CAP). The CAP is due within thirty (30) calendar days of the date of this monitoring report. Advisory recommendations 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) Who will be responsible for correction and ongoing compliance.

The CMU analyst will monitor progress of the CAP completion.

1.0 ADMINISTRATION

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

COMPLIANCE DEFICIENCIES:

CD 1.1:

Exhibit A, Attachment I, Part I, Section 1, B

B. It is further agreed this Contract is controlled by applicable provisions of: (a) the W&I Code, Chapter 7, Sections 14000, et seq., in particular, but not limited to, Sections 14100.2, 14021, 14021.5, 14021.6, 14043, et seq., (b) Title 22, including but not limited to Sections 51490.1, 51341.1 and 51516.1; and (c) Division 4 of Title 9 of the California Code of Regulations (hereinafter referred to as Title 9).

22 CCR § 51341.1 (b) (28) (A) (iii)

iii. ... A substance use disorder medical director shall receive a minimum of five (5) hours of continuing medical education in addiction medicine each year...

Finding: The County did not provide the medical director's annual continuing medical education units in addiction medicine.

CD 1.2:

Exhibit A, Attachment I, Part I, Section 4, A, 3, a

a.) Contractor shall ensure subcontractors complete training on the requirements of Title 22 regulations and DMC program requirements at least annually from either DHCS' SUD Program, Policy and Fiscal Division (SUD PPF) or the Contractor. Contractor shall provide documentation of attendance at the annual training to DHCS' e-mail address SUDCOUNTYREPORTS@dhcs.ca.gov annually as part of the DHCS Contractor monitoring process.

Finding: The County did not provide evidence of County staff are receiving Title 22 training annually.

CD 1.4:

Exhibit A, Attachment I, Part I, Section 2, A, 1, a-e

Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area. Covered services include:

- a) Outpatient drug-free treatment
- b) Narcotic replacement therapy
- c) Naltrexone treatment
- d) Intensive Outpatient Treatment
- e) Perinatal Residential Substance Abuse Services (excluding room and board)

MHSUDS Information Notice No: 18-009

The DMC contract between the Department and a contracting county specifies that the contracting county "shall establish assessment and referral procedures **and** shall arrange, provide, or subcontract for covered services in the Contractor's service area." (See Fiscal Year 2017-2020 DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection A, Paragraph 1.) The contract goes on to define "covered services" to include the following:

- a) Outpatient drug-free treatment;
- b) Narcotic replacement therapy;
- c) Naltrexone treatment;
- d) Intensive Outpatient Treatment; and
- e) Perinatal Residential Substance Abuse Services (excluding room and board).

(DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection A, Paragraph 1)

The contract further requires that a contracting county "maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services." (DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection B, Paragraph 1.) These services must be provided to Medi-Cal beneficiaries with reasonable promptness, may not be limited due to budgetary constraints, and must be provided to requesting beneficiaries without regard to the county of residence (DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection B, Paragraphs 1 and 2.). A referral to a non-contracting provider or to another county without an appropriate funding agreement does not fulfill a county's contractual obligation to arrange, provide or subcontract for DMC services.

If a county does not fulfill its contractual obligations to arrange, provide or subcontract for the provision of **all** DMC covered services, the Department may, at its discretion, require that the contracting county forfeit its county realignment funds, pursuant to Government Code Section 30027.10, and may require that the county surrender its authority to function as the administrator of DMC services (Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection C, Paragraph 3.). Additionally, the Department will enter into direct contracts with providers and will invoice the county for all DMC claims for services provided to the residents of that county (Contract, Exhibit B, Part II, Section 3, Subsection B).

Finding: The County's procedures for assessment and referral for covered services does not include a process for ensuring subcontracted providers are in compliance with the County's requirements.

3.0 SERVICE PROVISIONS

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

COMPLIANCE DEFICIENCY:

CD 3.6:

Exhibit A, Attachment I, Part I, Section 2, A, 1, a-e

Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area. Covered services include:

- a) Outpatient drug-free treatment
- b) Narcotic replacement therapy
- c) Naltrexone treatment
- d) Intensive Outpatient Treatment
- e) Perinatal Residential Substance Abuse Services (excluding room and board)

MHSUDS Information Notice No: 18-009

The DMC contract between the Department and a contracting county specifies that the contracting county "shall establish assessment and referral procedures **and** shall arrange, provide, or subcontract for covered services in the Contractor's service area." (See Fiscal Year 2017-2020 DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection A, Paragraph 1.) The contract goes on to define "covered services" to include the following:

- f) Outpatient drug-free treatment;
- g) Narcotic replacement therapy;
- h) Naltrexone treatment;
- i) Intensive Outpatient Treatment; and
- j) Perinatal Residential Substance Abuse Services (excluding room and board).

(DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection A, Paragraph 1)

The contract further requires that a contracting county "maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services." (DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection B, Paragraph 1.) These services must be provided to Medi-Cal beneficiaries with reasonable promptness, may not be limited due to budgetary constraints, and must be provided to requesting beneficiaries without regard to the county of residence (DMC Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection B, Paragraphs 1 and 2.). A referral to a non-contracting provider or to another county without an appropriate funding agreement does not fulfill a county's contractual obligation to arrange, provide or subcontract for DMC services.

If a county does not fulfill its contractual obligations to arrange, provide or subcontract for the provision of **all** DMC covered services, the Department may, at its discretion, require that the contracting county forfeit its county realignment funds, pursuant to Government Code Section 30027.10, and may require that the county surrender its authority to function as the administrator of DMC services (Contract, Exhibit A, Attachment I, Part I, Section 2, Subsection C, Paragraph 3.). Additionally, the Department will enter into direct contracts with

providers and will invoice the county for all DMC claims for services provided to the residents of that county (Contract, Exhibit B, Part II, Section 3, Subsection B).

Finding: The County does not provide the following covered services:

- a) Narcotic replacement therapy;
- b) Naltrexone treatment; and
- c) Perinatal Residential Substance Abuse Services (excluding room and board)

4.0 ACCESS

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

COMPLIANCE DEFICIENCY:

CD 4.7:

Exhibit A, Attachment I, Part I, Section 4, B, 6, a

- a) Contractor shall notify their assigned DHCS' County Monitoring Unit analyst through e-mail of the termination of any contract with a certified subcontracted provider, and the basis for termination of the contract, within two business days.

Finding: The County's process does not include notifying the assigned DHCS County Monitoring Unit analyst within two (2) business days when a provider's subcontract is terminated.

5.0 MONITORING

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

COMPLIANCE DEFICIENCIES:

CD 5.8:

Exhibit A, Attachment I, Part I, Section 4, A, 2, f

f) Contractor shall implement and maintain compliance with the system of review described in Title 22, Section 51341.1(k), for the purpose review utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.

22 CCR § 51341.1 (h) (1) (v) (a) (b)

- a) The physician shall evaluate each beneficiary to diagnose whether the beneficiary has a substance use disorder, within thirty (30) calendar days of the beneficiary's admission to treatment date. The diagnosis shall be based on the applicable diagnostic code from the Diagnostic and Statistical Manual of Mental Disorders Third Edition-Revised or Fourth Edition, published by the American Psychiatric Association. The physician shall document the basis for the diagnosis in the beneficiary's individual patient record.
- b) As an alternative to complying with Paragraph (a) above, the therapist, physician assistant, or nurse practitioner, acting within the scope of their respective practice, shall evaluate each beneficiary to diagnose whether the beneficiary has a substance use disorder, within thirty (30) calendar days of the beneficiary's admission to treatment date. The diagnosis shall be based on the applicable diagnostic code from the Diagnostic and Statistical Manual of Mental Disorders Third Edition - Revised or Fourth Edition, published by the American Psychiatric Association. The individual who performs the diagnosis shall document the basis for the diagnosis in the beneficiary's individual patient record. The physician shall document approval of each beneficiary's diagnosis that is performed by a therapist, physician assistant or nurse practitioner by signing and dating the beneficiary's treatment plan.

Finding: The County is not ensuring all SUD program Medical Directors are establishing medical necessity.

CD 5.9:

Exhibit A, Attachment I, Part I, Section 4, A, 2, f

- f) Contractor shall implement and maintain compliance with the system of review described in Title 22, Section 51341.1(k), for the purpose review utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.

Exhibit A, Attachment I, Part I, Section 4, B, 1, b

- b) Contractor shall conduct, at least annually, an audit of DMC providers to assure covered services are being appropriately rendered. The annual audit must include an on-site visit of the service provider. Reports of the annual review shall be provided to DHCS's Performance Management Branch at:

Finding:

The County's system for ensuring DMC services are meeting all Medi-Cal requirements does not include evaluating the following areas for utilization and quality:

- Medical Necessity;
- Physical Exams; and
- Continuing Services Justification.

CD 5.11:

Exhibit A, Attachment I, Part I, Section 4, B, 1, b

- b) Contractor shall conduct, at least annually, an audit of DMC providers to assure covered services are being appropriately rendered. The annual audit must include an on-site visit of the service provider. Reports of the annual review shall be provided to DHCS's Performance Management Branch at:

Department of Health Care Services
SUD - Program, Policy and Fiscal Division
Performance & Integrity Branch
PO Box 997413, MS-2627
Sacramento, CA 95899-7413

Or by secure, encrypted email to: SUDCountyReports@dhcs.ca.gov

Finding: The County did monitor zero (0) of their Out of County Referral (OOCR) service area providers and did not monitor six (6) of their OOCR service area providers.

6.0 PROGRAM INTEGRITY

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

COMPLIANCE DEFICIENCIES:

CD 6.18:

Document 2F(a), A, 5

Compliance with the following Minimum Quality Treatment Standards is required in addition to CCR Title 9 and 22 regulations for all SUD treatment programs either partially or fully funded through DMC. If conflict between regulations and standards occurs, the most restrictive shall apply.

A. Personnel Policies

5. Written roles and responsibilities and a code of conduct for the medical director shall be clearly documented, signed and dated by a program representative and physician.

Document 2F(a), A, 3

Compliance with the following Minimum Quality Treatment Standards is required in addition to CCR Title 9 and 22 regulations for all SUD treatment programs either partially or fully funded through DMC. If conflict between regulations and standards occurs, the most restrictive shall apply.

A. Personnel Policies

3. Written 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 beneficiary's 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 beneficiary's or staff;
 - g) Verbally, physically, or sexually harassing, threatening, or abusing beneficiary's, family members or other staff;
 - h) Protection beneficiary confidentiality;
 - i) The elements found in the code of conduct(s) for the certifying organization(s) the program's counselors are certified under; and
 - j) Cooperate with complaint investigations.

Finding: The County did not provide evidence that SUD program Medical Directors have a signed Code of Conduct. The Code of Conduct for Medical Directors did not include the following requirements:

- Use of drugs and/or alcohol;
- Prohibition of social/business relationship with beneficiary's or their family members for personal gain;

- Prohibition of sexual contact with beneficiaries;
- Conflict of interest;
- Providing services beyond scope;
- Discrimination against beneficiary's or staff;
- Verbally, physically, or sexually harassing, threatening, or abusing beneficiary's, family members or other staff;
- Protection beneficiary confidentiality;
- The elements found in the code of conduct(s) for the certifying organization(s) the program's counselors are certified under; and
- Cooperate with complaint investigations.

CD 6.19:

Exhibit A, Attachment I, Part III, C, 3 - 6

The CalOMS-Tx business rules and requirements are:

3. 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.
4. 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.
5. 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.
6. 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 report is non-compliant:

- Open Admissions Report

7.0 COMPLIANCE

During the SFY 2019-20 review, the following CAPs with CDs were discussed and are still outstanding.

State Fiscal Year: 2018-19

CD #: New Requirement (NR) 9.45

Finding: The County must develop assessment and referral procedures for all required DMC covered services.

Reason for non-clearance of CD: Policy development was slowed down due to transitions in S.U.D. management.

County plan to remediate: Complete draft policy.

Original expected date of completion: 5/30/19

Updated/ revised date of completion: 6/30/2020

State Fiscal Year: 2018-19

CD #: NR 9.46

Finding: The County must comply with the following requirements for Naltrexone treatment:

- Has a confirmed, documented history of opiate addiction
- Is at least (18) years of age
- Is opiate free
- Is not pregnant

Reason for non-clearance of CD: Staffing challenges, demands, and supervisor transition.

County plan to remediate: Complete draft policy.

Original expected date of completion: 12/1/2019

Updated/ revised date of completion: 6/30/2020

State Fiscal Year: 2018-19

CD #: NR 9.58

Finding: The County must review and verify that claims submitted were accurate and legitimate.

Reason for non-clearance of CD: Staffing challenges and demands. Local involvement of Union in all policy and procedures.

County plan to remediate: The County will develop an UR process to monitor claims.

Original expected date of completion: 7/30/2019

Updated/ revised date of completion: 6/30/2020

State Fiscal Year: 2018-19

CD #: NR 9.59

Finding: The County must develop a process to notify the Master Provider File Team within two business days of notification or discovery of subcontractors' contract termination.

Reason for non-clearance of CD: Staffing challenges and demands.

County plan to remediate: County will develop a Master Provider file and team to meet this criteria.

Original expected date of completion: 9/1/2019

Updated/ revised date of completion: End of first quarter FY 20-21.

State Fiscal Year: 2018-19

CD #: NR 9.60

Finding: The County must ensure subcontracted providers are accepting proof of DMC eligibility as payment in full for drug treatment services.

Reason for non-clearance of CD: No DMC providers.

County plan to remediate: Add to risk assessment, if acceptable.

Original expected date of completion: 6/1/2019

Updated/ revised date of completion: 6/30/2020

State Fiscal Year: 2018-19

CD #: NR 9.61

Finding: The County must provide services to beneficiaries who reside out of county.

Reason for non-clearance of CD: Lack of providers and impacted providers.

County plan to remediate: County has begun contracting with Out of County providers. County is in contract with Aegis and has submitted payment.

Original expected date of completion: 6/1/2019

Updated/ revised date of completion: No information provided.

State Fiscal Year: 2018-19

CD #: NR 9.64

Finding: The County must ensure subcontractors are in compliance with the following requirements before authorizing residential services:

- Must be documented in beneficiary record
- Physician shall determine whether SUD services are medically necessary based on Title 22, Section 51303
- Initially – Required within 30 days of admission Continually – Within 15 days of signature by the therapist or counselor on updated treatment plan(s)
No sooner than 5 months and no later than 6 months from admission or the date of completion of the most recent continuing services justification

Reason for non-clearance of CD: No current DMC residential providers.

County plan to remediate: Upon contracting with DMC residential providers, develop policy.

Original expected date of completion: 7/1/2019

Updated/ revised date of completion: County responded TBD.

State Fiscal Year: 2018-19

CD #: NR 9.65

Finding: The County must ensure that all DMC programs have medical policies and standards developed and approved by the program medical director.

Reason for non-clearance of CD: Staffing changes, limited Medical Director hours, policies developed are dated and need updating.

County plan to remediate: Update policies, add signature line for the Medical Director.

Original expected date of completion: 6/1/2019

Updated/ revised date of completion: End of first quarter of FY 20-21.

State Fiscal Year: 2018-19

CD #: NR 9.66

Finding: The County must ensure subcontractor medical director's annual continuing education units in addiction medicine.

Reason for non-clearance of CD: The current Medical Directors contract did not explicitly mention the monitoring of this item.

County plan to remediate: The requirement is listed in the SUD Medical Director Policy. The contract will be amended for the coming FY to include checking this requirement at yearly contract renewal.

Original expected date of completion: 6/1/2019

Updated/ revised date of completion: 6/30/2020

TECHNICAL ASSISTANCE

Tuolumne County did not request Technical Assistance for FY 2019-20.