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DIRECTOR

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



GAVIN NEWSOM
GOVERNOR

February 24, 2022

Sent via e-mail to: <tmariscal@co.tuolumne.ca.us>

Tami Mariscal, Behavioral Health Director
Tuolumne County Behavioral Health Services
105 Hospital Road
Sonora, CA 95370

SUBJECT: Annual DMC State Plan County Compliance Unit Findings Report

Dear Director Mariscal:

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 2021-22 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/Provider Operations and Monitoring Branch (CPOMB) liaison by 4/25/2022. Please use the enclosed CAP form and submit the completed CAP and supporting documentation via email to the CPOMB analyst at MCBHDMonitoring@dhcs.ca.gov.

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

Sincerely,

Katrina Beedy

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>

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MCBHDMonitoring@dhcs.ca.gov, County Provider Operations and Monitoring Branch
Lindsey Lujan, Agency Manager, Quality Improvement, Tuolumne County Behavioral Health

COUNTY REVIEW INFORMATION

County:

Tuolumne County

County Contact Name/Title:

Lindsey Lujan, Agency Manager, Quality Improvement

County Address:

105 Hospital Road, Sonora, CA 95370

County Phone Number/Email:

209-533-6245

LLujan@co.tuolumne.ca.us

Date of Review:

12/13/2021

Lead CCU Analyst:

Katrina Beedy

Assisting CCU Analyst:

N/A

Report Prepared by:

Katrina Beedy

Report Approved by:

Ayesha Smith

REVIEW SCOPE

- I. Regulations:
 - a. California Code of Regulations, Title 22, section 51341.1, 51490.1 and 51516.1 – Drug Medi-Cal Substance Use Disorder Services
 - b. California Code of Regulations, Title 9, Division 4: Department of Alcohol and Drug Programs
 - c. Health and Safety Code, Division 10.5, Section 11750 – 11970: Alcohol and Drug Programs
 - d. Welfare and Institutions Code, Division 9, Part 3, Chapter 7, Sections 14021.51-14021.53 and 14124.20-14124.25: Basic Health Care – Drug Medi-Cal Treatment Program

- II. Program Requirements:
 - a. Fiscal Year (FY) 2020-21 State-County Contract, herein referred to as State County Contract
 - b. Fiscal Year (FY) 2021-22 State-County Contract, herein referred to as State County Contract
 - 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 12/13/2021. The following individuals were present:

- Representing DHCS:
Katrina Beedy, Associate Governmental Program Analyst (AGPA)
- Representing Tuolumne County:
Lindsey Lujan, Agency Manager, Quality Improvement
Tami Mariscal, Behavioral Health Director
Brock Kolby, Deputy Behavioral Health Director
Misti Ambler, Deputy Behavioral Health Director
Rebecca Espino, Health and Human Services Director
Steve Boyack, Assistant Health and Human Services Director

During the Entrance Conference, the following topics were discussed:

- Introductions
- Overview of services provided
- Overview of the review process

Exit Conference:

An Exit Conference was conducted via WebEx on 12/13/2021. The following individuals were present:

- Representing DHCS:
Katrina Beedy, AGPA
- Representing Tuolumne County:
Lindsey Lujan, Agency Manager, Quality Improvement
Tami Mariscal, Behavioral Health Director
Brock Kolby, Deputy Behavioral Health Director
Misti Ambler, Deputy Behavioral Health Director
Rebecca Espino, Health and Human Services Director
Steve Boyack, Assistant Health and Human Services Director

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 Administration | 0 |
| 2.0 Covered Services | 0 |
| 3.0 DMC Certification & Continued Certification | 1 |
| 4.0 Monitoring | 4 |
| 5.0 General Provisions | 3 |

CORRECTIVE ACTION PLAN (CAP)

Pursuant to the State County Contract, Exhibit A, Attachment I A1, Part I, Section 4, B, 6 a-b 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) 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 CPOMB analyst will monitor progress of the CAP completion.

Category 3: DMC CERTIFICATION & CONTINUING CERTIFICATION

A review of the County's certification and re-certification was conducted to ensure compliance with applicable regulations, and standards. The following DMC deficiency in regulations, standards or protocol requirements was identified:

COMPLIANCE DEFICIENCY:

CD 3.4:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part V, Section 4, B, 1, 2, b

- a) During the monthly status check, the Contractor shall monitor for a triggering recertification event (including but not limited to; change in ownership, change in scope of services, remodeling of facility, or change in location) and report any triggering events to DHCS' Provider Enrollment Division at DHCSDMCRECERT@dhcs.ca.gov within five business days of notification or discovery.

Findings: The County did not provide evidence demonstrating a process to monitor subcontractors for a triggering recertification event on a monthly basis.

The County did not provide evidence demonstrating a process to notify DHCS within (5) days of notification or discovery regarding triggering recertification events.

Category 4: MONITORING

A review of the County's monitoring and program integrity was conducted to ensure compliance with applicable regulations, and standards. The following DMC deficiencies in regulations, standards or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 4.1:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 1, B

B. It is further agreed this Contract is controlled by applicable provisions of: (a) the W&I Code, Division 9, Part 3, Chapter 7, Sections 14000, *et seq.*, in particular, but not limited to, Sections 14100.2, 14021, 14021.5, 14021.6, and Article 1.3, Sections 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 Regulations (hereinafter referred to as Title 9).

22 CCR § 51341.1 (b) (28) (A) (i) (f) (iii)

(A) For outpatient drug free, day care habilitative, perinatal residential and naltrexone treatment services programs the following shall apply:

- (i) The substance use disorder medical director's responsibilities shall at a minimum include all of the following
- (f) Ensure that provider's physicians are adequately trained to perform diagnosis of substance use disorders for beneficiaries, determine the medical necessity of treatment for beneficiaries and perform other physician duties, as outlined in this section.
- (iii) A substance use disorder medical director shall receive a minimum of five (5) hours of continuing medical education in addiction medicine each year.

Findings: The County did not provide evidence demonstrating Tuolumne County's Medical Director received the annual five (5) hours of continuing medical education units in addiction medicine. Specifically:

- The County did not provide evidence of continuing medical education for Tuolumne County's Medical Director for calendar year 2019.

The County did not provide evidence demonstrating that the Aegis Medical Directors from three Aegis locations (Aegis Merced, Aegis Manteca, and Aegis Stockton) received the annual five (5) hours of continuing medical education in addiction medicine. Specifically:

- The County did not submit evidence of continuing medical education for calendar year 2019 for any of the three Medical Directors.
- The continuing medical education submitted for calendar year 2020 totaled three (3) hours for one Aegis Medical Director (Dr. Fox), and eight (8) hours for another Aegis Medical Director (Dr. Hamilton). The County did not submit evidence of continuing medical education for calendar year 2020 for a third Aegis Medical Director.

CD 4.2:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 3, A, 4, c

4. Contractor shall require all the subcontracted providers of services to be licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations. The Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:
 - c) Minimum Quality Drug Treatment Standards, Document 2F(a)
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.

Document 2F(a), A, 3

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 beneficiary's;
 - 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.

Document 2F(a), A, 5

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.

Findings: The County did not provide evidence demonstrating that subcontractor SUD program Medical Directors from Aegis Chico, Aegis Modesto, and Aegis Stockton have a Code of Conduct.

CD 4.3:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 3, A, 4, c

4. Contractor shall require all the subcontracted providers of services to be licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations. The Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:
 - c) Minimum Quality Treatment Standards, (Document 2F(a))

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.

Document 2F(a), A, 5

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.

22 CCR § 51341.1 (b) (28) (A) (i) (a)-(f)

- A. For outpatient drug free, day care habilitative, perinatal residential and naltrexone treatment services programs the following shall apply:
 - (i) The substance use disorder 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 nonphysician personnel.
 - (c) Develop and implement 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 are adequately trained to perform diagnosis of substance use disorders for beneficiaries, determine the medical necessity of treatment for beneficiaries and perform other physician duties, as outlined in this section.

Finding: The County did not provide evidence demonstrating that Tuolumne County's SUD program Medical Director has signed and implemented written roles and responsibilities.

The County did not provide evidence demonstrating subcontractor SUD program Medical Directors for Aegis Merced, Aegis Manteca, and Aegis Modesto have written roles and responsibilities.

CD 4.4:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part 1, Section 4, B, 3, a

3. Program Complaints

- a) Report suspected Medi-Cal Fraud online:
<https://www.dhcs.ca.gov/individuals/Pages/StopMedi-CalFraud.aspx> By email:
fraud@dhcs.ca.gov
By phone: 1-800-822-6222

Finding: The County did not provide evidence demonstrating an implemented process for program complaints of suspected fraud to be reported to DHCS by phone, email or online.

Category 5: GENERAL PROVISIONS

A review of the County's contract general provisions was conducted to ensure compliance with applicable regulations, and standards. The following DMC deficiencies in regulations, standards or protocol requirements were identified:

COMPLIANCE DEFICIENCIES:

CD 5.1:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part II, L, 12

L. Federal Law Requirements:

12. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A - E).

Exhibit A, Attachment I, Part II, Q

Q. Subcontract Provisions

Contractor shall include the foregoing Part II general provisions in all of its subcontracts.

Behavioral Health Information Notice (BHIN) 20-066

Findings: The County did not provide evidence demonstrating subcontractor compliance with the Confidentiality of Alcohol and Drug Abuse Patients Records (42 CFR Part 2, Subparts A-E) provision.

The County did not provide evidence demonstrating all of the foregoing State County Contract Exhibit A, Attachment I, Part II general provisions are included in all executed subcontracts, including the Confidentiality of Alcohol and Drug Abuse Patients Records (42 CFR Part 2, Subparts A-E) provision.

CD 5.3:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part II, G

G. Trafficking Victims Protection Act of 2000

Contractor and its subcontractors that provide services covered by this Contract shall comply with the Trafficking Victims Protection Act of 2000 (22 USC 7104(g)), as amended by section 1702 of Pub. L. 112-239.

State Plan DMC Contract, Exhibit A, Attachment I, Part II, Q

Q. Subcontract Provisions

Contractor shall include the foregoing Part II general provisions in all of its subcontracts.

Findings: The County did not provide evidence demonstrating County and Subcontractor compliance with the Trafficking Victims Protection Act of 2000 (22 USC 7104(g)) provision.

CD 5.4:

State Plan DMC Contract, Exhibit A, Attachment I A1, Part II, H

H. Tribal Communities and Organizations

The Contractor shall regularly assess (e.g. review population information available through Census Bureau, compare to information obtained in CalOMS Treatment to determine whether population is being reached, survey Tribal representatives for insight in potential barriers) the substance use service needs of the American Indian/Alaskan Native (AI/AN) population within the Contractor's geographic area and shall engage in regular and meaningful consultation and collaboration with elected officials of the tribe, Rancheria, or their designee for the purpose of identifying issues/barriers to service delivery and improvement of the quality, effectiveness, and accessibility of services available to AI/AN communities within the County.

Exhibit A, Attachment I, Part II, Q

Q. Subcontract Provisions

Contractor shall include the foregoing Part II general provisions in all of its subcontracts.

Findings: The County did not provide evidence demonstrating all of the foregoing State County Contract Exhibit A, Attachment I, Part II general provisions are included in all executed subcontracts, including the Tribal Communities and Organizations provision.

TECHNICAL ASSISTANCE

Tuolumne County did not request technical assistance during this review.