



MICHELLE BAASS  
DIRECTOR

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



GAVIN NEWSOM  
GOVERNOR

10/11/2021

Sent via e-mail to: [MWilson@co.tuolumne.ca.us](mailto:MWilson@co.tuolumne.ca.us)

Michael Wilson, Tuolumne County Behavioral Health Director  
Tuolumne County Behavioral Health  
105 Hospital Rd.  
Sonora, CA 95370

SUBJECT: Annual DMC State Plan County Compliance Unit Findings Report

Dear Director 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 2020-21 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 12/11/2021. 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](mailto:MCBHDMonitoring@dhcs.ca.gov).

If you have any questions or need assistance, please contact me at [emanuel.hernandez@dhcs.ca.gov](mailto:emanuel.hernandez@dhcs.ca.gov).

Sincerely,

*Emanuel Hernandez*  
Emanuel Hernandez  
(916) 713-8667

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 Wilson,

CC: Mateo Hernandez, Audits and Investigations, Medical Review Branch Acting Chief  
Lanette Castleman, Audits and Investigations, Behavioral Health Compliance Section Chief  
Ayesha Smith, Audits and Investigations, Behavioral Health Compliance Unit Chief  
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[MCBHDMonitoring@dhcs.ca.gov](mailto:MCBHDMonitoring@dhcs.ca.gov), County/Provider Operations and Monitoring Branch  
Debora Dietz-Neves, Tuolumne County Behavioral Health Supervisor, SUD Program

## COUNTY REVIEW INFORMATION

**County:**

Tuolumne

**County Contact Name/Title:**

Debora Dietz-Neves/ Tuolumne County Behavioral Health Supervisor, SUD Program

**County Address:**

105 Hospital Rd, Sonoma, CA 95370

**County Phone Number/Email:**

209-533-6245

dietz-neves@co.tuolumne.ca.us

**Date of Review:**

07/01/2021

**Lead CCU Analyst:**

Emanuel Hernandez

**Assisting CCU Analyst:**

N/A

**Report Prepared by:**

Emanuel Hernandez

**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. 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 07/01/2021. The following individuals were present:

- Representing DHCS:  
Emanuel Hernandez, Associate Governmental Program Analyst (AGPA)
- Representing Tuolumne County:  
Michael Wilson, Tuolumne County Behavioral Health Director  
Debora Dietz-Neves, Tuolumne County Behavioral Health Supervisor, SUD Program  
Lindsay Lujan, Tuolumne County Agency Manager  
Tami Mariscal, Tuolumne County Deputy Director  
Brock Kolby, Tuolumne County Deputy Director

During the Entrance Conference, the following topics were discussed:

- Introductions
- Overview of the monitoring process
- Tuolumne County overview of services

### **Exit Conference:**

An Exit Conference was conducted via WebEx on 07/01/2021. The following individuals were present:

- Representing DHCS:  
Emanuel Hernandez, AGPA
- Representing Tuolumne County:  
Michael Wilson, Tuolumne County Behavioral Health Director  
Debora Dietz-Neves, Tuolumne County Behavioral Health Supervisor, SUD Program  
Lindsay Lujan, Tuolumne County Agency Manager  
Tami Mariscal, Tuolumne County Deputy Director  
Brock Kolby, Tuolumne County Deputy Director

During the Exit Conference, the following topics were discussed:

- Review of compliance deficiencies
- Follow up deadlines

## SUMMARY OF FY 2020-21 COMPLIANCE DEFICIENCIES (CD)

<u>Section</u>	<u>Number of CD's</u>
1.0 Administration	4
2.0 Covered Services	0
3.0 DMC Certification & Continued Certification	2
4.0 Monitoring	3
5.0 General Provisions	3

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

Pursuant to the State County Contract, Exhibit A, Attachment I A1, Part I, Section 4, 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 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) Who will be responsible for correction and ongoing compliance.

The CPOMB analyst will monitor progress of the CAP completion.

## Category 1: ADMINISTRATION

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

### COMPLIANCE DEFICIENCIES:

#### **CD 1.1:**

##### State Plan DMC Contract, Exhibit A, Attachment I A1, Part I, Section 2, A, 1, a-e

###### A. Covered Services

1. 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.

**Findings:** The County did not provide evidence the County arranges, provides or subcontracts all required DMC Services.

The County did not provide evidence of established assessment and referral procedures to appropriately funded, arranged, provided or subcontracted required DMC services.



**CD 1.3:**

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

3. Training

- a) The Contractor shall ensure subcontractors complete training on the requirements of Title 22 regulations and DMC program requirements at least annually from either DHCS' MCBHD or the Contractor. The Contractor shall provide documentation of attendance at the annual training to DHCS' e-mail address [MCBHDMonitoring@dhcs.ca.gov](mailto:MCBHDMonitoring@dhcs.ca.gov) annually as part of the DHCS Contractor monitoring process.

**Findings:** The County does not ensure County and subcontractor staff complete training on Title 22 regulations and DMC program requirements annually.

**CD 1.5:**

State Plan DMC Contract, 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, 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 (h) (7) (i)

- (7) Except where share of cost, as defined in Section 50090, is applicable, providers shall accept proof of eligibility for Drug Medi-Cal as payment in full for treatment services rendered. Providers shall not charge fees to a beneficiary for access to Drug Medi-Cal substance use disorder services or for admission to a Drug Medi-Cal treatment slot.
- (i) For each beneficiary, providers shall maintain all of the documentation in the beneficiary's individual patient record established pursuant to Subsection (g)(1) for a minimum of three (3) years from the date of the last face-to-face contact between the beneficiary and the provider.

**Finding:** The County does not ensure county and subcontracted providers are accepting proof of DMC eligibility as payment in full for drug treatment services.

**CD 1.6:**

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

- a) The Contractor shall include instructions on record retention in any subcontract with providers and mandate all providers to keep and maintain records for each service rendered, to whom it was rendered, and the date of service, pursuant to W&I Code, Section 14124.1.

W&I Code, Section 14124.1

... 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 County did not provide evidence 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.

## 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 3.1:**

State Plan DMC Contract, Exhibit A, Attachment I, 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)

**Findings:** The County does not have a process to ensure subcontractors comply with the Minimum Quality Drug Treatment Standards (MQDTS) for DMC.

#### **CD 3.3:**

State Plan DMC Contract, Exhibit A, Attachment I, Part I, Section 3, A, 5-7

5. Contractor shall notify Provider Enrollment Division (PED) of an addition or change of information in a provider's pending DMC certification application within 35 days of receiving notification from the provider. The Contractor must ensure that a new DMC certification application is submitted to PED reflecting the change.
6. The Contractor is responsible for ensuring that any reduction of covered services or relocations by DMC providers are not implemented until approval is issued by DHCS. Within 35 days of receiving notification of a DMC provider's intent to reduce covered services or relocate, the Contractor shall submit, or require the DMC provider to submit, a DMC certification application to PED. The DMC certification application shall be submitted to PED 60 days prior to the desired effective date of the reduction of covered services or relocation.
7. If, at any time, a subcontractor's license, registration, certification, or approval to operate a substance use treatment program or provide a covered service is revoked, suspended, modified, or not renewed by entities other than DHCS, the Contractor shall notify DHCS' Data Management, Reporting, and Evaluation Section by e-mail at [DHCSMPF@dhcs.ca.gov](mailto:DHCSMPF@dhcs.ca.gov) within five business days of learning of the revocation, suspension, modification, or non-renewal.

**Findings:** The County does not have a process to identify and notify DHCS regarding additions or changes of information in a provider's DMC certification.

## 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 deficiency in regulations, standards or protocol requirements was identified:

### COMPLIANCE DEFICIENCY:

#### **CD 4.2**

##### State Plan DMC Contract, Exhibit A, Attachment I, 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:

##### 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.

##### Minimum Quality Treatment Standards, 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.

##### Minimum Quality Treatment Standards, 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 demonstrate how the Plan ensures SUD program Medical Directors have a Code of Conduct.

**CD 4.3**

State Plan DMC Contract, Exhibit A, Attachment I, 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:

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.

Minimum Quality Treatment Standards, 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 non-physician 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 demonstrate how the Plan ensures SUD program Medical Directors have written roles, responsibilities and standards.

**CD 4.4**

State Plan DMC Contract, Exhibit A, Attachment I, Part I, Section 4, B, 1, a-b

1. Program Integrity: The Contractor is responsible for ensuring program integrity of its services and its subcontractors through a system of oversight, which shall include at least the following:
  - a) Compliance with state and federal law and regulations, including, but not limited to, 42 CFR 433.51, 42 CFR 431.800 *et seq.*, 42 CFR 440.230, 42 CFR 440.260, 42 CFR 455 *et seq.*, 42 CFR 456 *et seq.*, 42 CFR 456.23, 22 Cal. Code Regs. 51490, 22 Cal. Code Regs. 51490.1, 22 Cal. Code Regs. 51159, WIC 14124.1, WIC 14124.2, 42 CFR 438.320, 42 CFR 438.416, 42 CFR 438.10, and 42 CFR 438.206.
  - b) The Contractor shall conduct, at least annually, a programmatic and utilization review of DMC providers to assure covered services are being appropriately rendered. The annual review shall include an on-site visit of the DMC provider. Reports of the annual review shall be provided to the Medi-Cal Behavioral Health Division (MCBHD) at:

DHCS  
Medi-Cal Behavioral Health Division  
1500 Capitol Avenue, MS# 2623  
Sacramento, CA 95814

Or by secure, encrypted email to: [MCBHDMonitoring@dhcs.ca.gov](mailto:MCBHDMonitoring@dhcs.ca.gov)

The review reports shall be provided to DHCS within two weeks of completion by the Contractor.

Technical assistance is available to counties from DHCS' MCBHD.

**Finding:** The County did not provide evidence it conducts an audit of all DMC providers at least annually to assure services are being appropriately rendered.

- The County monitored zero (0) of seven (7) DMC providers and did not submit audit reports of these annual reviews to DHCS.

## 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, B

##### B. No Unlawful Use or Unlawful Use Messages Regarding Drugs

Contractor agrees that information produced through these funds, and which pertains to drugs and alcohol - related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug or alcohol related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). By signing this Contract, Contractor agrees that it will enforce, and will require its subcontractors to enforce, these requirements.

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 to demonstrate County and Subcontractor compliance with the No Unlawful Use or Unlawful Use Messages Regarding Drugs provision.

#### **CD 5.2:**

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

##### L. Nondiscrimination in Employment and Services

By signing this Contract, the Contractor certifies that under the laws of the United States and the State of California, incorporated into this Contract by reference and made a part hereof as if set forth in full, the Contractor will not unlawfully discriminate against any person.

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 to demonstrate all of the foregoing State County Contract Exhibit A, Attachment I, Part II general provisions are included in all executed subcontracts, including the Nondiscrimination in Employment and Services provision.

**CD 5.3:**

State Plan DMC Contract, Exhibit A, Attachment I, Part II, P, 1-2, a-d

P. Information Access for Individuals with Limited English Proficiency and/or Disabilities

1. The Contractor shall comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8) regarding access to materials that explain services available to the public as well as providing language interpretation services.
2. The Contractor shall comply with the applicable provisions of Section 1557 of the Affordable Care Act (45 CFR Part 92), including, but not limited to, 45 CFR 92.201, when providing access to:
  - a) Materials explaining services available to the public
  - b) Language assistance
  - c) Language interpreter and translation services
  - d) Video remote language interpreting services

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 to demonstrate County and Subcontractor compliance with the Dymally-Alatorre Bilingual Services Act provision.

The County did not provide evidence to demonstrate all of the foregoing State County Contract Exhibit A, Attachment I, Part II general provisions are included in all executed subcontracts, including the Dymally-Alatorre Bilingual Services Act provision.



## **TECHNICAL ASSISTANCE**

No technical assistance was requested by the County.