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By: Carol F. Burton
Carol F. Burton
Interim Behavioral Health Director

POLICY TITLE

Contract Compliance and Sanctions for BHCS-Contracted Providers

Policy No: 1302-1-1

Date of Original Approval: 6/15/2018

Date(s) of Revision(s): N/A

PURPOSE

The purpose of this policy is to:

1. Respond to Alameda County Audit and Grand Jury Findings around the need to implement standard accountability measures/systems of County-funded programs;
2. Maximize the effectiveness of publicly-funded behavioral health services to support individuals and families within Alameda County;
3. Reduce audit, legal and financial risk for Alameda County Behavioral Health Care Services (BHCS)-Contracted Providers and the network of public-funded behavioral health programs; and
4. Clarify the terms and process under which BHCS oversees the implementation of:
 - a. Plan of Corrections (POC's), Quality Improvement Plans (QIP's), and Corrective Action Plans (CAP's) through the BHCS Quality Assurance (QA) Office;
 - b. Contract Compliance Plans (CCP's) through the Network Office; and
 - c. Administrative and Financial Sanctions through the Network Office and other BHCS offices to hold providers accountable for implementing County, State and Federal Requirements.

AUTHORITY

Section 51341.1 of Title 22 of the California Code of Regulations (CCR); CCR Title 9 1810.323, 1810.380, 1810.385 W&I Code Sec 14124.1, 14712, 14713, 14714, 14707.5; 42 CFR 433.32; contracts between the California Department of Health Care Services (DHCS) and BHCS; and DHCS MHSUDS Information Notice No.18-024.

SCOPE

This policy applies to all BHCS-contracted entities who operate programs that provide behavioral services to consumers.

POLICY

BHCS will hold providers accountable for implementing County, State and Federal requirements. BHCS will communicate expectations, provide training and technical assistance (TA), conduct monitoring, and follow-up with providers on identified regulatory deficiencies. BHCS will oversee formal CCP's, POC's, QIP's, CAP's and sanctions with providers if identified deficiencies persist beyond what BHCS determines as a reasonable timeframe for resolution. It is BHCS policy to review existing provider capacity, including any significant deficiencies and/or sanctions, in evaluating the provider's ability to receive new programs and contracts.

Examples of deficiencies that may lead to a CCP, POC, QIP, CAP and/or sanctions include, but are not limited to:

- Lack of qualified staff;
- A client health or safety issue;
- A significant and substantiated client grievance;
- Substantive underperformance on meeting contractual deliverables around quantity/quality of services;
- Lack of fire clearance or other required certification and/or licensure;
- Failure to meet clinical documentation standards for claiming for services provided to beneficiaries;
- Failure to submit required documentation, including contractual documents, invoice documents, programmatic reports, staffing change attestation for Federal and State exclusion list checks, and/or audited financial statements; and/or
- Lack of compliance with other County, State and/or Federal Requirements as specified in a provider contract.
- Repeated and uncorrected findings of non-compliance, and/or
- Lack of achievement in meeting BHCS performance standards including but not limited to, access, and/or quality review requirements.

PROCEDURE

A. Communication and Technical Assistance (TA)

1. BHCS will communicate and provide TA to providers around existing and emerging regulatory requirements through contractual documents, the BHCS provider website, memos, emails, trainings, meetings, and/or one-on-one TA.
2. Providers must follow-up with BHCS if they require additional TA or consultation about any of the stated requirements, or any specific challenges or barriers that they may be facing within their contracted program(s).

B. Monitoring and Informal Resolution Process

1. BHCS will conduct provider compliance monitoring of County, State and Federal Requirements through desk review of submitted data, reports, site visits and informal communication with providers about their administrative infrastructure and contracted program(s).
2. The responsible staff within BHCS (generally a staff person within BHCS Network Office, Quality Assurance (QA) Office, or Operations) will bring any identified concerns or deficiencies to the attention of contracted providers in a timely manner, with the goal of quickly addressing these issues through discussion and TA whenever possible.
 - a. For many contract compliance issues, the goal will be on quickly addressing the identified issues in an informal and collaborative manner.
 - i. For contract compliance issues which can be addressed in an informal manner, the responsible staff within BHCS (generally the BHCS Program Contract Manager) will coordinate with a contact within the provider organization on the steps and timeframe for resolving any concerns or deficiencies, and will follow-up on the provider's progress on addressing the concern(s) or deficiency(ies) at agreed upon timeframes.
 - b. For many QA items, however, the emphasis will be on corrective actions going forward and there may not be the option of pursuing the needed QA corrections in an informal and collaborative manner.
3. If it occurs that a deficiency(ies) will not be addressed in a reasonable timeframe, the responsible staff within BHCS will notify the Provider of the intent of BHCS to initiate a formal process and then convene with the relevant BHCS partners to assess next steps. The relevant BHCS partners may include the Network Office (Program/Fiscal Contract Managers and Supervisors), Quality Assurance Office, Operational Lead(s), Provider Relations and/or Utilization Management.
 - a. The responsible staff within BHCS will summarize the identified deficiency(ies) and their work with the provider to date to clarify expectations and resolution addressing the deficiency(ies).
 - b. Other BHCS partners will state any other deficiency(ies) they may also be working on with the provider.
 - c. The relevant BHCS partners will determine the next steps to take with the provider to address the identified deficiency(ies) and notify the

Provider in writing of the timeframes and measures to be taken. Next steps may include, but are not limited to, the following:

- i. Additional communication and TA with the same or different individuals within the provider's organization
 - ii. Moving to a formal resolution process as described below. In this case, an organization's Executive Director and/or Board President shall be notified.
- d. The responsible staff within BHCS will continue to monitor and communicate with relevant BHCS partners until there is documentation that all identified issues have been addressed.

C. Formal Resolution Process

A formal resolution is a resolution that includes the request for any of the following from a BHCS-contracted provider by either BHCS, the California Department of Health Care Services (DHCS), or any other regulatory body:

- A Contract Compliance Plan (CCP);
- A Plan of Correction (POC);
- A Quality Improvement Plan (QIP);
- A Corrective Action Plan (CAP); or

A formal resolution may also include implementation of sanctions.

1. **Requests for CCP's, POC's, QIP's, and/or CAP's Initiated by BHCS**

- a. Upon determination that BHCS will be requesting a CCP from a BHCS-contracted provider, the BHCS Network Office Director and/or Operational Lead(s) will communicate the concerns related to the CCP verbally and/or in writing to the BHCS Executive Team.
 - i. For a CCP, it is the responsibility of the BHCS Director, or designee, to ensure that the Alameda County Health Care Service Agency (HCSA) Director and any involved members of the Board of Supervisors are briefed either before or directly after the request for CCP is issued to the provider regarding the content and gravity of the concerns and the steps taken to date to clarify expectations and support the provider in addressing the identified concerns.
- b. Requests to BHCS-contracted providers for POC's, QIP's, and CAP's by the Quality Management Program will be copied to a member of the BHCS Executive Team and/or Operational Lead(s) as well as to BHCS program and fiscal contract managers.

- c. BHCS-initiated requests for CCP's, POC's, QIP's, and CAP's must include:
 - i. A short introduction to provide context;
 - ii. A description of the identified concerns/deficiency(ies);
 - iii. Specific requirements of the requested CCP, POC, QIP, or CAP outlining the specific outcomes BHCS is expecting to see addressed within a specified timeframe(s). Timeframe(s) for resolution of issue(s) as identified in the CCP, POC, QIP or CAP are generally:
 - 1. Commensurate with the nature of the deficiency(ies) and anticipated time to appropriately resolve for a CCP;
 - 2. Ninety (90) days for a POC, QIP, or CAP related to medical chart review; and
 - 3. Thirty (30) days for most other POC's or CAP's.
 - iv. Timeline and logistics for the provider to submit their CCP, POC, QIP, or CAP;
 - 1. The timeline will generally be thirty (30) days for submittal, but longer for a POC or CAP if provider submits an appeal. Exact timeline will be specified in the request to provider.
 - v. If applicable, the format and frequency of status reports to BHCS regarding progress on the CCP, POC, QIP, or CAP;
 - vi. An overview of potential next steps BHCS will consider if the provider is unable to address the concerns/deficiencies in the allotted timeframe; and
 - vii. Who to contact in BHCS if the provider has additional questions or concerns.
- d. The responsible BHCS staff who drafts the request for CCP, POC, QIP, or CAP will:
 - i. For CCP's, route to any other BHCS partners liaising with the provider around other deficiencies to be included in the CCP for input, and then to any intermediate supervisors of the involved BHCS units for final review.
 - ii. For POC's, QIP's, and CAP's route to QA Administrator or designee for final review.
- e. The request for a CCP will be addressed to the Designated Organization Director/Division Director and the Program Manager/Director of services. The following staff from BHCS will also be copied: Director, Deputy Director, Finance Director, Operational Lead(s), Network Office Director, Network Office Assistant Director, Network Office Fiscal Supervisor, Network Office Program Contract Manager, Network Office Fiscal Contract Manager, Quality Assurance Administrator, Quality Assurance Lead

Staff, and Audit Coordinator. The HCSA Director may also be copied in some instances.

- i. All requests for CCP's will be sent to the provider through the Network Office Contracts Mailbox.
- f. The request for a POC, QIP, or CAP will be addressed to the Designated Director/Division Director of the provider organization with the QA lead from the provider organization also copied. The following staff from BHCS will also be copied on requests for POC's QIP's, or CAP's: Director or designee, Deputy Director or designee, QM Director, QA Administrator, Finance Director, Data Analytics and Cost Reporting Director, Provider Relations Director, System of Care Director, Network Office Director, Network Office Assistant Director, and Quality Assurance Lead Staff.
- g. It will be the responsibility of the BHCS Network Office Director and/or BHCS QM Director or designee to keep the BHCS Executive Team abreast of the provider's progress on meeting the terms of the CCP, POC, QIP, or CAP, next steps, and vetting any sanctions requiring approval from the BHCS Executive Team. For CCP's, it will be the responsibility of the BHCS Director or designee to keep the HCSA Director and relevant members of the Board of Supervisors apprised of the same.

2. Requests for CAP's Initiated by California DHCS

- a. Upon notification that DHCS has requested a formal CAP for a BHCS-contracted program, for either Post Service Post Payment (PSPP CAP) or a Technical Assistance CAP (TA CAP) for Drug Medi-Cal (DMC) services, the QA Administrator or designee will send a copy of the CAP to relevant BHCS staff including, but not limited to, the following: Director or designee, Deputy Director or designee, System of Care Director, Quality Management Program Director, Quality Assurance Administrator, Finance Director, Cost Reporting Director, Provider Relations Director, Network Office Director, and Network Office Assistant Director.
- b. The BHCS QA staff responsible for monitoring and overseeing the CAP will:
 - i. Ensure and attest that the CAP submitted to DHCS on behalf of the provider documents planned activities to ensure compliance with all specifications of the requested CAP in accordance with required timeframes;

- ii. Within four months of the date of DHCS acceptance of the PSPP CAP, conduct a desk and/or onsite review to document implementation of the PSPP CAP and compliance with all required corrections as outlined in the initial DHCS request for the CAP;
 - iii. Liaise with DHCS, key representatives from the provider organization, and any other relevant BHCS parties if there are flags that the provider will be or has been unable to achieve the terms of the CAP within the allotted timeframe;
 - iv. Conduct annual monitoring for implementation and continued compliance with the provisions of the DHCS approved PSPP CAP. Annual PSPP CAP implementation and compliance reviews will continue as scheduled until the next DHCS PSPP utilization review starts a new cycle; and
 - v. At the end of the PSPP CAP review period, summarize in writing the provider's progress on meeting each of the terms of the CAP and next steps and/or sanctions, if applicable.
- c. It will be the responsibility of the BHCS QA Administrator or designee to keep the BHCS Executive Team abreast of the provider's progress on meeting the terms of the CAP, and next steps.

3. Sanctions and/or Termination

- a. A sanction is an action deemed necessary taken by BHCS to act upon an outstanding deficiency to promptly ensure contract and performance compliance. Sanctions may include, but are not limited to:
 - i. 1st level sanctions:
 - Delay payments to provider (i.e., payment hold) until deficiency is addressed;
 - Deny a portion of requested payments for activities not in compliance;
 - Suspend services or new referrals; and/or
 - Reduce funding in next contract.
 - ii. 2nd level sanctions:
 - Terminate the contracted program or the entire contract;
 - Decline to renew contracted program at the end of the current contract cycle;
 - Initiate Federal suspension or debarment proceedings; and/or

- Other legally available actions.
- b. At any time, BHCS may consider implementing escalating administrative and/or financial sanctions as a response to provider non-compliance with contractual requirements.
- c. If the California DHCS levies any administrative or financial sanctions against BHCS as a result of a BHCS contract provider's non-compliance with State or Federal regulations, BHCS may pursue reimbursement of such costs from the contract provider.
- d. In relation to QA audits, BHCS will generally first pursue a POC, QIP, or CAP. In relation to other contract compliance issues, BHCS will generally first pursue informal resolution, 1st level sanctions, or a CCP. BHCS will be more likely to consider moving to 2nd level sanctions when it is a prolonged-outstanding issue, or when a provider is unable to show adequate progress, as defined by BHCS, on meeting the requirements of a CCP, POC, QIP, or CAP.
- e. BHCS will pursue 2nd level sanctions when a provider is unable to adequately and timely address noted concerns/deficiencies within a three-to-nine (3-9) month period (depending on the nature of the corrections requested). In limited circumstances, BHCS may allow a provider an additional three (3) months to fully address identified concerns/deficiencies if substantive progress or very extenuating circumstances have been noted in the preceding period. The maximum time frame for any identified issue to be resolved is twelve (12) months.
- f. BHCS may move immediately or on a shorter timeline to 2nd level sanctions related to an identified deficiency under certain circumstances, which include, but are not limited to:
 - i. Urgent client health and safety issues, where BHCS may need to suspend operations until the identified issue is addressed;
 - ii. Evidence that another funder has terminated their contract with an organization due to gross violations related to client care and/or administrative oversight; and/or
 - iii. Evidence that a regulatory body has revoked a required certification or licensure due to gross violations related to client care and/or administrative oversight.
- g. The BHCS Executive Team must approve any 2nd level sanctions, soliciting input and guidance from relevant BHCS units, County Counsel, Alameda County Risk Management, and the Alameda County Health Care Services Agency (HCSA) Director on an as-needed basis.

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D. Significant deficiencies and/or sanctions may impact BHCS’s decision to award a provider new program(s) and/or contract(s).

E. Programs and contracts may be terminated or not renewed by BHCS for reasons unrelated to a CCP, POC, QIP, or CAP, such as reduced availability of funding.

CONTACT

BHCS Office	Current as of	Contact
Network Office (CCP’s)	May 2018	Network Office: (510) 567-8296
QA Office (POC’s, QIP’s & CAP’s)	May 2018	QA Office: qaoffice@acgov.org

DISTRIBUTION

This policy will be distributed to the following:

- ACBHCS Staff
- ACBHCS County and Contract Providers
- Public

ISSUANCE AND REVISION HISTORY

Original Authors: Wendi Vargas, Network Office Assistant Director; Donna Fone, LMFT, LPCC, Quality Assurance Administrator; and Sharon Loveseth, LAADC, SUD Program Specialist

Original Date of Approval: 6/15/2018 by Carol F. Burton, Interim Behavioral Health Director

Date of Revision: N/A

Revise Author	Reason for Revise	Date of Approval by (Name)
N/A		

DEFINITIONS

Term	Definition
<p>Contract Compliance Plan (CCP)</p>	<p>A CCP is requested from providers and monitored/overseen by the BHCS Network Office. Contract compliance issues in a CCP may include any issue related to non-compliance with any local, state or federal requirement as implicitly or explicitly stated in the mental health or substance use disorder contract, and may include deficiencies related to individual programs or to a larger contract. A CCP may include reference to outstanding deficiencies noted in a separate POC, QIP, or CAP.</p>
<p>Deficiencies</p>	<p>Examples of deficiencies that may lead to a CCP, POC, QIP, CAP and/or sanctions include, but are not limited to:</p> <ul style="list-style-type: none"> • Lack of qualified staff; • A client health or safety issue; • A significant and substantiated client grievance; • Substantive underperformance on meeting contractual deliverables around quantity/quality of services; • Lack of fire clearance or other required certification and/or licensure; • Failure to meet clinical documentation standards for claiming for services provided to beneficiaries; • Failure to submit required documentation, including contractual documents, invoice documents, programmatic reports, staffing change attestation for Federal and State exclusion list checks, and/or audited financial statements; and/or • Lack of compliance with other County, State and/or Federal Requirements as specified in a provider contract. • Repeated and uncorrected findings of non-compliance, and/or • Lack of achievement in meeting BHCS performance standards including but not limited to, access, and/or quality review requirements.
<p>Corrective Action Plan (CAP)</p>	<p>A CAP is requested from providers by the BHCS Quality Assurance (QA) Office or California Department of Health Care Services (DHCS) including any other regulatory body and</p>

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	monitored/overseen by BHCS QA in relation to deficiencies related to a substance use disorder treatment program's implementation of stated quality assurance requirements. CAPS initiated by DHCS can be related to post service post payment (PSP) utilization review and/or technical assistance (TA) visits.
Plan of Correction (POC)	A POC is requested from providers and monitored/overseen by the BHCS Quality Assurance (QA) Office in relation to deficiencies related to a mental health program's implementation of stated QA requirements.
Quality Improvement Plan (QIP)	A QIP is requested from providers and monitored/overseen by the BHCS Quality Assurance (QA) Office in relation to deficiencies related to a behavioral health program's implementation of stated QA requirements and the deficiencies have not resulted in any disallowances.
Sanction and/or Termination	<p>A sanction is an action taken by BHCS to act upon an outstanding deficiency. Sanctions may include, but are not limited to:</p> <p>1st level sanctions:</p> <ul style="list-style-type: none"> • Delay payments to provider (i.e., payment hold) until deficiency is addressed; • Deny a portion of requested payments for activities not in compliance; • Suspend services or new referrals; and/or • Reduce funding in next contract. <p>2nd level sanctions:</p> <ul style="list-style-type: none"> • Terminate the contracted program or the entire contract; • Decline to renew contracted program at the end of the current contract cycle; • Initiate Federal suspension or debarment proceedings; and/or • Other legally available actions.