



May 31, 2022

By Email

Justin Lyman
Chief Executive Officer
Trillium Community Health Plan, Inc.
P.O. Box 11740
Eugene, OR 97440

UPDATE TO NOTICE OF NON-COMPLIANCE AND ORDER REQUIRING CORRECTIVE ACTION RELATING TO TRILLIUM CCO CONTRACT No. 161766 FOR THE TRI-COUNTY SERVICE AREA:

CURRENT OHA FINDINGS & ORDER OF CLOSURE OF CORRECTIVE ACTION PLAN

Dear Mr. Lyman,

The purpose of this notice is to provide an update to the *Notice of Non-Compliance and Order Requiring Corrective Action Relating to Trillium CCO Contract No. 161766¹ for the Tri-County service area (the "Contract")*, issued on September 2, 2020 (the "September 2 Notice"), as modified by the Update to Notice dated November 1, 2021 (the "November 1 Notice"), and the Update to Notice dated January 6, 2022 (the "January 6 Notice"). Terms capitalized but not defined in this update have the meanings defined in the September 2 Notice. Subject to a final review as described below, the September 2 Notice, as modified by the November 1 Notice and the January 6 Notice, is considered resolved, and no additional action from Trillium Community Health Plan ("Trillium") is required in relation to the Notice of Non-Compliance.

BACKGROUND

Trillium was placed on a Corrective Action Plan ("CAP") in September 2020, concurrent with its entry into the Tri-County service area. The CAP was imposed after Trillium's failure to adequately address OHA's concerns around the plan's expansion into the Tri-County service area. The CAP was comprised of four main finding areas: (i) network development, (ii) health equity & language access, (iii) community engagement, and (iv) intensive care coordination ("ICC") (individually and collectively referred to as "CAP Findings"). Between October 2020 and February 2021, Trillium and OHA collaborated to develop action areas to address OHA's concerns regarding each of the four CAP Findings ("Action Areas to Address Findings").

The reporting period, initially determined to last six months, began in March 2021. During that time, OHA's Quality Assurance and CCO Contract Oversight team conducted monthly reviews of documentation submitted by Trillium ("CAP Reports") to determine whether substantial progress was made toward closing out the CAP Finding.

¹ All references to the Contract in this Update to Notice Letter are to Contract # 161766 entered into by Trillium and OHA for Contract Year 2021. The Contract for Contract Year 2021 was substantively similar to the Contract for Contract Year 2020.

Beginning March 2021, Trillium started submitting monthly CAP Reports to OHA. From May through July 2021, OHA Quality Assurance staff met with Trillium staff to discuss the inadequacies of the documentation in the CAP Reports and how to better document progress towards resolution of Findings. In addition to the meetings, OHA evaluated CAP Reports and provided Trillium with progress reports (“Progress Report(s)”) on July 30, 2021, and September 16, 2021, which documented OHA’s findings regarding Trillium’s progress toward addressing and resolving the Findings. On December 21, 2021, OHA provided Trillium with a Progress Report following the submission of its November 2021 CAP Report.

In the November 1, 2021, Notice and Order, OHA notified Trillium of continued non-compliance with minimal progress towards correcting the violations set forth in the September 2 Notice. Pursuant Exhibit B, Part 9, Section 1, Paragraph d., and Exhibit B, Part 9, Section 3, Paragraph b. of the 2021 CCO Contract and as permitted under OAR 410-141-3530, OHA elected to impose additional Sanctions until Trillium resolved the violations set forth in the November 1 Notice and Order. Effective December 1, 2021, OHA suspended, in accordance with the November 1, Notice and Order, all new enrollment in Trillium’s Tri-County service area, including automatic enrollment. The November 1 Notice outlined the Findings requiring resolution within three (3) months of issuance of the November 1 Notice.

Thirty days later, on November 30, 2021, Trillium submitted a new CAP Report. Based on that CAP Report OHA found Trillium to have demonstrated appreciable progress towards correcting the violations set forth in the November 1 Notice. As a result, OHA determined the enrollment suspension, which went into effect on December 1, 2021, could be lifted effective January 3, 2022, pursuant to OAR 410-141-3530, Exhibit B, Part 9, Section 1, Paragraph d., and Exhibit B, Part 9, Section 3, Paragraph b. of the 2021 CCO Contract.

Beginning January 20, 2022, Trillium submitted CAP Reports to OHA for review on a weekly basis for the purpose of demonstrating sustained progress toward full resolution of the outstanding Findings outlined in the January 6 Notice. OHA continued to review and provide feedback to Trillium on its weekly CAP Reports until all outstanding Findings had been sufficiently resolved, with the final CAP Report submission on April 29, 2022.

SUMMARY OF CORRECTIVE ACTION PLAN FINDINGS OF NON-COMPLIANCE AND THEIR RESOLUTION

Network Adequacy

Requirement Summarized: Pursuant to 42 CFR 438.68 (a), 42 CFR 438.207 42 USC Section 1396u-2(b)(5), and as set forth in Exhibit B, Part 4, Section 3 of the Contract, the State must ensure, and Trillium must secure, a network of contracted providers sufficient to serve assigned members and meet time and distance standards for access outlined in OAR 410-141-3515. Specifically, Trillium must ensure that its members have the same access to certain services as other patients in the service area. In addition, Trillium must have sufficient in-network hospitals, primary care providers, specialists, and pediatric oral health providers to meet the time and distance standards in the foregoing rules and regulations, and Trillium must ensure that it has a sufficient network to provide an array of services, including (i) urgent care within 72 hours, (ii) well-care visits within four weeks, (iii) emergency oral care within 24 hours, (iv) urgent oral care within one week or as indicated in the initial screening, (v) routine oral care within an average of eight weeks (vi) routine oral care for pregnant women within an average of four weeks (vii) and urgent behavioral health care immediately.

Network adequacy should correspond with Trillium's Tri-County maximum member enrollment by county. Maximum member enrollment by county is 12,602 for Clackamas, 24,645 for Multnomah, and 17,753 for Washington, for a total of 55,000 members in the Tri-County service area.

Original OHA Findings Summarized: In its July 29, 2020 presentation, Trillium identified the number of members each individual provider can serve above their current capacity. However, the presentation lacked the detail and analysis across provider types and member populations accessing the provider network necessary to demonstrate the member-to-provider ratio was sufficient. Trillium's failure to demonstrate network adequacy was especially pronounced in the area of behavioral health.

Current OHA Findings: In its April 29, 2022, CAP Report Trillium demonstrated resolution of the above original Findings based on the following:

- (1) A methodology to gather provider capacity attestations across provider types within its provider network; and
- (2) Infrastructure to monitor utilization across provider types to ensure its network has adequate capacity to meet its membership's needs and to identify and address gaps.

Health Equity and Language Access

Requirement Summarized: With regard to health equity, pursuant to Exhibit K, Section 10 of the Contract, Trillium is required to develop and implement a Health Equity Plan designed to address the cultural, socioeconomic, racial, and regional disparities in health care that exist among members and communities in the Tri-County service area.

With regard to language access, pursuant to 42 CFR 438.206 (c)(2) and Exhibit B, Part 4, Section 2 of the Contract, as well as Section (v) 29 of Oregon's 1115 Waiver, Trillium must provide culturally and linguistically appropriate services and supports to members. In addition, Exhibit B, Part 4, Section 2, Paragraph g., makes it clear that Title II of the ADA and Title VI of the Civil Rights Act require that communication and delivery of services must be provided in a manner that accounts for diverse cultural and ethnic backgrounds which may require the use of certified or qualified interpreters for members.

Original OHA Findings Summarized: Trillium had not demonstrated the requirements were being met across health equity areas, including language access. As of July 29, 2020, Trillium's proposed provider network showed only 8.8% of those providers' records reflected the presence of a non-English language, thereby limiting access to culturally responsive care. Accordingly, OHA found that Trillium had failed to meet the requirements of ensuring the delivery of culturally competent care as required under the Contract and Oregon's 1115 waiver, Section 5 sub 29.

Current OHA Findings: Trillium has demonstrated resolution of the above original Findings based on the following:

- (1) Expanded access to language services within its network, including training for providers on accessing language services and a methodology for the ongoing monitoring of language access services;
- (2) A utilization review methodology that includes data stratification by member demographic information and service type; and

- (3) Meaningful engagement of community partners and stakeholders to address the cultural, socioeconomic, racial, and regional disparities in health care among members and communities in the Tri-County service area.

Community Engagement

Requirement Summarized: With regard to community engagement, pursuant to Oregon’s 1115 waiver Section A, Part I: Support for Health System Transformation and in accordance of the Contract, ORS 414.575, and Sections 1, 6, and 7 of Exhibit K of the Contract, Trillium is required to (i) establish a Community Advisory Council to ensure the health needs of Tri-County members are being addressed, (ii) draft a Community Health Assessment, and (iii) Community Health Improvement Plan with key partners.

Original OHA Findings Summarized: Trillium had not demonstrated that the requirements of establishing a Community Advisory Counsel (“CAC”), drafting a Community Health Assessment, or drafting a Community Health Improvement Plan were being met. Documentation submitted on July 31, 2020, focused on Lane County work and best practices and did not show evidence of sufficient engagement with the Tri-County community and stakeholders prior to entry in the area.

Current OHA Findings: Trillium has now demonstrated resolution of the above original Findings based on the following:

- (1) Establishing the North Service Area Community Advisory Council, including robust consumer-member representation and bi-directional feedback between the CAC and Trillium Community Health Plan North Board of Directors;
- (2) Meaningful engagement of community partners and stakeholders to address the cultural, socioeconomic, racial, and regional disparities in health care among members and communities in the Tri-County service area; and
- (3) Meaningful progress towards creating the draft Community Health Assessment and the Community Health Improvement Plan in partnership with the Healthy Columbia Willamette Collaborative.

Intensive Care Coordination

Requirement Summarized: Pursuant to Exhibit B, Part 2, Section 8, Paragraph a. (1)(a) of the Contract, Trillium is required to automatically screen all Members of Prioritized Populations for ICC services and to make ICC services available to all Members of Prioritized Populations who qualify for them.

Original OHA Finding Summarized: Several concerns and differences in interpretation were raised by Trillium and Multnomah, Washington, and Clackamas Counties regarding the definition of Prioritized Populations and responsibility to provide initial ICC screenings to Trillium Members in the Tri-County service area. In addressing those circumstances, OHA advised Trillium that it is in fact responsible for ensuring its Tri-County Members receive ICC screenings and services in a timely manner.

Current OHA Finding: Trillium has now demonstrated resolution of the above original Finding based on the following:

- (1) Tracking engagement of members identified as potentially eligible for Intensive Care Coordination to ensure that ICC screenings, assessment, and enrollment occur in a timely manner in accordance with OAR 410-141-3870.

ORDER

- (1) Based on the CAP Report submitted to OHA on April 29, 2022, OHA has found all Actions to Address Findings relating to the September 2 Notice have been sufficiently fulfilled. Consequently, OHA has concluded that Trillium has also demonstrated resolution of the original Findings identified in the September 2 Notice. Subject to Section (2) below and Trillium's continued compliance with the actions it has taken as identified above in the Current OHA Findings, OHA requires no additional documentation or CAP Reports at this time and the Corrective Action Plan is considered closed.
- (2) OHA will conduct one or more reviews with Trillium as may be needed between the date of this notice and June of 2023 . The purpose of the review will be to monitor and assess whether Trillium has sustained the progress achieved in connection with the Corrective Action Plan. OHA will notify Trillium via administrative notice 90 days in advance of the review and provide further instruction regarding documentation submission within the notice. OHA's review will address, without limitation, the following areas:
 - (A) Monitoring of provider capacity and collection of provider capacity attestations,
 - (B) Monitoring of the Behavioral Health Continuum of Care,
 - (C) Analysis and use of health equity demographic data and utilization review,
 - (D) Community engagement, and
 - (E) Tribal outreach and engagement.

APPEAL RIGHTS

If Trillium believes it has not violated the provisions set forth above and has information relevant to its compliance that it believes OHA should consider and wishes to appeal this Notice of Non-Compliance and Order, Trillium has the right to file a request for Administrative Review with the Director of OHA in writing within 30 days of issuance of this notice pursuant to Exhibit B, Part 9, Section 8, and OAR 410-120-1580(4)-(6). The request for Administrative Review shall be sent to:

Patrick Allen
Director
Oregon Health Authority
500 Summer St. NE, E-20
Salem, OR 97301
Patrick.Allen@dhsosha.state.or.us

Sincerely,

Dana Hittle
Interim Medicaid Director
Health Systems Division
Oregon Health Authority

CC:

Patrick Allen, OHA Director
Margie Stanton, Health Systems Division Director
David Baden, Chief Financial Officer
David Inbody, CCO Operations Manager
Veronica Guerra, Quality Assurance and CCO Contract Oversight Manager
Cheryl Henning, CCO Contracts Administrator
Contract File