



January 6, 2022

By Email

Christopher Hummer
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

Dear Mr. Hummer,

The purpose of this notice is to provide a second update to the *Notice of Non-Compliance and Order Requiring Corrective Action Relating to Trillium CCO Contract No. 161766 for the Tri-County service area*, issued on September 2, 2020, as modified by the Update to Notice dated November 1, 2021. Terms capitalized but not defined in this update have the meaning defined in the September 2, 2020 Notice. Except as provided herein, the September 2, 2020 Notice, as modified by the November 1, 2021 Notice, remains in effect.

BACKGROUND

Trillium Community Health Plan (Trillium) was placed on a Corrective Action Plan (CAP) in September of 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: network development, health equity & language access, community engagement, and intensive care coordination (ICC). Between October 2020 and February 2021, Trillium and OHA collaborated to develop action areas sufficient to address OHA's concerns regarding each of the four CAP findings.

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

Beginning March 2021, Trillium started submission of monthly CAP reports to OHA. From May through July 2021, OHA Quality Assurance staff met with Trillium staff to provide feedback about the documentation submitted to resolve the individual CAP findings. OHA evaluated CAP documentation and provided Trillium with progress reports on July 30, 2021, and September 16, 2021 documenting OHA's findings regarding Trillium's progress during the various reporting periods.

The November 1, 2021 Notice notified Trillium of continued non-compliance with minimal progress towards correcting the violations set forth in the September 2, 2020 Notice. The CAP was extended for an additional period of at least six months (through March 2022) and until such time as Trillium is

notified otherwise by OHA monthly reporting is still required. 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, OHA elected to impose additional Sanctions until Trillium resolved the violations set forth in the November 1, 2021 Notice. Effective December 1, 2021, OHA suspended all new enrollment, including automatic enrollment, in Trillium's Tri-County service area. The November 1, 2021 Notice outlined the CAP findings requiring resolution within three (3) months of issuance of the November 1, 2021 Notice.

On December 21, 2021, OHA provided Trillium with a progress report following its November 30, 2021 monthly documentation submission. The next progress evaluation report by OHA will be submitted to Trillium mid-January 2022 and will include a progress report for the documentation submitted by Trillium between September – November 2021.

SUMMARY OF CONTINUED FINDINGS OF NON-COMPLIANCE WITHIN NOVEMBER 1, 2021 NOTICE

Per the November 1, 2021 Notice, Trillium was required to resolve the following subset of findings, previously referenced in the September 2, 2020 Notice, within three months of issuance:

- a. Demonstrate all Network Adequacy findings and actions have been fully resolved.
September 2, 2020 Notice OHA Requirement: OHA must ensure network adequacy standards pursuant to 42 CFR 438.68 (a), 42 CFR 438.207 assurances of adequate capacity and services, and 42 USC Section 1396u-2(b)(5) federal and state implementing regulations and Exhibit B, Part 4, Section 3 of the Contract, 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 and per federal authority under 42 CFR 438.68(b). 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 these rules, and Trillium must ensure that it has a sufficient network to provide an array of services, including urgent care within 72 hours; well-care visits within four weeks; emergency oral care within 24 hours; urgent oral care within one week or as indicated in the initial screening; routine oral care within an average of eight weeks; routine oral care for pregnant women within an average of four weeks; 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.

September 2, 2020 Notice Findings: As of the July 29, 2020, presentation, Trillium identified the number of members each individual provider can serve above their current capacity but lacks the detail and analysis across provider types and member populations accessing the provider network to determine if the member-to-provider ratio is sufficient. In addition, Trillium has not demonstrated adequate network provider capacity to serve members, especially in the area of behavioral health.

- b. Demonstrate the following Health Equity findings and actions have been fully resolved.
September 2, 2020 Notice OHA Requirement: With regard to health equity, pursuant to Exhibit K, Section 10 of the Contract, Trillium must 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, Trillium must provide culturally and linguistically appropriate services and supports to members. Further, pursuant to Exhibit B, Part 4, Section 2, Paragraph g., Trillium must assure communication and delivery of services to members with diverse cultural and ethnic backgrounds, which may require the use of certified or qualified interpreters for members.

September 2, 2020 Notice Finding: Trillium has not demonstrated these requirements are being met across health equity areas including language access. As of July 29, 2020, Trillium's proposed provider network showed only 8.8% of provider records reflect the presence of a non-English language, thereby limiting access to culturally responsive care. Pursuant to Oregon's 1115 waiver Section V (29) Network Adequacy and Access Requirement and in accordance with Section 4.3.2 of the Contract, Trillium must ensure delivery of culturally competent care.

SUMMARY OF PROGRESS TOWARDS ADDRESSING CONTINUED FINDINGS OF NON-COMPLIANCE WITHIN NOVEMBER 1, 2021 NOTICE

The summary below reflects Trillium's progress, as of December 21, 2021, towards sufficiently addressing the subset of CAP findings associated with the November 1, 2021 Notice. Appendix A summarizes progress towards resolving the subset of findings and action areas associated with the November 1, 2021 Notice, previously reflected in the September 1, 2020 Notice, and outlines the remaining actions that must be addressed by the current end date of the CAP, March 1, 2022.

Network Adequacy

Remaining Actions to Address Findings: Based on progress as of December 21, 2021 and as discussed with Trillium during the December 22, 2021 meeting, Trillium must address the remaining findings and actions identified in Appendix A (CAP Updated Action Areas):

1.1.1 Demonstrate that Trillium's low numbers of home health agencies (6 non-duplicated facilities as of 6/18/20) are adequate to meet member needs, or how Trillium will expand capacity to do so. Trillium will need to show the member-to-provider ratio and geographic distribution of these facility/provider types is sufficient to address member needs.

Remaining Action(s): Submit Medicaid-specific capacity attestations (email or TCHP attestation form) for contracted home health agencies.

1.1.2 Demonstrate that Trillium's low numbers of hospitals (4 non-duplicated facilities as of 6/18/20) are adequate to meet member needs, or how Trillium will expand capacity to do so. Trillium will need to show the member-to-provider ratio and geographic distribution of these facility/provider types is sufficient to address member needs.

Remaining Action(s): OHA recommended closing this CAP finding due to progress made towards contracting additional hospitals.

1.1.3 Demonstrate that Trillium’s low numbers of rural health centers (2 non-duplicated facilities as of 6/18/20) are adequate to meet member needs, or how Trillium will expand capacity to do so. Trillium will need to show the member-to-provider ratio and geographic distribution of these facility/provider types is sufficient to address member needs.

Remaining Action(s): Continue ongoing monitoring of RHC adequacy and provide the following to OHA through monthly progress reports: utilization reports, geographic access analysis, provider and member grievance and appeals, out of network spend reports, and access concerns identified through other network monitoring reports.

1.1.4 Demonstrate that Trillium’s low numbers of mental health crisis service facilities (3 non-duplicated facilities as of 6/18/20) are adequate to meet member needs, or how Trillium will expand capacity to do so. Trillium will need to show the member-to-provider ratio and geographic distribution of these facility/provider types is sufficient to address member needs.

Remaining Action(s): Continue ongoing monitoring of adequacy of MH crisis service facilities and provide the following to OHA through monthly progress reports: utilization reports, geographic access analysis, provider and member grievance and appeals, out of network spend reports, and access concerns identified through other network monitoring reports.

1.2 Provide validation of provider capacity to serve the members in each county, as detailed in this section, by supplying executed provider contracts that include each provider’s “accepting new members” capacity or a written attestation from each contracted provider of their capacity commitment for new Medicaid members.

Remaining Action(s): Provide the following for all contracted providers: 1) signature page 2) effective date page and 3) capacity attestation/email. Demonstrate twice annual distribution of attestation to providers.

1.3 Demonstrate increased counts of providers and facilities accepting new Medicaid members for outpatient and community-based mental health treatment services for members with Severe and Persistent Mental Illness (SPMI) in Washington County.

Remaining Action(s): Provide utilization analysis, competitor analysis refined by provider type, geographic access analysis refined by provider type, and any other network monitoring reports that help demonstrate Trillium has a robust network of providers in Washington County to meet the needs of members requiring outpatient and community-based mental health treatment services. Please provide individual reports (noted above) and expand narrative in appendix to demonstrate how TCHP has a robust network.

Continue monitoring adequacy of outpatient and community-based mental health treatment services. Documentation should be provided through monthly progress reports demonstrating network monitoring is occurring for this service.

1.4 For the entire Behavioral Health continuum of care capacity, identify and report on key strategies Trillium will implement to increase delivery system capacity and provide access to services, if access to facilities in BH continuum are at maximum capacity.

Remaining Action(s): Provide utilization analysis, competitor analysis refined by provider type, geographic access analysis refined by provider type, and any other network monitoring reports that help demonstrate Trillium has a robust network of providers.

Continue monitoring adequacy of services within BH continuum of care. Documentation should be provided through monthly progress reports demonstrating network monitoring is occurring for these services.

Health Equity and Language Access

Remaining Actions to Address Findings: Based on progress as of December 21, 2021 and as discussed with Trillium during the December 22, 2021 meeting, Trillium must address the remaining findings and actions identified in Appendix A (CAP Updated Action Areas):

2.3 Demonstrate initial and ongoing analysis of demographic data and health equity disparities in the Tri-County service area to inform development, monitoring, and build-out of provider network.

Remaining Action(s): Provide monthly analysis of demographic data and health disparities specific to the Tri-County service area and describe how the information is used to identify over and underutilization stratified by service type and member language.

Description in meeting minutes explaining how the information is used by the NA Committee to inform network development strategy.

Ongoing monitoring should continue through the remainder of the CAP.

2.5 Demonstrate how health equity demographic information, health equity disparities data and community engagement findings are utilized internally to inform Trillium operations, policies and procedures, and initiatives.

Remaining Action(s): Continue to demonstrate through HESC meeting minutes how the monthly health equity analysis is used to make modifications to internal operations, policies and procedures, and initiatives.

Utilization analysis in 2.3 will be applied to 2.5 but must be submitted through the remainder of the CAP period.

Demonstrate how ongoing community engagement is used to inform the health equity strategy.

Demonstrate how the health equity strategy in the Health Equity Plan is being used to inform internal operations.

Revise P&Ps to include Oregon requirements around language access (e.g., OARs and CCO Contract).

ORDER

- (1) Based on the monthly report submitted to OHA on November 30, 2021, OHA finds Trillium to have made sufficient progress towards correcting the violations set forth in the November 1, 2021 Notice to warrant lifting the member freeze. 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, **OHA hereby**

elects to reinstate new enrollment, including automatic enrollment, in Trillium Community Health Plan's Tri-County service area. The effective date of this change will be January 3, 2022.

- (2) In addition to resolving all CAP findings in the September 2, 2020 Notice, Trillium must resolve the subset of remaining CAP findings and actions outlined in the November 1, 2021 Notice and found in Appendix A by the current end date of the CAP, March 1, 2022, and until such time as Trillium is notified by OHA that monthly reporting is no longer required. The November 30, 2021 progress report submitted by Trillium demonstrated sufficient progress towards addressing and resolving the subset of findings in the November 1, 2021 Notice. Because of the marked progress towards resolution, OHA has decided to lift the Sanction imposed in the November 1, 2021 Notice. However, several findings remain open and must be monitored for ongoing improvement through the end of the CAP reporting period.
- (3) In addition to the subset of findings in the November 1, 2021 Notice and this Notice, Trillium must resolve all findings identified in the September 2, 2020 Notice. Trillium will continue to submit monthly reports to OHA of all progress towards achieving compliance. These reports shall be delivered every month within five (5) working days after the end of each month and must include all data and documentation and demonstrate progress in the prior month. The reports shall be sent to the following addresses:
 1. CCO.MCOCDeliverableReports@dhsoha.state.or.us
 2. Dana.Hittle@dhsoha.state.or.us

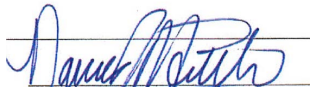
APPEAL RIGHTS

Because this notice has updated the November 1, 2021 Notice, Trillium's appeal of that Notice is now considered moot. Trillium may, however, appeal the present notice.

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@dhsoha.state.or.us

Sincerely,

A handwritten signature in blue ink, appearing to read "Dana Hittle", is written over a horizontal line.

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