HEALTH SYSTEMS DIVISION
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November 1, 2021

By Registered Mail and 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 an 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 (the "September 2 Notice"). Terms capitalized but not defined in this update have the meaning defined in the September 2 Notice. Except as provided herein, the September 2 Notice remain in effect.

BACKGROUND

Trillium was placed on a Corrective Action Plan (CAP) in September of 2020, concurrent with their 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 is 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.

SUMMARY OF CORRECTIVE ACTION PLAN FINDINGS OF NON-COMPLIANCE

Network Adequacy

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. 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.

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.

Action Needed: To address these concerns, Trillium's CAP must address the following:

- 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.
- 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.
- Demonstrate that Trillium's low numbers of rural health centers (2 non-duplicated facilities as of 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.

- 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.
- Trillium must 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.
- 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.

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.

Current Status: Trillium has demonstrated some improvement in its network adequacy reporting and monitoring. For example, Trillium has provided utilization reports and provider-to-member capacity ratios for home health, Rural Health Centers, Hospital, and Behavioral Health Crisis services. Although the additional documentation is helpful, it was not clear from the reports how Trillium is using the utilization reports to inform their provider contracting strategy.

The information submitted as evidence up to this point needs to be further substantiated in future reporting and tied together to understand how Trillium is utilizing the information to inform their assessment of the need for specific services in their network (e.g., RHC, hospital, BH crisis, and home health) and to determine if the network is adequate to meet current needs of membership.

Documentation submitted in this area continues to lack overall context and the depth of information necessary to communicate a cohesive approach to ensuring an adequate provider & service network in the Tri-County service area.

<u>Health Equity and Language Access</u>

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.

Findings: 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.

Action Needed: To address these concerns, Trillium's CAP must address the following:

- Trillium has indicated it is working with its interpreter service vendors to assess interpretation needs, volumes, and available/needed languages in the Tri-County service area. Trillium must demonstrate how Trillium will use this information to determine the interpreter capacity required to meet member needs and to proactively identify gaps to ensure adequate access to interpreter services, including how often Trillium reviews the information and considers adjustments indicated by the information.

- Demonstrate meaningful access to interpreter services for individuals who speak a language other than English. According to the Department of Justice, meaningful access denotes access that is not significantly restricted, delayed or inferior as compared to programs or activities provided to English proficient individuals. See Department of Justice Language Access Plan, March 2012 at https://www.justice.gov/sites/default/files/open/legacy/2012/05/07/language-access-plan.pdf.
- 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.
- Demonstrate meaningful engagement of the community to identify health equity issues.

- 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.

- Demonstrate meaningful engagement with the Regional Health Equity Coalition and begin to actively engage in discussions to prepare Trillium to meet the needs of minority and diverse OHP members.

Current Status: Trillium has demonstrated some improvement across each of the health equity and language access action areas listed above. However, the improvements are insufficient to fully resolve the overall finding area at this time. Documentation submitted by Trillium shows progress towards ensuring access to interpreter services, although the information submitted as evidence up to this point does not sufficiently demonstrate structures to monitor and anticipate member needs in relation to language access services over time. Information submitted as evidence also shows insufficient use of health equity data to inform operations, policies and procedures, and initiatives.

Documentation submitted in this area continues to lack overall context and the depth of information necessary to communicate a cohesive approach to health equity and language access work specific to the Tri-County service area.

Community Engagement

Requirement: With regard to community engagement, pursuant to Oregon's 1115 waiver Section A, Part I: Support for Health System Transformation and in accordance with Section 4.3.2 of the Contract, ORS 414.575, and Exhibit K of the Contract, Trillium is required to establish a Community Advisory Council (per Exhibit K, Section 1) to ensure the health needs of Tri-County members are being addressed and draft a Community Health Assessment (per Exhibit K, Section 6) and Community Health Improvement Plan (per Exhibit K, Section 7) with key partners.

Findings: Trillium has not demonstrated these requirements are 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.

Action Needed: To address these concerns, Trillium's CAP must address the following:

- Develop formal community engagement plan for Tri-County service area.
- Demonstrate progress towards engaging community stakeholders.
- Demonstrate progress towards recruiting a CAC and RAC.
- Demonstrate progress towards establishing CHA and CHP partnerships.
- Demonstrate progress towards tribal outreach/engagement.
- Develop a policy and procedure outlining operational processes to engage the community in the decision making and governance structure, which is in addition to the CAC, CHA and CHP work. The policy and procedure must address how Trillium will engage the community in a meaningful manner, ensure community participation in CCO decision making/governance, and ensure a feedback loop exists to support ongoing engagement.

Current Status: Trillium has demonstrated some improvement across each of the community engagement action areas listed above. For example, Trillium recently engaged an external consultant to review and revise their CAC consumer-member recruitment process and strategies.

Documentation submitted regarding collaboration with community-based organizations in the Tri-County area shows efforts to engage the community (i.e. Help Me Grow, Rockwood Community Project), however the information submitted as evidence regarding these projects continues to lack overall context and the depth of information necessary to communicate a cohesive approach to community engagement specific to the Tri-County service area.

Intensive Care Coordination

Requirement: 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.

Findings: 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 an initial ICC screening to Trillium Members in the Tri-County service area. Trillium is responsible for ensuring its Tri-County Members receive ICC screenings and services in a timely manner.

Action Needed: To address these concerns, Trillium's CAP must address the following:

- Trillium must demonstrate responsibility and performance of timely initial screenings to identify ICC eligible prioritized populations (OAR 410-141 3870). Describe actions and activities designed to specifically address areas of OHA's concern about ICC screening and services and show continual monthly compliance.
- Trillium will demonstrate timely referral, assessment, and enrollment (member consent) for ICC services. Trillium must demonstrate its Members in the Tri-County service area are being screened for and receive ICC services as required by the Contract.

Current Status: Trillium has demonstrated some improvement across each of the intensive care coordination action areas listed above. However, the improvements are insufficient to fully resolve the overall finding area at this time. Documentation does not reflect the following:

- Tracking of ICC assessment completion dates.
- Update to demonstrate assessments were completed for the remaining 48 members that were not compliant with the assessment timeframes reported in the 8/31/21 documentation.
- Tracker should also include other populations identified through the health risk screening or through referral as meeting the criteria for ICC services. Tracker currently includes members referred to ICC with SUD or SPMI diagnosis.
- ICC Staffing Management Plan should be updated to include the analysis carried out indicating the 1.6 FTEs are adequate to support ICC services.

ORDER

(1) Based on the monthly reports submitted to OHA between March–October 2021, OHA finds Trillium to have continued non-compliance, with minimal progress towards correcting the violations set forth in the September 2 Notice and this Notice and Order. 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 impose additional Sanctions until Trillium resolves the violations set forth in this Notice and Order. Effective December 1, 2021, OHA will suspend all new enrollment, including automatic enrollment, in Trillium Community Health Plan's Tri-County service area.**

(2) Trillium must resolve the subset of CAP findings listed below within three (3) months of the issuance of this Notice. If at the end of the three (3) months Trillium is unable to resolve the continued noncompliance set forth, OHA reserves the right to impose additional Sanctions, up to and including

termination of the Contract, or other remedies available to it under the Contract, or as provided by law. Trillium must resolve the following findings within three months of issuance of this Notice:

a. Demonstrate all Network Adequacy findings and actions have been fully resolved.

b. Demonstrate the following Health Equity findings and actions have been fully resolved.

i. 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.

ii. 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.

(3) OHA will extend the CAP for an additional period of at least six (6) months and until such time as Trillium is notified by OHA that monthly reporting is no longer required. 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.MCODeliverableReports@dhsoha.state.or.us
2. Dana.Hittle@dhsoha.state.or.us

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@dhsoha.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
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Veronica Guerra, Quality Assurance and CCO Contract Oversight Manager
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