


County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY:	Date Reviewed/Revised: October 29, 2025
<u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	By:  Todd Schirmer, PhD, CCHP Director, Marin County Behavioral Health and Recovery Services
SUPERCEDES: BHRS-ADP-19 SELECTIVE PROVIDER CONTRACTING REQUIREMENTS	

POLICY: SELECTIVE PROVIDER CONTRACTING REQUIREMENTS

I. PURPOSE:

To comply with best practices and State and Federal regulation Marin County shall implement and maintain a selective provider contracting system to ensure a fair and transparent process is used to establish a sufficient provider network to meet client and community needs, set provider standards, and assure that clients have timely access to quality services.

II. REFERENCES:

DMC-ODS Intergovernmental Agreement/Integrated Behavioral Health Plan (IBHP)
Intergovernmental Agreement
SUBG Performance Contract
42 C.F.R. §§438.12(a)(1), 438.12(a)(2), 438.12(b)(1), and 438.214
MHSUDS Information Notice 19-018: Provider Selection Review Process
DHCS BHIN 24-001- Enclosure 4 (Provider Appeals Process)

III. POLICY:

It is the policy of Marin County Division of Behavioral Health and Recovery Services (BHRS) to maintain selective provider contracting requirements for primary prevention and early intervention activities and for the delivery of substance use services to Medi-Cal beneficiaries and uninsured individuals. The selective provider contracting requirements establish standards for contract selection and retention, outline processes for contract denial and appeals, and identify applicable provider performance requirements.

All standards and procedures apply equally to all providers regardless of public, private, for-profit or non-profit status, and without regard to whether a provider treats persons who require high risk or specialized services. The County shall not discriminate in the selection, reimbursement, or indemnification of any provider who is acting within the scope of their license and/or certification.

Marin BHRS will only select DMC-ODS providers that, prior to the furnishing of DMC-ODS services, have enrolled with, or revalidated their current enrollment with, DHCS as a DMC provider under applicable federal and state regulations.

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY: <u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	Date Reviewed/Revised: October 29, 2025

The County shall select the DMC-certified providers to contract with to establish the DMC-ODS provider networks, with the exception of Indian Health Care Programs (IHCPs). DMC-certified providers that do not receive a DMC-ODS County contract cannot receive a direct contract with the State to provide services to residents of DMC-ODS Counties.

IV. AUTHORITY/RESPONSIBILITY:

Contract Managers
Alcohol and Drug Administrator
Behavioral Health Director

V. PROCEDURE:

The County shall be responsible for ensuring that benefits and services offered by the DMC-ODS, the State Plan, and Substance Use Prevention and Treatment Block Grant (SUBG) and other funds for subsidized services are consistent with the SUBG Performance Contract and IBHP/DMC-ODS Intergovernmental Agreement with the California Department of Health Care Services (DHCS).

The following standards and procedures to ensure compliance have been established in the areas of selection and retention of providers, contract denial and appeal process, and provider service requirements.

A. SELECTION AND RETENTION OF PROVIDERS:

Services that will be provided by community-based providers and/or independent contractors shall be allocated via a competitive bid process, unless otherwise determined by the BHRS Director or County Alcohol and Drug Administrator and in alignment with the County Procurement requirements. Types of solicitations can include a Request for Proposal (RFP), a Request for Qualifications (RFQ), or a Request for Letters of Interest (RFI). During solicitation and selection the following protocol will be applied:

1. In general, BHRS shall select providers for programs and services through a competitive solicitation process that allows for the selection to be made on an objective and fair basis. Although the term of the award may vary depending on funding source requirements and other factors, the typical contract award term is three years, with the potential to extend to up to five years, depending on contract performance and availability of funding. Despite the term of the award, annual renewals are contingent on successful contract performance, continued need for the

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY:	Date Reviewed/Revised: October 29, 2025
<u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	

service(s), availability of funding, passing score on the pre-award risk assessment and other factors that the County may deem appropriate. In general, the competitive solicitation process for existing contracted services should take place at least every five years.

2. BHRS staff shall make every effort to treat all bidders, and potential bidders, in the same fashion unless otherwise outlined in the competitive bid documents. Unless otherwise noted in the solicitation documents, typically, the following will apply:
 - a) During a solicitation process contact regarding the specific subject of the solicitation between potential or actual applicant and County staff is restricted unless the solicitation authorizes a question and answer period and/or Bidder's Conference. During a question and answer period, to maintain a fair and impartial process, all questions regarding a solicitation must be submitted in writing via the County's website and contain a contact name and address.
 - b) Neither county staff nor applicant shall discuss questions or answer questions, or provide or solicit information, opinion, interpretation, or advocate or lobby except through the authorized question and answer protocol.
3. BHRS will utilize the Equity RFP template, include equity-focused question(s) in the Applicant Capability section and include at least one individual with lived experience from the target population in the RFP review committee.
4. BHRS staff shall seek to broadly advise potential bidders of the upcoming selection process and the opportunity to compete for Marin County BHRS contracts. All solicitations shall be posted on the Department's public website.
5. An applicant may not be recommended for funding, regardless of the merits of the application submitted, if it has a history of contract non-compliance with the requirements of Marin County Department of Health and Human Services ("HHS") or other funding source or poor past or current contract performance with any HHS or other funding source. The applicant may be given a provisional award with the stipulation that special terms and conditions regarding the areas of concern will be a part of the contract.

The County requires all funded treatment programs to receive Alcohol and Drug Certification and/or licensing from the California Department of Health Care Services, as applicable. Certification must remain current and in good standing. In order to be selected as a Medi-Cal provider, the program must be certified and considered in good standing by the State of California to provide Drug/ Medi-Cal services. They must also possess the applicable Level of Care designation(s).

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY: <u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	Date Reviewed/Revised: October 29, 2025

No provider or their employee(s) shall be disqualified or ineligible for the award of contracts by any Federal agency. BHRS staff shall check the County-identified debarment websites for all agencies and individuals prior to contract approval and debarment certification shall be included in contract agreements.

B. CONTRACT DENIAL AND APPEAL/PROTEST PROCESS:

In the event that an applicant has been denied the opportunity to contract with the County of Marin, Division of BHRS for substance use services, the contractor has the opportunity to appeal if they meet appeal criteria outlined in the solicitation documents. Unless otherwise noted in the solicitation documents, should an applicant not accept the decision in the Notice of Intent to Award, the following appeal process may be exercised:

1. Within five calendar days of the issuance of a notice of intent to award the contract, any Applicant that has submitted a proposal may submit a written notice of protest. The notice of protest must include a written statement specifying in detail each and every ground asserted for the protest. The protest must be signed by an individual authorized to represent the Applicant, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the Applicant must specify facts and evidence sufficient for the County to determine the validity of the protest.
2. Delivery of Protest: All protests must be submitted in writing and received by 5:00pm PST within five days of the date of the Notice of Intent to Award by email or by mail to the address noted in the solicitation. If a protest is mailed via U.S. Mail, it must be postmarked within 5 calendar days of the notice issuance. The Applicant bears the risk of non-delivery.
3. The protest will be forwarded, through the appropriate administrative channels, to the Director of the Marin County Department of Health and Human Services, or designee. The Department Director or designee may review the original RFP Application(s), the public notice, the Request for Application document, and the scoring instruments of the Application review committee, and any other document deemed appropriate. The Department Director or designee will provide a written response to the protest, including any action that will be taken, if applicable, within 30 calendar days. The decision of the Department Director or designee shall be final.

For DMC-ODS contracts, the additional procedures apply:

Marin BHRS shall serve providers that apply to be a DMC-ODS contract provider but are not selected a written decision including the basis for the denial. Any solicitation document

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY:	Date Reviewed/Revised: October 29, 2025
<u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	

utilized by the County for the selection of DMC providers must include a protest provision. The County shall have a protest procedure for providers that are not awarded a contract.

Providers that submit a bid to be a contract provider, but are not selected, must exhaust the County's protest procedure if a provider wishes to challenge the denial to DHCS. If the County does not render a decision within 30 calendar days after the protest was filed with the County, the protest shall be deemed denied and the provider may appeal the failure to DHCS. A provider may appeal to DHCS using the following Provider Appeals Process:

1. Following a county's contract protest procedure, a provider may appeal to DHCS if it believes that the county erroneously rejected the provider's solicitation for a contract.
2. A provider may appeal to DHCS, following an unsuccessful contract protest, if the provider meets all objective qualifications and it has reason to believe the county has an inadequate network of providers to meet member need and the provider can demonstrate it is capable of providing high quality services under current rates, and:
 - a. It can demonstrate arbitrary or inappropriate county fiscal limitations; or
 - b. It can demonstrate that the contract was denied for reasons unrelated to the quality of the provider or network adequacy.
3. DHCS does not have the authority to enforce State or Federal equal employment opportunity laws through this appeal process. If a provider believes that a county's decision not to contract violated Federal or State equal employment opportunity laws, that provider should file a complaint with the appropriate government agency.
4. A provider shall have 30 calendar days from the conclusion of the county protest period to submit an appeal to the DHCS. Untimely appeals will not be considered. The provider shall serve a copy of its appeal documentation on the county. The appeal documentation, together with a proof of service, may be served by certified mail, facsimile, or personal delivery.
5. The provider shall include the following documentation to DHCS for consideration of an appeal:
 - a. County's solicitation document.
 - b. County's response to the county's solicitation document.
 - c. County's written decision not to contract.
 - d. Documentation submitted for purposes of the county protest.
 - e. Decision from county protest; and
 - f. Evidence supporting the basis of appeal.

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY:	Date Reviewed/Revised: October 29, 2025
<u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	

6. The county shall have 10 working days from the date set forth on the provider’s proof of service to submit its written response with supporting documentation to DHCS. In its response, the County must include the following documentation:
 - a. the qualification and selection procedures set forth in its solicitation documents.
 - b. the most current data pertaining to the number of providers within the county, the capacity of those providers, and the number of members served in the county, including any anticipated change in need and the rationale for the change; and
 - c. the basis for asserting that the appealing Provider should not have been awarded a contract based upon the County’s solicitation procedures. The county shall serve a copy of its response, together with a proof of service, to the provider by certified mail, facsimile, or personal delivery.

C. PROVIDER PERFORMANCE AND SERVICE REQUIREMENTS:

Providers will be required to meet contracted requirements, including but not limited to:

1. Adhere to the Ecco and CalOMS Treatment reporting requirements [BHRS-68: CalOMS Data Collection Policy and BHRS-70: Primary Prevention Policy].
2. As applicable, collect and report data related to the access, timeliness, quality and integration of services measures in the BHRS Quality Improvement Plan;
3. Participate in a mid-year self-audit and site visit and annual fiscal monitoring.
4. Participate in program evaluation and quality improvement activities, and submit progress and annual program evaluation reports.
5. Have sound accounting and fiscal practices including financial record keeping.
6. Perform and participate in all necessary audits, including allowing County staff to have access to and review all applicable financial, personnel and other related documentation of service delivery upon request.
7. Comply with funding source requirements and meet quality assurance standards outlined by the County.
8. Supply cost report data, as applicable, and submit reimbursement back to the County for funds claimed and advanced to the provider for non-allowable costs as outlined in the contract with the County or as required by SUBG and Drug/Medical Program.

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY:	Date Reviewed/Revised: October 29, 2025
<u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	

9. Provide culturally responsive services and ensure that policies, procedures, and practices are consistent with the principles outlined and are embedded in the organizational structure, as well as being upheld in day-to-day operations.
10. For SUBG and other non-Medi-Cal funds included in the Marin County contract agreement, services shall be for Marin County residents only, unless otherwise specified in the contract.
11. Ensure staff has not been excluded/suspended or sanctioned from federal or state Medicare or Medicaid services.
12. Ensure that the contractor is considered in compliance or low risk on the annual pre-award risk assessment. If there is a response indicating a potential risk, the County Alcohol and Drug Administrator will review and make a determination of whether to recommend for contract execution/renewal. The AOD Administrator may also consult with County Counsel and/or HHS Compliance.
13. Adhere to Contract Exhibit I: Substance Use Disorder Services all other applicable policies and procedures outlined in the Contractor Manual, Practice Guidelines and BHRS Policies and Procedures posted at www.MarinBHRS.org.

All treatment providers are also required to adhere to the following:

1. Adhere to applicable performance standards outlined in the BHRS Quality Improvement Plan and as required by DHCS and/or CMS.
2. Professional staff must be licensed, registered, certified, or recognized under California State scope of practice statutes. Professional staff shall provide services within their individual scope of practice and receive supervision required under their scope of practice laws. Non-professional staff shall receive appropriate on-site orientation and training prior to performing assigned duties. Non-professional staff will be supervised by professional and/or administrative staff. Professional and non-professional staff are required to have appropriate experience and any necessary training at the time of hiring.
3. Establish procedures to ensure medical attention for emergency and crisis medical conditions are provided immediately.
4. Meet the established ASAM criteria for each contracted level of care and ensure that the staff making level of care recommendations is trained in the ASAM criteria

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY:	Date Reviewed/Revised: October 29, 2025
<u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	

prior to providing services. Residential treatment providers shall receive an ASAM or DHCS Level of Care designation(s) from DHCS prior to claiming for services.

5. Implement at least two of the following Evidenced Based Practices (EBPs) for each modality of services, and assess fidelity to said EBPs: Motivational Interviewing, Cognitive Behavioral Therapy, Relapse Prevention, Trauma Informed Treatment and Psycho-education.
6. Have procedures for linkage/integration for clients requiring medication assisted treatment. Provider staff will regularly communicate with physicians of clients who are prescribed these medications unless the client refuses to consent to sign a 42 CFR, Part 2 compliant release of information for this purpose. Providers that are licensed and/or certified by DHCS to provide treatment services shall also have a MAT Policy approved by DHCS.
7. Provide linkage to—and participate in care coordination and collaborative treatment planning with—physical health and mental health services, as applicable, for clients, unless the client refuses to consent to sign 42 CFR, Part 2 compliant releases of information for these purposes.
8. Make interpreter services available at no cost for clients, as needed.

All Drug/Medi-Cal Providers are also required to adhere to the following:

1. Adhere to provisions outlined in Policy BHRS-120 IBHP Criteria and Access to Services, including, but not limited to, provisions on Medi-Cal certification, access, quality, documentation, staffing and other requirements, as applicable.
3. Have a Medical Director who is enrolled with DHCS under applicable State regulations, has been screened in accordance with 42 CFR 455.450(a) as a “limited” categorical risk; and has signed a Medicaid provider agreement with DHCS as required by 42 CFR 431.107 if providing Medi-Cal services. Select only providers that have been screened in accordance with 42 CFR 455.450 prior to furnishing DMC-ODS services, have signed a Medicaid provider agreement with DHCS as required by 42 CFR 431.107, and have complied with the ownership and control disclosure requirements of 42 CFR 455.104. DHCS shall deny enrollment and DMC certification to any provider (as defined in W&I Code section 14043.1), or a person with ownership or control interest (as defined in 42 CFR 455.101) in the provider, that, at the time of application, is under investigation for fraud, waste or abuse pursuant to Part 455 of Title 42 of the Code of Federal Regulations, unless

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY:	Date Reviewed/Revised: October 29, 2025
<u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	

DHCS determines that there is good cause not to deny enrollment upon the same bases enumerated in 42 CFR 455.23(e).

4. Ensure that no persons eligible for Medi-Cal services will be placed on waiting lists for such services due to budgetary constraints.
5. Ensure that for State Plan Drug/Medi-Cal benefits, Marin County-operated and contracted providers will serve Medi-Cal beneficiaries regardless of the County of origin. For Marin County DMC-ODS benefits, Marin County-operated and contracted providers will only serve Marin County Medi-Cal beneficiaries.
6. Participate in annual DMC-ODS training on applicable County, State and Federal regulation.

D. SUBCONTRACTUAL RELATIONSHIPS AND DELEGATION

Marin DMC-ODS/IBHP maintains ultimate responsibility for adhering to and otherwise complying with all terms and conditions of its contract with the State, though activities or obligations delegated to a subcontractor shall be specified in each contract or written arrangement as follows:

1. The delegated activities or obligations, and related reporting responsibilities, are specified in the contract or written agreement.
2. The subcontractor agrees to perform the delegated activities and reporting responsibilities specified in compliance with Marin’s DMC-ODS/IBHP contract obligations.
3. The contract or written arrangement must either provide for revocation of the delegation of activities or obligations, or specify other remedies in instances where the State or County determines that the subcontractor has not performed satisfactorily.
4. The subcontractor agrees to comply with all applicable Medicaid laws, regulations, including applicable sub-regulatory guidance and contract provisions outlined in Title 42, Section 438.230 and outlined in Professional Services Contract Exhibit I, including:
 - i. The State, CMS, the HHS Inspector General, the Comptroller General, or their designees have the right to audit, evaluate, and inspect any books, records, contracts, computer or other electronic systems of the subcontractor, or of the subcontractor's contractor, that pertain to any aspect of services and activities performed, or determination of amounts payable under the DMC-ODS/IBHP’s contract with the State.
 - ii. The subcontractor will make available, for purposes of an audit, evaluation, or inspection under paragraph (c)(3)(i) of this section, its

County of Marin Behavioral Health and Recovery Services (BHRS)	POLICY NO. BHRS-83
	Next Review Date: October 1, 2028
POLICY: <u>SELECTIVE PROVIDER CONTRACTING REQUIREMENTS</u>	Date Reviewed/Revised: October 29, 2025

- premises, physical facilities, equipment, books, records, contracts, computer or other electronic systems relating to its Medicaid enrollees.
- iii. The right to audit under paragraph (c)(3)(i) of this section will exist through 10 years from the final date of the contract period or from the date of completion of any audit, whichever is later.
 - iv. If the State, CMS, or the HHS Inspector General determines that there is a reasonable possibility of fraud or similar risk, the State, CMS, or the HHS Inspector General may inspect, evaluate, and audit the subcontractor at any time.

E. MONITORING AND AUDITING:

The County will monitor compliance with these and other contract terms and conditions at least annually via a Self-Audit and onsite monitoring review. Providers found to be non-compliant will be provided technical assistance and required to complete and submit a Corrective Action Plan, as applicable. Refer to Policy BHRS-25 Monitoring for additional requirements.