

New York State Medicaid Home and Community-Based Services

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name Saint Cabrini		
Location of Setting 115 Broadway, Dobbs Ferry, NY 10522	Type of Setting Social Adult Day Care (SADC)	Medicaid Home and Community-Based Services Being Provided at the Setting Social Adult Day Care (SADC) Services

Heightened Scrutiny Prong

Yes	Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment.
No	Prong 2: Setting is in a building on the grounds of, or adjacent to, a public institution.
Yes	Prong 3: Setting has the effect of isolating individuals from the broader community.

Qualification for Prong

The SADC site is located in Cabrini Nursing Home and has a separate entrance and staff. Additionally, the SADC site has the effect of isolating individuals from the broader community. Details on isolating characteristics, which are being or were already remediated, are found in the All HCBS Settings and Additional Requirements for Provider-Owned or Controlled Settings sections below.

Provider Compliance Summary

Requirements for All HCBS Settings		
Compliant?	Federal Requirement	Summary
<p><i>42 CFR 441.301(c)(4)(i)</i></p> <p>Partially Compliant</p>	<p>The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>DOH verified members have access to the greater community by confirming transportation options, support for volunteer/employment opportunities, staff resources, and that member preferences are accommodated by reviewing activity calendars, transportation schedules, daily sign-in/out sheets, and inclusion of preferences in members' PCSPs. The SADC has demonstrated compliance in all areas of the standard except for</p>

Requirements for All HCBS Settings

Compliant?	Federal Requirement	Summary
		<p>the following: The setting did not have any volunteer or employment opportunities available to members at the time of the virtual on-site visit. Remediation efforts will be concluded by 9/1/2023 and include posting volunteer and employment opportunities.</p>
<p><i>42 CFR 441.301(c)(4)(ii)</i> Compliant</p>	<p>The setting is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>The member must choose the SADC site prior to attending. This is done through the person-centered planning process, which is conducted by the MLTC plan. If it is determined the member qualifies and needs SADC, the MLTC plan care manager supplies a list of available SADC site options, and the member makes their selection of where they would like to attend and receive services. The MLTC plan care manager documents the need and the choice of SADC site in the MLTC plan PCSP.</p>
<p><i>42 CFR 441.301(c)(4)(iii)</i> Partially Compliant</p>	<p>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>DOH verified members have privacy, are treated with respect and dignity, and are supported to choose their own schedules and activities based on their preferences by reviewing member PCSPs, SADC policy manuals, member experience surveys, staff training topics, and observing the spaces allocated for privacy. The SADC has demonstrated compliance in all areas of the standard except for the following: The members rights indicate the member is able to choose who provides their services however, there are no male staff if one was requested. There is no documented evidence of how the SADC ensures that one or more</p>

Requirements for All HCBS Settings

Compliant?	Federal Requirement	Summary
		<p>person's behavior does not impede on the rights of others. Remediation efforts will be concluded by 9/1/2023 and include reviewing and updating all policies and procedures including those related to behavior management procedures, identifying trainings available specific to HCBS Final Rule requirements, and hiring a male staff member.</p>
<p><i>42 CFR 441.301(c)(4)(iv)</i> Partially Compliant</p>	<p>Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>DOH verified staffing ratios, programming, and recreational areas as well as any barriers to free movement, and those individualized activities are offered by reviewing staff schedules, member PCSPs, activity schedules, and through on-site observation. The SADC has demonstrated compliance in all areas of the standard except for the following: The setting does not have any male staff and the PCSP Policy document indicates non-compliance because it indicates the PCSP will be "written for each participant". The HCBS Final Rule requires that the process be "driven" by the member, not that the member is just participating, and the process cannot be led by the SADC. Remediation efforts will be concluded by 9/1/2023 and include reviewing and updating policies and procedures on 8/21 and 8/31, identifying trainings available specific to HCBS Final Rule requirements, hiring a male staff member, updating the PCSP template to reflect the member is driving the plan of care and included a section for modifications.</p>

Requirements for All HCBS Settings		
Compliant?	Federal Requirement	Summary
<p><i>42 CFR 441.301(c)(4)(v)</i></p> <p>Compliant</p>	<p>Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>DOH verified staff knowledge of members' needs and interests, as well as members' individual choice regarding their activities and supports, and the staff who provide them by evaluating member experience survey results, and reviewing SADC policies, and member handbooks, as well as through observation during the virtual on-site review.</p>
Additional Requirements for Provider-Owned or Controlled Settings		
Compliant?	Federal Requirement	Summary
<i>Standards for Provider-Owned and Controlled Residential and Non-Residential Settings</i>		
<p><i>42 CFR 441.301(c)(4)(vi)(C)</i></p> <p>Compliant</p>	<p>Individuals have the freedom and support to control their schedules and activities; and have access to food any time.</p>	<p>DOH verified the availability for meal options, private dining spaces, activity modifications, and the freedom to take breaks and eat meals at the member's request by reviewing weekly menus, policy manuals, and through on-site observation.</p>
<p><i>42 CFR 441.301(c)(4)(vi)(D)</i></p> <p>Compliant</p>	<p>Individuals are able to have visitors of their choosing at any time.</p>	<p>DOH verified the acceptance of visitors during program hours by reviewing visitor policies and sign-in/out forms.</p>
<p><i>42 CFR 441.301(c)(4)(vi)(E)</i></p> <p>Compliant</p>	<p>The setting is physically accessible to the individual. (Not modifiable)</p>	<p>DOH verified accessibility of the facility through observation, during the virtual on-site review.</p>
<p><i>42 CFR 441.301(c)(4)(vi)(F)</i></p> <p>Not Compliant</p>	<p>Any modifications of the additional conditions under 441.301(c)(4)(vi)(A) through (D) for provider-owned and controlled settings must be supported by a specific assessed need and justified in the person-centered service plan.</p>	<p>No completed member SADC PCSPs were available for review due to no members from the MLTC plan the virtual on-site visit was conducted attending the SADC site at the time. However, the SADC PCSP template does not have a section to document any modifications to the member's rights under the HCBS Final Rule and justification for the modification. Although the word "modification" is used in various sections, none of them are clearly for the use of</p>

		<p>noting modifications for a member not being allowed the freedom and support to control their schedules and activities, or have access to food any time, or unable to have visitors of their choosing at any time.</p> <p>Remediation efforts will be concluded by 9/1/2023 and include updating the PCSP template to reflect the member is driving the plan of care and include a section for documenting modifications.</p>
Standards for Provider-Owned and Controlled Residential Settings Only		
<p>42 CFR 441.301(c)(4)(vi)(A)</p> <p>Not Applicable</p>	<p>The unit or dwelling is a specific physical place that is owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has the same responsibilities and protections from eviction as all tenants under landlord/tenant law of the State, county, city, or other designated entity. In settings where tenant laws do not apply, a lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant law.</p>	<p>SADC sites are non-residential, and therefore this standard is not applicable.</p>
<p>42 CFR 441.301(c)(4)(vi)(B)</p> <p>Not Applicable</p>	<p>Each individual has privacy in their sleeping or living unit: (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (2) Individuals sharing units have a choice of roommates in that setting. (3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>SADC sites are non-residential, and therefore this standard is not applicable.</p>

Recommendation

As required by 42 CFR 441.301(c)(5), the State of New York submits this request for heightened scrutiny review of the SADC site identified above. The State has validated and compiled evidence that the SADC site is not institutional in nature and will have remediated all isolating characteristics prior to March 17, 2023.

Section One

On-Site Visit Observation

Date(s) Conducted: 8/15/2023	State Agency/Entity that Conducted the On-Site Visit: NYS DOH & ArchCare Community Life / William Guevara
Description of the Setting: Saint Cabrini is located in Dobbs Ferry, NY inside of Saint Cabrini Nursing Home and has a separate entrance and staff members. The program is located on the ground floor and is accessible to all members. The site can accommodate 75 participants daily and offers round trip transportation to members. The program also offers meals and snacks all day, group trips and activities such as exercise, arts and crafts, games, etc. Members are given the freedom to choose their activities and daily schedules, utilize all areas of the facility, and access the community as they wish.	

Section Two

Community Integration Observations and Input from Individuals Served (without observation by staff), Family Members/Guardians, and Staff

Individual (Recipient) Interviews The SADC site does not currently have Medicaid enrolled members; therefore, no member experience surveys were conducted during the virtual on-site review. However, during future ongoing monitoring and compliance verification efforts, DOH and the MLTC plans will conduct member experience surveys.
Employee Interviews

Section Three

Additional Evidence

The following evidence has been compiled that demonstrates the setting is integrated in, and supports full access of, individuals receiving HCBS into the greater community. Activity Calendar.pdf Bulletin Board.jpg CSW Leadership Meeting.pdf Meal Menu with Alternatives.pdf PCSP Template.pdf Prong 1_Google Maps Verification.pdf Remediation Plan_s0237.xlsx SADC HCBS Virtual On-Site Verification_s0237.pdf SADC Member Rights.pdf Transportation Support.pdf Visitor Signage.pdf
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Section Four

Public Comments Summary

Public Comment Period

From: Click or tap to enter a date.

To: Click or tap to enter a date.

Summary of Public Comments Received for the Setting

Click or tap here to enter text.

Summary of the State's Response to the Public Comment Received

Click or tap here to enter text.