



Department  
of Health

# Overview for Managed Long Term Care (MLTC) Plans: Social Adult Day Care (SADC) Home and Community Based Services (HCBS) Compliance Process

Calendar Year (CY) 2024 HCBS Reviews

## **Presented By:**

New York State Department of Health  
Managed Long Term Care Surveillance  
SADC HCBS Compliance Team

December 7, 2023

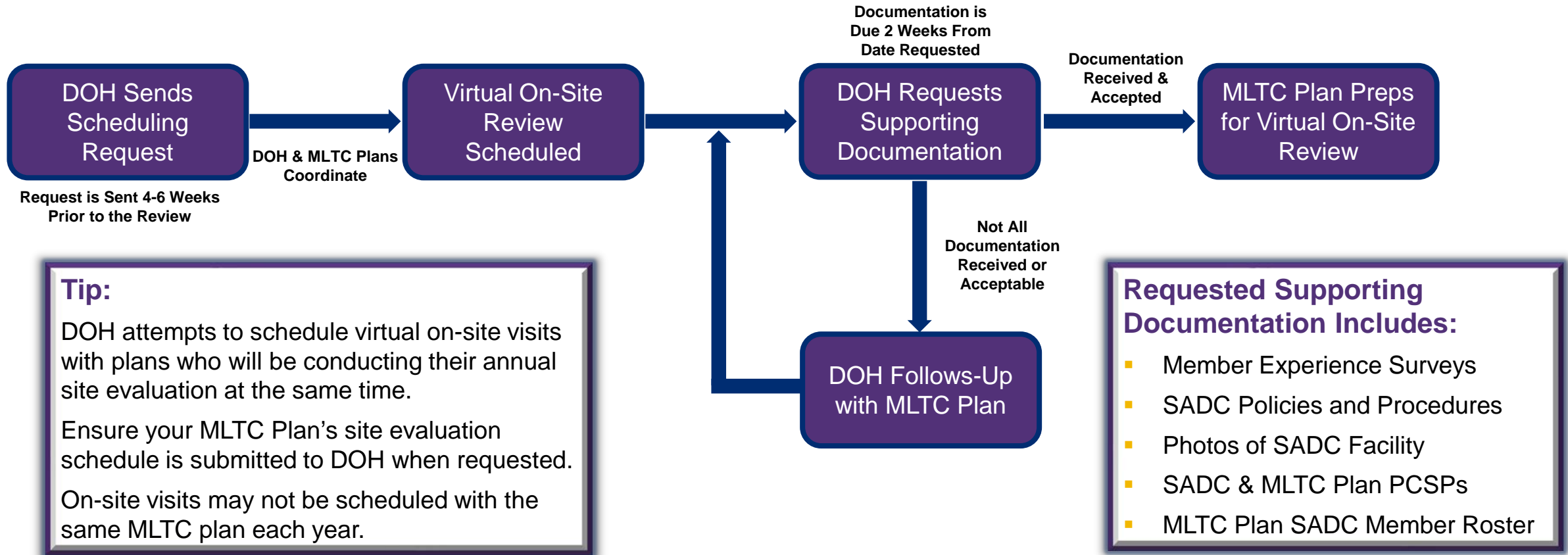
# Agenda

- **Overview of the HCBS Compliance Review Process**
- **Identified Trends and Best Practices**
  - 42 CFR 441.301(c)(4)(i): Community Integration
  - 42 CFR 441.301(c)(4)(iii): Privacy, Dignity, Respect, and Freedom from Coercion and Restraint
  - 42 CFR 441.301(c)(4)(vi)(F): Modifications to Rights
  - SADC Person Centered Service Plan (PCSP) and Person Centered Planning (PCP) Process Compliance

# Overview of the HCBS Compliance Review Process

December 2023

# Scheduling and Requesting Supporting Documentation



# Scheduling and Requesting Supporting Documentation Continued

## DOH Responsibilities:

- Email the MLTC plan regarding a virtual on-site review being conducted with their contracted SADC.
- Send a WebEx invitation to the MLTC plan representative(s) for the agreed upon date and time.
- Request that the MLTC plan submit the supporting documentation.
- Review the supporting documentation for adequacy and request additional or missing information, if necessary.

## MLTC Plan Responsibilities:

- Contact the SADC to confirm the preferred date/time of the review and confirm with DOH within 3 business days.
- Ensure SADC understanding of the purpose for the review and all applicable requirements being verified.
- Verify the following, prior to the day of the virtual on-site review:
  - The SADC has an adequate Wi-Fi connection.
  - Arrange a language translator, if necessary.
  - Ensure a video capable device, which can log into the WebEx meeting is available and fully charged.
- Obtain ALL necessary supporting documentation from the SADC, review the documentation for adequacy, and submit to DOH by the requested due date.
- Respond timely to requests for information.

# MLTC Plan Preparation for the Virtual On-Site Review



**Arrange for a translator, if needed.**

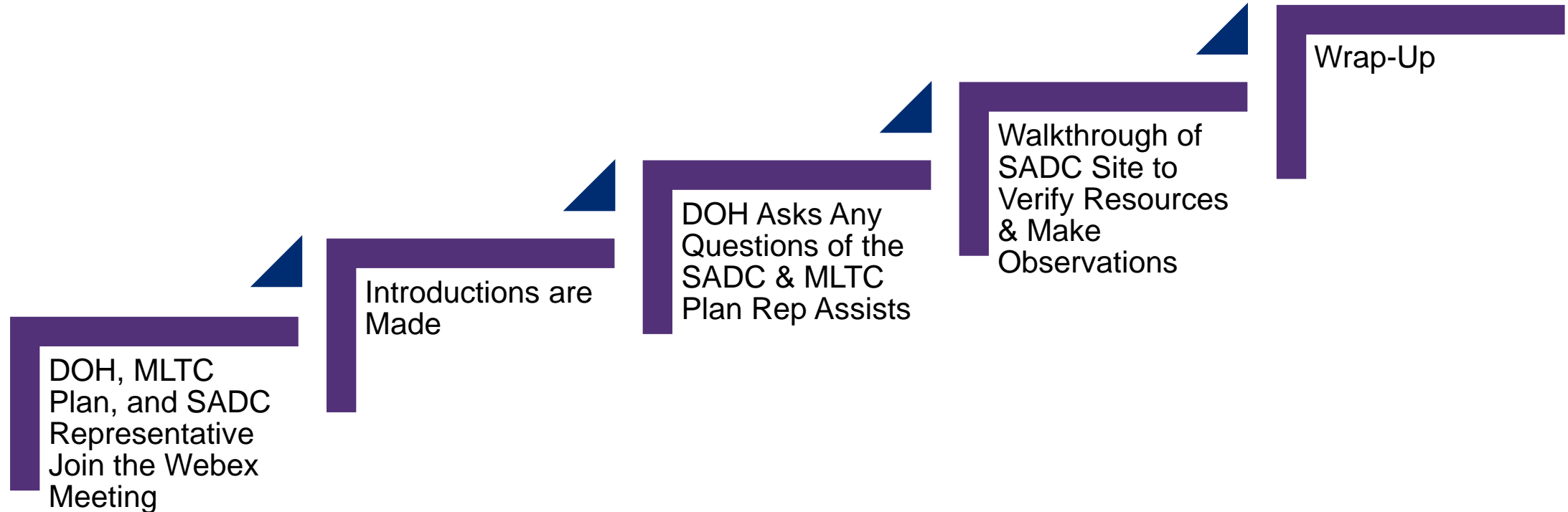


**Arrive at least 30-minutes before the scheduled time, allowing time to connect to the WiFi and join the WebEx.**



**Confirm that the SADC rep is prepared and is aware of what will be asked.**

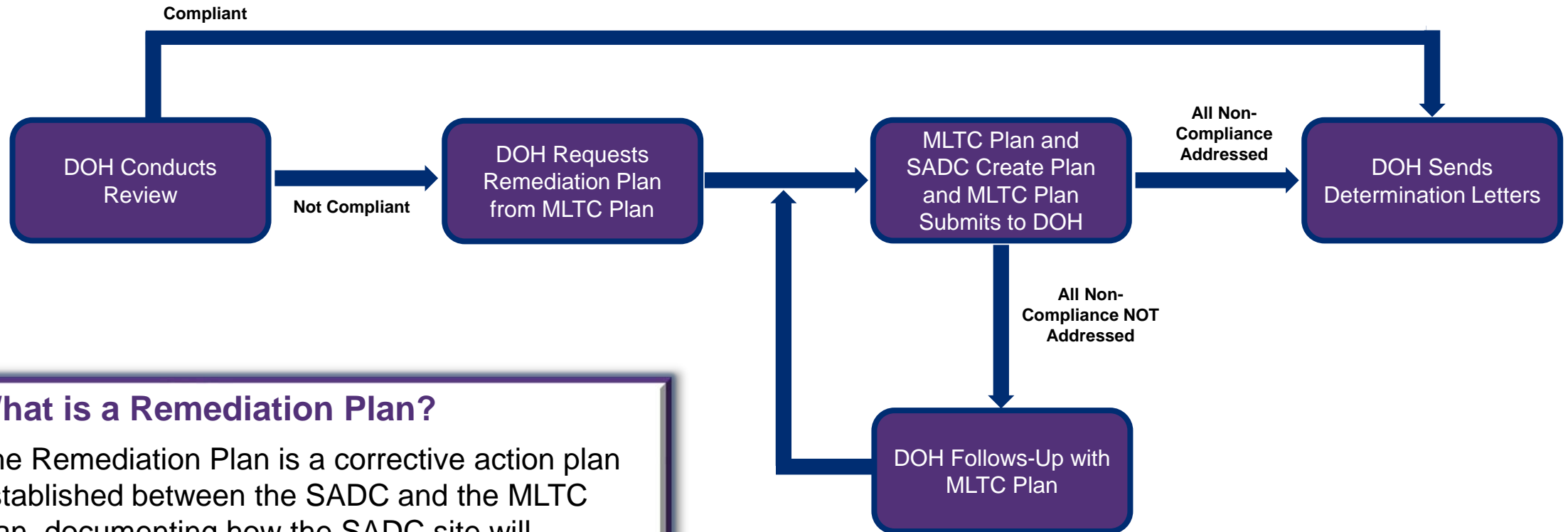
# Conducting the Virtual On-Site Review



December 2023

*Note: Virtual On-site reviews generally take about 2-hours to complete.*

# HCBS SADC Remediation Plans



## What is a Remediation Plan?

The Remediation Plan is a corrective action plan established between the SADC and the MLTC plan, documenting how the SADC site will remediate any non-compliance identified during DOH's HCBS Compliance Review.



# Remediation Plans Continued

## DOH Responsibilities:

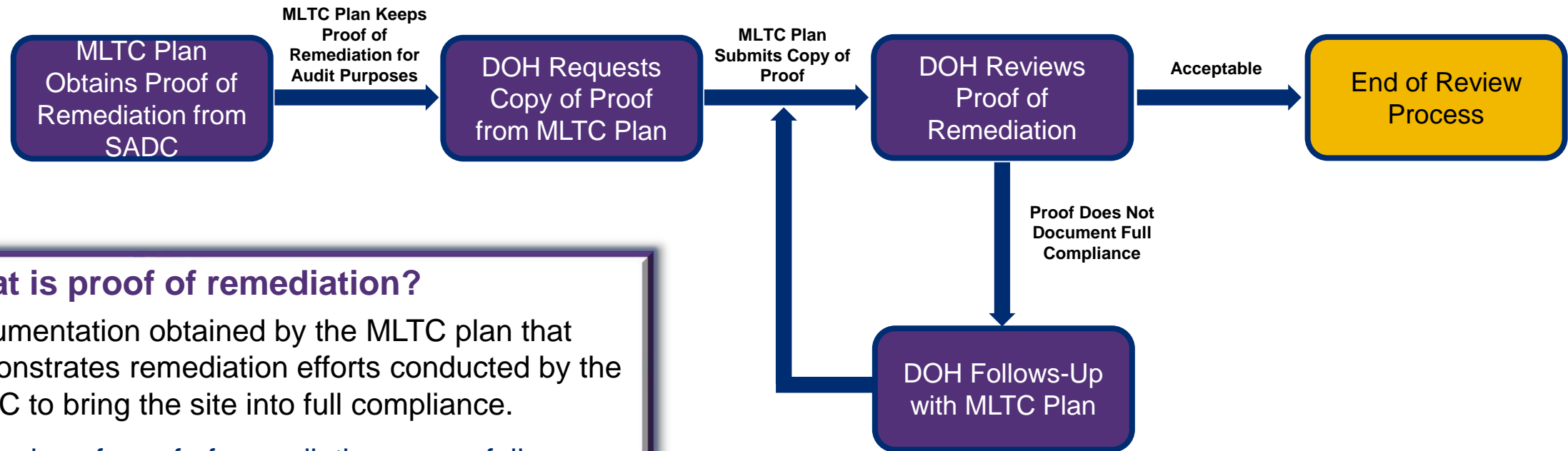
- Request MLTC Plan complete a Remediation Plan with the SADC site and share compliance findings.
- Verify the submitted Remediation Plan contains all necessary actions to bring the SADC into compliance.
- Send Determination Letters with copy of Remediation Plan, if applicable, to all MLTC plans contracted with the SADC.
- Work with the MLTC plans as needed, to ensure understanding of requirements.

## MLTC Plan Responsibilities:

- Work with the SADC site to create the Remediation Plan, ensure all documented actions will bring their contracted SADC site into compliance.
- Return the plan reviewed and completed Remediation Plan to DOH.
- ALL MLTC plans contracted with the SADC are responsible for ensuring the remediation actions are taken and obtaining proof of these actions.

*Note: Typically, DOH will request that the MLTC plan which attended the virtual on-site review, work with the SADC to develop an acceptable remediation plan to bring the site into HCBS compliance which would be acceptable to all MLTC contracted plans.*

# Proof of Remediation



## What is proof of remediation?

Documentation obtained by the MLTC plan that demonstrates remediation efforts conducted by the SADC to bring the site into full compliance.

Examples of proof of remediation are as follows:

- Updated SADC policies and procedures.
- Updated SADC PCSP template.
- Evidence of resources for members.

# Proof of Remediation Continued

## DOH Responsibilities:

- Request proof of remediation from MLTC plan.
- Review the submitted proof of remediation to ensure acceptability.
- Work with the MLTC plan as needed, to ensure understanding and completion of requirements.

## MLTC Plan Responsibilities:

- ALL MLTC plans contracted with the SADC are responsible for ensuring the remediation actions are taken and obtaining proof of these actions.
- Retain Proof of Remediation efforts for audit purposes.
- Submit to DOH a copy of the proof of remediation obtained, if requested.

*Note: Typically, DOH will request that the MLTC plan which attended the virtual on-site review, work with the SADC to submit the proof of remediation.*

# Identified Trends and Best Practices

- Community Integration
- Privacy, Dignity, Respect, and Freedoms
- Modifications to Rights
- SADC PCSP and PCP Process Compliance

December 2023

# Identified Trends and Best Practices

42 CFR 441.301(c)(4)(i): Community Integration

# CMS Definition of Community Integration

How does CMS define  
Community Integration?

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.



December 2023



# Community Integration Is...

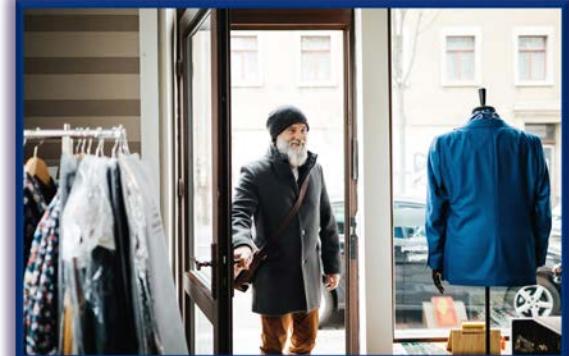
All members, regardless of their health/safety needs, are offered opportunities and are free to pursue their interests and goals via integration with their community, during their time at the SADC with supports coordinated by the SADC.



Example 1: A member interested in reading more joins a book club at the local library next door and a SADC staff member assists the member to the library, for the meeting, and picks them up afterwards.

Example 2: Member with health/safety risks has a family member pick them up from the SADC once a month to go to lunch.

Example 3: Member who likes swimming and has a goal of improving their swimming skills is supported by the SADC to sign-up and attend a swimming class given downtown.



# SADC Sites Should...



Support members interested in employment and volunteer opportunities outside of the SADC to apply and attend.

Encourage members to join a club or group that they are interested in, relates to their goals, and is separate from the SADC.

Coordinate individualized member attendance at community events or activities where members express interest.



December 2023



# Community Integration Is Not...

- A group “outing” with only SADC staff and members.
- “Outings” alone may not be HCBS compliant, Community Integration should be tied to the member’s goals and interests in the PCSP.
- Guest speakers or entertainers that perform at the SADC because it is not an activity that is offered in the community.

# Where issues were found:



- Mistakenly equating group 'outings' with community integration.
- Policies and procedures do not provide clear information on the supports in place to assist members with health and/or safety needs in accessing the community.
- Member goals are not aligned with community integration activities or vice versa (even if there is place on the PCSP template for "community events").
- Limited support for coordinating independent access to the community.
- Cognitive impairments were not listed on SADC PCSP and resulted in blanket policies limiting community integration for these members.
- Community Integration was not tied to the person-centered planning process.
- SADCs copied the HCBS policy standards into the policy and procedures document instead of creating the corresponding policies and procedures that document how the SADC will **implement** the HCBS requirements.

# Best Practices



- Support members in obtaining information regarding community events and employment and volunteer opportunities that directly relate to their goals and interests.
- Utilize the PCP process to elicit input from members regarding their community goals and interests, and document them in the PCSP.
- Coordinate or provide support so members can participate in their chosen community goals and interests.
- Discuss and document necessary supports for members, including persons (staff or others) assigned to assist member with community outings, transportation, etc. in the member's PCSP.
- Ensure all policies and procedures document HOW the SADC will ensure the HCBS Final Rule requirements are being enacted at the SADC.

# Identified Trends and Best Practices

42 CFR 441.301(c)(4)(iii): Privacy, Dignity, Respect,  
and Freedoms



**The setting ensures a member's rights of privacy, dignity and respect, and freedom from coercion and restraint.**

**CHOICE: Members have choice in:**

- ☐ Activities in which to participate.
- ☐ Meal options and times.
- ☐ Staff member(s) who render services, including personal care assistance.

**PRIVACY: Members have the right to privacy:**

- ☐ When having a visitor.
- ☐ When conducting a confidential conversation.

**FREEDOM: Members have the freedom to:**

- ☐ Handle their own money.
- ☐ Choose who they spend their time with.
- ☐ Access the community independently or with supports.

# Where issues were found:



- Member's right to choose staff to assist with their needs:
  - PCSP templates do not document a member's preference for staff to assist with needs.
  - Person-centered planning policies and/or Member Rights documents do not advise members of their right to have a person of their choosing support them.
  - There is no documentation available to members to make them aware of how to request support from a specific staff member.
- Member Rights documents contained wording advising that under some circumstances use of restraints, seclusion, and/or coercion were acceptable.
  - This was typically due to inclusion of the word "unnecessary".
- Member Rights documents and/or policies and procedures omitted information on member having access to their own funds and how to ensure members were aware of this, if it was not in the Member Rights document.
- There were limitations on member's rights to have visitors and privacy for confidential conversations.

# Best Practices



- Review and update the Member Rights document to ensure the following rights are included for members:
  - Have access and control over their own funds.
  - Have freedom to choose which activities they would like to participate in or to not participate.
  - Have the choice to select which staff provide support.
  - May have access to visitors at any time.
  - Have the right to a private space to conduct confidential conversations with visitors, for phone calls, etc.
  - May access the community and that the SADC will support them in doing so.
  - Have choice of who they spend their time with.
- Remove the word “unnecessary”, or any language that implies the use of restraints, seclusion, coercion, etc. could be used, from any documents.

# Identified Trends and Best Practices

## 42 CFR 441.301(c)(4)(vi)(F): Modifications to Rights



# 42 CFR 441.301(c)(4)(vi)(F): Modifications to Rights

**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.**

- (A & B) Are not applicable for SADCs since these are only for residential settings.
- (C) Setting ensures individuals have the freedom and support to control their schedules and activities; and have access to food any time.
- (D) Setting ensures individuals can have visitors of their choosing at any time.

# **Identified Trends and Best Practices**

## **SADC Person Centered Service Plan (PCSP) and Person Centered Planning (PCP) Process Compliance**

December 2023

# Person Centered Service Plans



Members lead the PCSP process and focus is on what is important to the member not what is good for the member as determined by someone else.

December 2023



Align goals with activities and community integration. Each goal should have an activity within the facility and/or in the community.



Provide support for all members to participate in their selected activities, including those with health/safety needs.

# Where issues were found:



- Documented goals and activities were not unique to the member.
- Supports provided to members to participate in chosen activities, including both at the SADC and for community activities, did not address the member's needs.
- Member health/safety needs, and the corresponding supports to address these needs, were not documented.
- Justification for modifications to member's rights were not documented.

*Other issues as discussed in the prior sections.*

# Best Practices



- Ensure PCSPs are member-driven, and goals and activities align with the member's interests.
  - A checklist of activities impedes on the member's ability to choose their own interests and is not acceptable.
- Prioritize what matters to the member over what is deemed “good for” the member as determined by someone else.
- Update PCSP information annually, whenever there is a change in physical or mental health, and at the request of the member.
- Clearly state any necessary supports provided so members can participate in their selected activities.
- Community integration goals must be offered, and acceptance or declination documented.

## Updated SADC PCSP Template

- DOH is collaborating with the NYS Office for the Aging (NYSOFA) to develop a HCBS Final Rule compliant SADC PCSP template, with the goal of jointly releasing the template for SADC use by the end of the year.
- The PCSP template is a care planning document that is utilized to ensure the PCP process is performed appropriately per CMS requirements.
- For additional details on PCP, please see the following resources:
  - [NYS DOH Person Centered Planning Guidelines Home Page](#)
  - Person Centered Service Plan Guidelines - [\(Web\)](#) - [\(PDF\)](#) - 11.16.2022
  - Person Centered Service Plan Template - [\(PDF\)](#) - [\(Word\)](#) - 11.16.2022

# Questions / Discussion

