



**Department  
of Health**

# **Frequently Asked Questions (FAQs)**

**Managed Long-Term Care (MLTC)  
Social Adult Day Care (SADC)**

**Home and Community-Based Settings  
(HCBS) Final Settings Regulation  
Compliance Verification**

**August 11, 2022**

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## Section 1: SADC HCBS Compliance Verification Self-Assessment Completion & Submission FAQs

### **Q1.1: Where and how are the SADC HCBS Compliance Verification Self-Assessments submitted?**

All completed self-assessments and supporting documentation should be sent to DOH via the Health Commerce System (HCS) Secure File Transfer (SFT).

Link to HCS: <https://commerce.health.state.ny.us/>

[To Contact: HCBS SADC Site Assessments \(HCBSADCSiteAssessments@health.ny.gov\)](mailto:HCBSADCSiteAssessments@health.ny.gov)

### **Q1.2: Where and how do I ask a question on the SADC HCBS Compliance Verification that DOH is conducting?**

For any questions regarding the HCBS Settings Final Rule compliance verification that is being undertaken by DOH, please email DOH at [HCBSADCSiteAssessments@health.ny.gov](mailto:HCBSADCSiteAssessments@health.ny.gov).

### **Q1.3: Where can I find the SADC HCBS Compliance Verification self-assessment and how do I complete it?**

The SADC HCBS Compliance Verification Self-Assessment and information on completing the assessment can be found on the [MLTC Policy Documents](#) website.

Some key resources you may find useful are the following:

- [HCBS SADC Fact Sheet \(PDF\)](#) - 12.3.2021
- [MLTC SADC HCBS Self-Assessment Tool](#)
- [All Plan Meeting Slide Presentation \(PDF\)](#) - 11.16.2021
- HCBS SADC Site Self-Assessment Compliance Webinar - 12.9.2021
  - [Presentation Slides \(PDF\)](#)
  - [Recording \(YouTube\)](#) [Transcript \(PDF\)](#)

### **Q1.4: Are SADC HCBS Compliance Verification Self-Assessments submitted for each plan and line of business the SADC site is contracted with or does only one self-assessment need to be submitted?**

DOH requires that all MLTC plans submit a completed self-assessment and supporting documentation for each contracted SADC site in the network.

Please note that if your plan contracts with a SADC site for more than one line of business, a self-assessment must be completed for each SADC contracted network line of business (ex. Medicaid Advantage Plus (MAP) and Partial Capitation).

### **Q1.5: What is the process for completing and submitting the SADC HCBS Compliance Verification Self-Assessments?**

The process for completing the SADC HCBS Compliance Verification Self-Assessments is as follows:

- MLTC plan requests the SADC site complete Section 2 of the self-assessment and return it to the MLTC plan with any supporting documentation.
- Each MLTC plan reviews the completed self-assessment tool from the contracted SADC site. The MLTC plan completes Section 1 and ensure all information in both Section 1 and Section 2 is accurate.
- Each MLTC plan submits each SADC site completed self-assessment tool and supporting documentation to DOH.

Please see [Q1.1: Where and how are the SADC HCBS Compliance Verification Self-Assessments submitted?](#) for details on where and how to submit self-assessments and supporting documentation.

### **Q1.6: Can we receive an extension to submit the self-assessments and supporting documentation or resubmit the declined self-assessments?**

Please note that all existing SADC contracted sites must be in compliance prior to the CMS deadline of March 17, 2023, and DOH's compliance verification completed, along with any remediation activities, prior to that date. Therefore, DOH may be unable to honor all requests for submission extensions due to the overarching timeline.

### **Q1.7: Is a comment required for each question in the SADC HCBS Compliance Verification Self-Assessment?**

Yes. Each question must have an answer and a comment in that section, articulating how their site's policies, procedures, and/or culture support and comply with the HCBS Settings Final Rule. This space should also be used to explain special circumstances, exceptions, and/or barriers that may negatively impact compliance.

The SADC site should utilize the Comments field to explain how the SADC site complies with the HCBS Settings Final Rule and why any supporting documentation supports this.

### **Q1.8: What is our MLTC Plan required to do if the plan contracts with a new SADC site or ends a contract with a SADC site?**

DOH will assess that SADC site's compliance or non-compliance within the SADC site compliance tracking database for reporting to CMS.

If your MLTC Plan contracts with a new SADC site, please be sure to add the new site to the plan's next Provider Network Data System (PNDS) submission. If your MLTC plan ends a contract with a SADC site, please be sure to remove the SADC site from the plan's next PNDS submission.

Please contact DOH at [HCBSADCSiteAssessments@health.ny.gov](mailto:HCBSADCSiteAssessments@health.ny.gov) with any questions on submitting newly contracted SADC sites or removing SADC sites that are closed or no longer contracted from the Provider Network Data System (PNDS) submission.

## Section 2: Non-Responsive and Closed SADC Site FAQs

### **Q2.1: We have not been successful in getting the self-assessment returned from a SADC site, what should the plan do?**

It is each MLTC plan's responsibility to oversee the SADC contracted sites to ensure compliance with all requirements, including the HCBS Settings Final Rule. If a SADC site is non-responsive or is not submitting a completed self-assessment and supporting documentation, that SADC site is deemed non-compliant and should be removed from the MLTC plan's contracted network and the PNDS network submission. The plan must also notify DOH, so the site can be removed from the SADC compliance tracking database

Accordingly, the plan must also identify which members are receiving services at that non-compliant SADC site, begin offering SADC site options, and transfer all members to a HCBS compliant SADC site.

### **Q2.2: If a SADC site is temporarily closed, such as due to the public health emergency, is a HCBS Compliance Self-Assessment still required?**

If a SADC site is temporarily closed, a completed self-assessment must be submitted with supporting documentation and the SADC must be fully compliant with the HCBS Settings Final Rule prior to re-opening.

Please note that a self-assessment is not required for sites that are permanently closed or when your plan and a SADC site are no longer contracted. Please notify DOH of any SADC sites that are permanently closed or no longer contracted with your plan and update PNDS to remove them from your plan's network.

### **Q2.3: The SADC site is temporarily closed and does not have a prospective re-opening date, should the plan terminate the contract?**

If your plan is unable to obtain a completed self-assessment and supporting documentation from a SADC site, to verify HCBS Final Rule compliance, your plan would need to remove the SADC site from your network and update the PNDS. Please ensure any members are transferred to a SADC site that is HCBS SADC determined compliant. Upon reopening, the MLTC plan must verify that the SADC site is 100% compliant with the HCBS Settings Final Rule before members can receive SADC services again at that SADC site.

### **Q2.4: If the plan has SADC sites that are in the network but, have no membership and/or claims, are we still required to complete the HCBS Compliance Verification Self-Assessment?**

Yes. If a SADC site is in your plan's network, then that site is required to be in compliance with the HCBS Settings Final Rule. A completed SADC self-Site assessment Tool and supporting documentation is required to be submitted. Every contracted SADC site must provide evidence of HCBS Settings Rule compliance via before members can receive services at that SADC site.

## Section 3: SADC HCBS Compliance Requirements & Detailed Self-Assessment Question Definition FAQs

### **Q3.1: Where can I find information on the HCBS Compliance Requirements for SADCs?**

- All DOH released information and guidance on verification of SADC site compliance with the HCBS Settings Final Rule can be found here: [MLTC Policy Documents](#)
- Information on New York State (NYS) HCBS Settings Final Rule Compliance and the Statewide Transition Plan (STP) can be found here: [Home and Community Based Services \(HCBS\) Final Rule](#)
- CMS HCBS Settings Final Rule is located here: [79 FR 2947](#)

### **Q3.2: What is a “prong” and how do I know what to select on the SADC HCBS Compliance Verification Self-Assessment?**

DOH is required to verify if any SADC sites are prong 1, 2, or 3. If a SADC site is determined to be prong 1, 2, or 3, that SADC site will be considered for a Heightened Scrutiny review by CMS.

The prongs are defined as follows:

- **Prong 1:** The SADC site is in a publicly or privately operated facility that provides inpatient institutional treatment.
- **Prong 2:** The SADC site is in a building on the grounds of, or adjacent to, a public institution.
- **Prong 3:** The SADC site has the effect of isolating individuals from the broader community. (Based on self-assessment question responses.)

The self-assessment asks that the plan and the SADC identify if any of these situations apply to the site.

“None of the Above” should be selected if none of the prong definitions apply for the SADC site.

### **Q3.3: What is the definition of a visitor? Does this include care takers, family members, etc.?**

For purposes of the HCBS Settings Final Rule, any individual that is not a MLTC member utilizing the SADC site or staff member of the site is considered a visitor.

Examples of visitors includes family members, caretakers (such as a Home Health Aide), and friends.

### **Q3.4: Should snack cabinets be easily accessible to members or locked in case of allergies?**

The HCBS Settings Final Rule requires that snacks be readily available for participants, if requested. If there is concern over allergies, theft, etc. then the snacks may be kept in a secure location. However, access to them must be readily available. For instance, a staff member with access to the snacks must be available to distribute them as requested to appropriate members via their member’s approved person-centered plan of care.

**Q3.5: A majority of the SADC site members are not considered competent, and it would not be safe for these participants to move about freely due to their health conditions (e.g., an individual with Dementia). Is the SADC site not in compliance because of this?**

The HCBS Settings Final Rule requires that SADC sites do not isolate individuals. DOH and CMS are aware that some members may require additional support or safeguards that must be in place based on health and safety needs. Please review the member's person-centered plan of care provided by the plan and agreed to by the member and/or their authorized representative. However, safeguards must be established, and those opportunities are offered to members that require them. Additionally, the SADC site cannot limit members who do not have similar health and safety needs and must ensure that isolation of members with additional health and safety needs does not occur. For instance, having flexible staffing schedules to accommodate outings for these members.

This should be explained in the "Comments" section of the self-assessment, along with how the SADC site prevents isolating all members.

**Q3.6: Is transportation to and from outside activities that members want to do on their own expected to be paid for by the SADC site?**

The HCBS Settings Final Rule requires that member be given the opportunity to attend activities in the community and outside the SADC site. Payment for transportation depends on the member need, coverage, and the SADC site.

For instance, if a member has medical transportation service coverage, this can be utilized for medical appointments. Additionally, a member may qualify for non-medical transport services. Finally, if it exists, access to public transportation information to and from SADC activities must be available to the member.

**Q3.7: The SADC HCBS Compliance Verification Self-Assessment mentions "financial resources". What does this mean and is the SADC site required to provide members with funds?**

Question 8 of the self-assessment mentions "financial resources":

- **Question 8:** Are resources other than public transportation, including financial and staff resources, available for individuals during the time at the SADC to access the site and/or individualized activities that participants may wish to attend in the community?

The HCBS Settings Final Rule requires that the setting is integrated in and supports full access to the greater community. Therefore, members should have access to their financial resources, which SADC site staff members may help them manage based on need.

Members should have access to SADC site staff members for assistance with attending SADC sponsored activities in the community and accessing the SADC site.

**Q3.8: What if the days a member can attend the SADC site is restricted by the MLTC plan?**

The HCBS Final Rule requires that the SADC site gives the member the opportunity to choose activities and control their schedule while attending the program, regardless of the day(s) they attend.

The attendance frequency and days allowable is determined based on the Person-Centered Service Plan maintained by the member's MLTC plan. If a member would like to change their SADC site attendance, they should be supported in speaking to their plan's care manager.

### **Q3.9: What is the difference between Questions 1 and 2 in the MLTC plan section of the self-assessment?**

Questions 1 and 2 of the MLTC plan section of the self-assessment are related to a member's right to choose which services they receive and from which provider, assuming they are qualified for the service. This is determined during the person-centered planning process conducted by the plan's care managers.

- **Question 1:** At some point in time were participants, (or their representative, if they have one), given options of HCBS service settings they could choose from, including the SADC?
  - Refers to the member's choice of services that they are eligible to receive, which includes SADC. During the person-centered planning process, all members must be given the option to choose which services they want to receive based upon the services for which they are qualified.
- **Question 2:** Are individuals provided a choice regarding the site where they receive services when they sign their plan of care?
  - Refers to the member's choice of provider. Once a member has selected which service they would like to receive, out of those for which they qualified, they must be given an option of providers to receive that service.

### **Q3.10: Why would we want members to leave the SADC site to go into the community on their own when members attend the SADC site for group socialization and recreation? Wouldn't we encourage members to attend community activities on days they do not attend the SADC?**

The HCBS Settings Final Rule requires that members are given the opportunity to make their own decision on whether to attend community or off-site activities. As long as members choose the SADC site and activity within the SADC schedule per the person-centered service planning process, HCBS SADC compliance would be met.

## **Section 4: DOH Rejected SADC HCBS Compliance Verification Self-Assessments FAQs**

### **Q4.1: The SADC site provided a comment referring the DOH reviewer to documents provided, why is this not sufficient?**

The "Comment" section of the self-assessment is a space for the SADC site to articulate how their site's policies, procedures, and/or culture support and comply with the HCBS Settings Final Rule. This space should also be used to explain special circumstances, exceptions, and/or barriers that may negatively impact compliance.

The SADC site should utilize the "Comments" field to explain how they comply with the HCBS Settings Final Rule and why any supporting documentation supports this.

Please note that the “Guidance and Supporting Documentation” section provides an area for SADC sites to provide document titles, sections, and/or page numbers to the relevant information to be reviewed.

**Q4.2: The SADC site provided a comment with minimal information for the DOH reviewer to determine compliance, how does this affect the review process?**

DOH will review all self-assessment submissions to validate the information supplied. Therefore, submitting detailed and comprehensive answers will allow DOH to review the self-assessments more efficiently and minimize additional requests for information.

The “Comment” section should be utilized to explain and clarify how the SADC site complies with the HCBS Settings Final Rule and that participants are unrestricted from their choices, goals, and options.

**Q4.3: The SADC site put document citations in the “Comment” section. Why is DOH declining the submission and requesting the information be listed in the “Guidance and Supporting Documentation” section?**

DOH will import all information in the completed self-assessments to a database in order to conduct the quality assurance validation reviews. Therefore, if information is not entered in the appropriate field, it will appear to the reviewer as if that information was not supplied. See instructions for completing the tool here: [Q1.3: Where can I find the SADC HCBS Compliance Verification self-assessment and how do I complete it?](#)

## Section 5: DOH Review Processes for SADC HCBS Compliance Verification Self-Assessments FAQs

**Q5.1: How will DOH manage a situation where some plans determine that a SADC site is compliant and other plans identify issues to be remediated?**

Each SADC site will be evaluated by DOH for compliance with the HCBS Settings Final Rule. Information from all plans will be validated via reviews and virtual on-site visits.

DOH’s determination on overlapping contracted SADC site HCBS Settings Final Rule compliance will be shared with all plans contracted with that SADC site.

**Q5.2: Who is part of DOH’s HCBS Settings Final Rule compliance verification effort?**

Any setting which provides HCBS to be in compliance with the HCBS Settings Final Rule and each program is required to verify and ensure compliance for their settings.

This MLTC effort is only applicable to the SADC sites. Please reach out to the applicable program or agency area for questions on any other verification efforts being conducted for other HCBS settings in New York State (NYS).

For the SADC site verification effort, all MLTC plans are required to ensure all contracted SADC sites are compliant with the HCBS Settings Final Rule. This includes MAP and Partial Capitation. PACE plans’ SADC compliance will also be verified separately.

**Q5.3: Is DOH evaluating the MLTC plans?**

DOH is currently verifying that all SADC sites, with which the MLTC plans are contracted, are in compliance with the HCBS Settings Final Rule as required and reported to CMS before March 17, 2023, and annually thereafter. This is to ensure that participants receive services in settings that are integrated in, and support full access to, their community.

It is DOH's expectation that MLTC plans will work with the SADC sites in you're the plan's network to ensure HCBS SADC compliance. DOH will be validating all information submitted, to ensure this was done and will communicate to the r plan if any SADC sites in the network are deemed non-compliant. Annually thereafter the NYS DOH will conduct outreach to MLTC plans to assess monitoring of HCBS SADC compliance via the MLTC plans' annual site visit required activities. Also, MAP plan applicants, merging plans, and service area expansions require SADC network submissions via the PNDS and HCBS 100% SADC settings compliance before new members can receive services at each SADC site.

## Section 6: Other FAQs

**Q6.1: Is the segregation of members who are vaccinated for COVID-19 from those that are not vaccinated an issue?**

Please refer to the Centers for Disease Control (CDC) guidelines, along with any State and County guidelines that have been issued regarding the COVID-19 public health emergency and any policies or guidance issued for SADCs in your service area.

# Appendix

Glossary and Acronyms	
Acronym / Word	Definition
DOH	Department of Health (NYS)
HCBS	Home and Community-Based Services
MAP	Medicaid Advantage Plus
MLTC	Managed Long-Term Care
NYS	New York State
PNDS	Provider Network Data System
SADC	Social Adult Day Care
STP	Statewide Transition Plan