

New York State Medicaid Home and Community-Based Services

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name St. Ann's Adult Day Services @ Durand		
Location of Setting Rochester, NY	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

No	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 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 member's PCSP. The SADC has demonstrated compliance in all areas of the standards except for the following: the documentation</p>

		<p>does not reflect how members with health and safety-based restrictions would be supported to enjoy the same opportunities as their peers who are able to freely move about the setting; the documentation does not adequately explain the supports that are available to members for pursue activities in the community; and, the PCSPs reviewed did not contain goals pertaining to community integration activities.</p> <p>Remediation will include updates to documentation so members are aware of available supports and understand "flex time" to relate to support for community integration activities, updates to the PCSP planning process to ensure that opportunities to set community integration goals are provided, and will be completed by 7/1/2024.</p>
<p><i>42 CFR 441.301(c)(4)(ii)</i></p> <p>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></p> <p>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</p>

		<p>observing the spaces allocated for privacy. The SADC has demonstrated compliance in all areas of the standards except for the following: one of the PCSPs reviewed did not indicate how dignity and privacy are maintained if a member requests assistance with personal health matters documented in their plan as an ongoing area of need. Remediation will include updating member PCSPs to clearly identify how privacy and dignity are maintained with personal care assistance requests, and will be completed by 3/17/2023.</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 standards except for the following: PCSP goals are generic and were not person-centered, an identified limitation was not fully supported in the documentation, and some PCSPs did not adequately address identified needs and supports to address them. According to the Participants Rights document, the member only has the right to "participate" in the PCSP process, rather than "lead" it. The HCBS Final Rule states the process must be "driven" by the member, not by the SADC. Remediation will include updates to the PCSP planning process to ensure that PCSPs include individualized goals and that the members are the ones to lead the process, identified needs are documented</p>

		with appropriate supports, and limitations are person-specific, supported by assessed needs, with a plan to review the modification in the future for appropriateness, and will be completed by 3/17/2023.
42 CFR 441.301(c)(4)(v) Compliant	Facilitates individual choice regarding services and supports, and who provides them.	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.
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>		
42 CFR 441.301(c)(4)(vi)(C) Partially Compliant	Individuals have the freedom and support to control their schedules and activities; and have access to food any time.	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. The SADC has demonstrated compliance in all areas of the standards except for the following: documentation does not reflect how information about requesting alternative meal options and/or eating in a private area is conveyed to members to ensure they are made aware of the process. Remediation will include the daily inclusion on the daily bulletin board how meal alternatives and/or private space can be requested, and will be completed by 3/17/2023.
42 CFR 441.301(c)(4)(vi)(D) Compliant	Individuals are able to have visitors of their choosing at any time.	DOH verified the acceptance of visitors during program hours by reviewing visitor policies and sign-in/out forms.

<p>42 CFR 441.301(c)(4)(vi)(E)</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>42 CFR 441.301(c)(4)(vi)(F)</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>DOH verified modifications were not offered or accommodated to support the freedoms for members of all abilities by reviewing completed member PCSPs. The SADC has demonstrated compliance in all areas of the standards except for the following: some PCSPs did not adequately address identified needs and supports to address them. Two of the PCSPs reviewed explicitly mention the members freedoms covered by this standard, but one of them did not, and the one PCSP did not include information about assessed needs to support an omission or modification to these freedoms. Remediation will include ensuring PCSPs are clear in identifying modifications, documenting the assessed needs to justify them, prior interventions that weren't successful, with a plan to re-evaluation the modification in the future, and will be completed by 3/17/2023.</p>
<p>Standards for Provider-Owned and Controlled Residential Settings Only</p>		
<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</p>	<p>SADC sites are non-residential, and therefore this standard is not applicable.</p>

	comparable to those provided under the jurisdiction's landlord/tenant law.	
42 CFR 441.301(c)(4)(vi)(B) Not Applicable	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.	SADC sites are non-residential, and therefore this standard is not applicable.

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: 11/21/2022	State Agency/Entity that Conducted the On-Site Visit: NYS DOH & Elderwood Health Plan / Dot Swifft and Theresa Werth
Description of the Setting:	
<p>St. Ann's Adult Day Program is operated on the first floor of a single-story building located in a suburb outside the city of Rochester, NY. The SADC has its own secured front entrance and exits. There is a paved driveway with wide wheelchair-friendly sidewalks. The SADC is handicap accessible in a well-lit, large open space with tables and chairs as well as space with furniture for when a quieter setting is needed for those looking to relax. There is also space that is set up for privacy to meet with family and friends when they come to visit. The site offers many social activities, field trips, as well as religious, intergenerational and educational activities. The SADC arranges to have a local produce vendor come to the site weekly so that members can get fresh fruits and vegetables without needing to arrange separate transportation. The site features an outdoor space with a covered iron gated patio overlooking the garden and trees. The SADC provides transportation to facilitate community integration activities and are able to work with local taxi companies for additional needs as they arise.</p>	

Section Two

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

Individual (Recipient) Interviews

The MLTC plan contracted with the SADC site conducted a member experience survey to ascertain how members feel about the SADC. DOH utilized responses on the survey to identify any potential areas of possible non-compliance and investigated thoroughly during the virtual on-site review, to confirm validity of the responses. DOH's determination and observations are documented in the Provider Compliance Summary section.

Details received and investigated by DOH are as follows:

1. Are you able to be in private for this call or interview? – Yes
2. Did you choose this program for yourself to attend? – Yes
3. Are you able to leave the SADC for outside activities you wish or need to attend? (Ex. community activities, volunteer work, doctor appointments) – Yes
4. Do you get the help you need while you are at the program, for example with using the restroom, grooming, feeding, setting up appointments, taking medications, etc.? – Yes
5. Do staff treat you and those around you with respect and care? – Yes
6. If you have a problem or concern, do you know who to go to? – Yes
7. If you have a problem or concern, and you speak to someone about it, does it get resolved and do you feel listened to? – Yes
8. Do you get to choose when and with whom you get to eat with, or can you eat alone if you want to? – Yes
9. Can you make private phone calls? – Yes
10. Are you allowed to have visitors while you are here? – Yes
11. Do you know where to store your personal belongings while you are here (coat, purse, etc.)? – Yes
12. Do you get to choose which activities you will or will not participate in, and with whom? – Yes
13. Are there restrictions on who you can or cannot interact or talk with? – No
14. Are you allowed to move around the building alone? If not, are staff available when you choose to move around? – Yes
15. Is transportation and support to obtain transportation available to you, at your request, for medical appointments or outings of your choosing? – Yes

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.

2022-11-21_Virtual On-Site Review_s0093.pdf
Bilingual Activity Calendar.pdf
Community Meeting Flyer.pdf
Community Meeting Notes Form.pdf
Daily Bulletin Board.JPG
Document List for Requested Information.pdf
Employee Training Tracker.pdf
Flex Time Schedule.pdf
HCBS Training Log.pdf
Member Experience Survey_1.xlsx
Member Experience Survey_2.xlsx

Member Experience Survey_3.xlsx
Monthly Menu with Alternatives.pdf
Multi-Purpose Room for Privacy Needs.JPG
Participants' Rights.pdf
Person Centered Care Plan Policy.pdf
Remediation Plan.xlsx
SADC PCSP_1.pdf
SADC PCSP_2.pdf
SADC PCSP_3.pdf
Self-Assessment Review_#295.pdf
Services Delivery Policy.pdf
Transportation Contact List.docx
Visitor Policy.pdf

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.