

New York State Medicaid Home and Community-Based Services

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name Sunnyside Community Services		
Location of Setting Queens, 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 SADC advised the</p>

		site provides activities in a community setting, however, documentation was limited to on-site activities and/or group outings only. Remediation has begun and is to be completed by 03/17/2023 to include the following: an update to the SADCs community outings policy and procedures to reflect community engagement and also a revised activities calendar to include more community outings along with a sign-in sheet for outings
42 CFR 441.301(c)(4)(ii) Compliant	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.	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.
42 CFR 441.301(c)(4)(iii) Compliant	Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	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.
42 CFR 441.301(c)(4)(iv) Partially Compliant	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.	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: The Care Plan/Individual Service Plan (ISP) Policy document indicates the PCSP process is done "in conjunction with" the member. The HCBS Final Rule requires that the process is "driven" by the member, not that the PCSP be done only "in conjunction with" the member , and the process cannot be led by the SADC. Remediation will include an update to the Care Plan/Individual Service Plan policy and procedures to reflect it is guided by the member and their individual needs and will be completed by 7/1/2024.
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 and how members are informed to make changes or additions to their PCSP by reviewing daily SADC schedules, SADC policy manuals, member handbooks, and staff training topics.
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: Supporting documentation of alternative meal options and private dining spaces was not provided. Remediation has begun and is to be completed by 03/17/2023 to

		include: an update to the SADCs monthly menu to include alternatives meal options and private dining spaces for members.
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.
42 CFR 441.301(c)(4)(vi)(E) Compliant	The setting is physically accessible to the individual. (Not modifiable)	DOH verified accessibility of the facility through observation, during the virtual on-site review.
42 CFR 441.301(c)(4)(vi)(F) Compliant	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.	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 has a section for indicating any necessary modifications.
Standards for Provider-Owned and Controlled Residential Settings Only		
42 CFR 441.301(c)(4)(vi)(A) Not Applicable	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.	SADC sites are non-residential, and therefore this standard is not applicable.
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	SADC sites are non-residential, and therefore this standard is not applicable.

	roommates in that setting. (3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	
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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: 11/23/2022	State Agency/Entity that Conducted the On-Site Visit: NYS DOH & Fidelis Care at Home / Mazal Danieli
Description of the Setting: The Sunnyside SADC program operates on the 2nd floor of a three-story building in Queens, NY. The SADC site accommodates 12 members, however it can accept up to 18 members. The site provides breakfast, lunch, and snacks throughout the day, and has a gathering area available for socialization. The SADC serves a cognitively impaired population diagnosed with mild dementia; therefore, independent community activities are limited due to safety risks. However, all community outings are supervised, due to the population served and/or safety reasons, and caregivers are welcome to join.	

Section Two

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

<p>Individual (Recipient) Interviews</p> <p>The SADC site currently has limited Medicaid enrolled members. A best effort was made to conduct a member experience survey with the enrolled members; however, all members declined to participate in the member experience survey. 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 continue to attempt to conduct member experience surveys with Medicaid enrolled members.</p> <p>Employee Interviews</p>

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.

2022-11-23_Virtual On-Site Review_s0164.pdf
Assessment forms.docx
Care Plan Policy.pdf
Care Plan Template.docx
Front of SADC Building.png
June Activity Calendar.pdf
Kitchen Area.jpg
Member Sign-In sheet.pdf
November 2022 Activity Calendar.docx
November 2022 Menu.xlsx
Nutrition Policy.pdf
Participant Bill of Rights.pdf
Preliminary Documentation Summary.docx
Remediation Plan.xlsx
Self-Assesment Review_#303.pdf
Socialization Policy.pdf
Staff Training Log.pdf
Transportation Policy.pdf
Virtual On-Site Review Tool_303.pdf
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.