

New York State Medicaid Home and Community-Based Services

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name Wartburg		
Location of Setting 1 Wartburg Pl, Mount Vernon, NY 10552	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 on the grounds of the Wartburg Rehabilitation and Adult Day Care Building, which is on a campus that also includes a nursing home and assisted living facility. 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</p>

		standards except for the following: documentation does not reflect support is available for supporting members' interest in volunteering/employment, does not show individualized community integration activities are available for members and how to request them, and policy documentation does not reflect a collaborative planning process. Remediation will include updating documentation and site materials to reflect the supports available to members for community activities, including volunteer and employment opportunities, and will be completed by 7/1/2024.
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) Partially 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. The SADC has demonstrated compliance in all areas of the standards except for the following: the activity calendar does not show that

		<p>alternative activities are available to members if they do not like a scheduled activity; the PCSP template reviewed does not have a section that indicates how dignity and privacy are maintained if a member requests assistance with personal matters (i.e., from a specific staff member, by gender preference); and policy documentation allows for restraints to be used in certain scenarios. Remediation will include updates to the Person-Centered Care Policy to honor all requests related to assistance and preferred staff, 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: the SADC uses a keypad lock on doors and gives the code to some members but not others; policy documentation does not demonstrate the PCP process is driven by the member; the PCSP template reviewed includes a list of general goals to choose from, there are no sections to discuss and identify interventions to support a member who has concerns or health/safety needs requiring additional support. Remediation will include updates to the Person-Centered Care Policy to reflect the members are supported in developing their own care plans, including information from the Elopement/Wandering</p>

		Assessment to indicate each member's capabilities to independently move within the setting and if they are given keypad information, and will be completed by 3/17/2023.
42 CFR 441.301(c)(4)(v) Partially 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. The SADC has demonstrated compliance in all areas of the standards except for the following: documentation reviewed does not include information about requesting changes to care plans/requesting additional services, and when the information is provided to members so that they are aware of the process. Remediation will include updating documentation to include care plan changes as a Registrant Right, as well as creating and displaying a sign with whom to contact with questions or concerns covering a range of issues (including care plan changes), and will be completed by 3/17/2023.
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) 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.

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) Not 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 does not have a section for indicating any necessary modifications. Remediation will include updating the PCSP template to include a section related to modifications or restrictions to support health/safety needs, which would be discussed during intake and ongoing assessments, and will be completed by 3/17/2023.
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	SADC sites are non-residential, and therefore this standard is not applicable.

	<p>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>	
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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 has overcome its institutional nature and will have remediated all isolating characteristics prior to March 17, 2023.

Section One

On-Site Visit Observation

<p>Date(s) Conducted: 10/26/2022</p>	<p>State Agency/Entity that Conducted the On-Site Visit: NYS DOH & Hamaspik Choice / Joel Abreu</p>
<p>Description of the Setting:</p> <p>The Wartburg’s SADC site operates on the first floor of the Wartburg Rehabilitation and Adult Day Care Building, located in Mount Vernon, NY. The SADC site can accommodate up to 100 members on a given day and is equipped to support those with Alzheimer’s or dementia diagnoses. The SADC operates Monday-Friday, 8:30am to 4:30pm and participants have the options to attend for half- or full-days. The SADC site offers: nutritious breakfast and lunch with a choice of entrees, afternoon snacks and refreshments, live entertainment, educational and exercise programs including yoga, strength training and tai chi, spiritual care for all faiths, a bilingual team that speaks English and Spanish, a spacious sunroom, and a secure outdoor veranda/patio with a garden. The Wartburg provides round-trip transportation for both planned group community activities as well as to provide individualized requests for integration into their community.</p>	

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 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.</p> <p>Details received and investigated by DOH are as follows:</p> <ol style="list-style-type: none"> 1. Are you able to be in private for this call or interview? – Yes 2. Did you choose this program for yourself to attend? – No – "Chosen for family member" 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? – Yes
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.

- 2022-10-26_Virtual On-Site Review_s0174.pdf
- Alternative Dining Space.JPG
- Calendar of Events.pdf
- Comprehensive Care Plan Policy.pdf
- HCBS Training Record.JPG
- Meal Flexibility - Poster.pdf
- Member Experience Survey_1.xlsx
- Menu.pdf
- PCSP Template.pdf
- Person-Centered Care & Registrants' Rights Policy.pdf
- Remediation Plan.xlsx
- SADC Bill of Rights.pdf
- Self-Assessment Review_321.pdf
- Sign for Kitchen Requests.JPG
- Therapeutic Recreation Services Policy.pdf
- Transportation Signage.jpg
- 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.