

New York State Medicaid Home and Community-Based Services

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name Seagirt Adult Daycare Center		
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: Community integration</p>

		<p>activities were not documented as a choice in the PCSP. Not all supports are documented to ensure a member can attend opportunities and activities of interest. Activity calendar posted for members does not offer community integration or individualized activities. Community integration is not offered to member's while attending the SADC site. Remediation would include revising the PCSP template to have a community integration activities section, modification information, personalized activities, updating current members' PCSPs, and utilize the new template for all new members, expanding the PCSP template to include a member's interest and ability related to community involvement, providing supports for members who request or need it while in the community, expand transportation options for members interested in community involvement, and assist members who want to utilize public transportation for individual activities by 7/1/2024.</p>
<p>42 CFR 441.301(c)(4)(ii) 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>42 CFR 441.301(c)(4)(iii)</p> <p>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 observing the spaces allocated for privacy.</p>
<p>42 CFR 441.301(c)(4)(iv)</p> <p>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 PCSP sample reviewed did not show that a member's Plan of Care is individualized, PCSP sample reviewed documented socialization but only at the service setting. Not all supports are documented in the PCSP sample reviewed to ensure a member can attend opportunities and activities of interest. Remediation would include revising and updating the current PCSP template to include goals, services and preferences that relate to community participation, employment, income, health and wellness, transportation needs/methods, and review with current and new members the ability to leave the service setting on their own to engage in individualized activities of their interest by 3/17/2023.</p>
<p>42 CFR 441.301(c)(4)(v)</p> <p>Compliant</p>	<p>Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>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</p>

		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>		
Compliant <i>42 CFR 441.301(c)(4)(vi)(C)</i>	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.
Not Compliant <i>42 CFR 441.301(c)(4)(vi)(D)</i>	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. The SADC has demonstrated compliance in all areas of the standards except for the following: The SADC had conflicting policies regarding visitors. The policy posted at the SADC site did not support members having visitors of their choosing at any time. Visitors were also limited to time spent with a member. The written policy submitted prior to the visit did not have any visitor restrictions. Remediation started by posting the non-restrictive visitor policy at the SADC and would be concluded on 3/17/2023.
Compliant <i>42 CFR 441.301(c)(4)(vi)(E)</i>	The setting is physically accessible to the individual. (Not modifiable)	DOH verified accessibility of the facility through observation, during the virtual on-site review.
Compliant <i>42 CFR 441.301(c)(4)(vi)(F)</i>	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.	The member SADC PCSPs reviewed did not require a modification. However, the SADC PCSP template has a section for indicating any necessary modifications.
<i>Standards for Provider-Owned and Controlled Residential Settings Only</i>		

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

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

<p>Date(s) Conducted: 11/29/2022</p>	<p>State Agency/Entity that Conducted the On-Site Visit: NYS DOH & Fidelis Care at Home / Jacqueline Leacock</p>
<p>Description of the Setting:</p> <p>The Vimini, LLC d/b/a Seagirt Adult Day Care Center's Social Adult Day Care (SADC) program operates on both floors of a two-story building and a lift is available to access the second floor. The SADC is located in it's own free-standing building on a main road in a suburban area of Queens, NY, members have access to round trip transportation, personal care and grooming services. Members and staff both speak English and Spanish at the site. The venue offers a computer room, a</p>	

suggestion box, group discussions in English & Spanish, along with poetry club, choir singing, ESL class, Tai Chi, bingo and Zumba. Members can use all areas of the facility and access the community. Members can participate in off-site activities of interest by signing up at the front desk; Off-site activities include day trips, shopping at a place of interest, and dining at favorite spots.

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? – [No - Member has never asked to have a visitor. Member states that visitors do not go to ADC. Member has not seen visitors at ADC.]
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 – No restrictions.]
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 - Transportation is through Fidelis. ADC offers transportation for pick up and drop off of member at her home.]

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.

2022-11-29_Virtual On-Site Review_s0182.pdf
Activity Sign up.pdf
assisstive devises.jpg
Community Activities.pdf
Computer Lab.jpg
Daily Visitor Log Binder.png
Library.jpg
Member Ex. Survey_1.xlsx
Member Ex. Survey_2.xlsx
Member Ex. Survey_3.xlsx
Member Feedback & Suggestion Survey.pdf
New Hire and annual training.docx
Outdoors.jpg
Participant Admission Folder.pdf
PCSP_1.pdf
PCSP_2.pdf
PCSP_3.pdf
Person Centered Bill of Rights - Eng, Sp, Rus.pdf
Person Centered Plan of Care (Blank).pdf
Person Centered Plan of Care Policy.pdf
Person Centered Service Plan Modifications.pdf
Person Centered Service Plan Review.pdf
Policy and Procedure Mannual Updated.pdf
Private area 1.jpg
Private area 2.jpg
Remediation Plan.pdf
Remediation Plan.xlsx
SADC Weekly Calendar.pdf
Sign In & Out Facility Binder.png
Transportation Information Posted.png
Visitor's Policy.pdf
Weekly Meal Menu.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.

