

New York State Medicaid Home and Community-Based Services

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name Genesis Adult Day Care		
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>

		activities were not documented as a choice in the PCSP and there is no information on supports of how the member may participate and attend opportunities and activities of their choosing for all members. Remediation efforts will be concluded by 7/1/24 and include updating the PCSP template to have community integration activities listed based on members needs and preferences and how support will be provided for all needs of the members that they can participate and attend activities.
<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 observing the spaces allocated for privacy. The SADC has demonstrated compliance in all areas of the standards except for the following: The SADC PCSP has no indication of how dignity and privacy are maintained when the member has personal health</p>

		considerations. Remediation efforts will be concluded by 3/17/2023 and include updating the PCSP to indicate how privacy and dignity are maintained when the member has personal health consideration.
<p><i>42 CFR 441.301(c)(4)(iv)</i></p> <p>Partially Compliant</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.	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 PCSP does not indicate the member is able to choose alternative activities if they wish. In addition, the PCSP policy is non-compliant because it indicates the service plan is developed by the program staff in conjunction with the participant in the PCSP process. The SADC PCSP does not show community inclusion or supports that would address the member's health and safety needs within the community. Remediation efforts will be concluded by 3/17/2023 and includes updating the PCSP policy to ensure members have control of the development, implementation, and monitoring of their PCSP. Updating the PCSP template to include community integration and supports the member may need.
<p><i>42 CFR 441.301(c)(4)(v)</i></p> <p>Compliant</p>	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>		
Compliant	42 CFR 441.301(c)(4)(vi)(C) 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.
Compliant	42 CFR 441.301(c)(4)(vi)(D) 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.
Compliant	42 CFR 441.301(c)(4)(vi)(E) 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	42 CFR 441.301(c)(4)(vi)(F) 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.	DOH verified modifications were offered and accommodated to support the freedoms for members of all abilities by reviewing completed member PCSPs.
<i>Standards for Provider-Owned and Controlled Residential Settings Only</i>		
Not Applicable	42 CFR 441.301(c)(4)(vi)(A) 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	SADC sites are non-residential, and therefore this standard is not applicable.

	protections to address eviction processes and appeals 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: 11/2/2022	State Agency/Entity that Conducted the On-Site Visit: NYS DOH & RiverSpring at Home / Ilene Greinsky
Description of the Setting: Genesis Adult Day Care, Inc is located in a mixed-use building that is half commercial and half residential in an urban area of Queens, NY. The program has the capacity to serve 100 members on any given day and the site has two main entrances and one emergency exit. The site offers breakfast and lunch meals (hot and cold), snacks all day, scheduled community trips to the library, and outdoor walks. Members are given freedom to choose their activities during program hours and utilize all areas of the facility. Public transportation is available to and from the site through subway and bus routes and staff assist members with transportation information as needed to access the community.	

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/ No – Comment]
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.

2022-11-2_Virtual On-Site Review_s0189.pdf
December cal 2021.doc
FEB COMMUNITY EVENTS.doc
Genesis Policy & Procedure word.doc
HCBS Staff Training Log.pdf
HCBS Training Certificate.pdf
Jan22 morning.doc
LOCAL POLITICIAN .jpg
LOCAL TRANSPORTATION ASSISTANCE.jpg
LOCAL TRANSPORTATION ASSISTANCE.pdf
MEAL ALT SIGN 2.jpg
MEAL ALT. SIGN.jpg
Member Ex. Survey_1.xlsx
Member Ex. Survey_2.xlsx
Member Ex. Survey_3.xlsx
Menu.pdf
Office Hours (Director).pdf
PCSP_1.pdf

PCSP_2.pdf
PCSP_3.pdf
Policy and Procedure Service Plan.docx
Policy and Procedure Service Plan.pdf
Remediation Plan.pdf
Remediation Plan.xlsx
SADC Policies and Procedures.pdf
Self-Assessment Review_129.pdf
STORE TRIP SCHEDULE.docx
Training Activity Person Center Thinking .docx
Virtual On-Site Review Tool_129.pdf
Visiting Policy Procedure.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.