

New York State Medicaid Home and Community-Based Services

Heightened Scrutiny Evidence Packet

Setting Information

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| Provider Name Dyker Senior Center, Inc. | | |
| Location of Setting Brooklyn, 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

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| 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 | | |
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| 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 setting does not</p> |

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| | | <p>provide opportunities for individualized community activities based on members' needs and preferences and community integration is not included in the PCSP. Additionally, there is no information on supports of how the member may participate and attend opportunities and activities of their choosing. Remediation efforts will be concluded by 7/1/2024 and include providing individualized community integration during program hours and updating the PCSP template to have a community integration activities section. Additionally, The SADC will update the PCSPs to capture assistive technology needed to address member's health and safety needs to support their participation and integration in community activities by 3/17/2023.</p> |
| <p><i>42 CFR 441.301(c)(4)(ii)</i> 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> 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</p> |

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| | | <p>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 PCSP reviewed were for female members but listed male pronouns in the psychosocial section. Additionally, there is no indication of how dignity and privacy are maintained when the member has personal health considerations. Remediation efforts will be concluded by 3/17/2023 and include correcting pronouns in all PCSPs and updating PCSPs to offer and document the member's choice for individuals they want to help as needed with their health care needs such as Activities of Daily Living (ADLs).</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 PCSP does not indicate the member is able to choose alternative activities if they wish. Additionally, 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 the supports that would address the member's health and safety needs within the community. Remediation efforts will be concluded by 3/17/2023 and</p> |

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| | | includes updating the Person-Centered Policy to include a person-centered planning process in compliance with the HCBS final rule. This includes that the member directs the development of the person-centered plan and is the central and primary “voice” and perspective for the planning process. Additionally, the SADC PCSP will be updated to capture Community Integration activities offered by the SADC and also individualized activities based on the member’s needs and desires. The PCSP will also capture assistive technology to address member’s health and safety needs to support their participation and integration in community activities. |
| 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) 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. |

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| 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. | DOH verified modifications were offered and accommodated to support the freedoms for members of all abilities by reviewing completed member PCSPs. |
| 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 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

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| Date(s) Conducted: 10/26/2022 | State Agency/Entity that Conducted the On-Site Visit: NYS DOH & VillageCareMAX / Nancy Martinez |
| Description of the Setting: Dyker Senior Center Inc. sits on the ground floor of a three-story building located in a rural area of Brooklyn, NY. The SADC can accommodate approximately 35 members daily. There is a large activity room, a TV room that includes massage chairs, a gaming room with a pool table, a private room for members personal matters, a computer room, and dining area. The site offers social and recreational activities, round-trip transportation to and from the SADC site, breakfast, and lunch with a choice of entrée, exercise programs including square dance, Wii exercise, Tai Chi, community trips, and outdoor activities. Members are given freedom to choose their daily activities during program hours and utilize all areas of the facility. | |

Section Two

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

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| 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: <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? – 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 |
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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_s0222.pdf
- Care Plan Documentation.pdf
- Care Plan Services Policy.pdf
- Community Outing Sign Up.png
- Lunch Menu December 2022.pdf
- Meal Menu.pdf
- Member Ex. Survey_1.xlsx
- Member Ex. Survey_2.xlsx
- Member Ex. Survey_3.xlsx
- Participant Bill of Rights.pdf
- PCSP_1.pdf
- PCSP_2.pdf
- PCSP_3.pdf
- Plan of Care Template.pdf
- Private Dining.png
- Remediation Plan.pdf
- Remediation Plan.xlsx
- SADC P&P Manual & Forms.pdf
- Self-Assessment Review_92.pdf
- Sign Out Sheet.png
- Transportation.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.

