

New York State Medicaid Home and Community-Based Services

Heightened Scrutiny Evidence Packet

Setting Information

Provider Name St. Vincent's De Paul Senior Life		
Location of Setting 900 Intervale Ave Bronx, NY 10459	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 ground floor of a building that also houses a nursing home. The SADC has separate staff and a separate entrance into the SADC, and the only shared service is receiving hot food that comes from the nursing facility's main kitchen. Additionally, 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 align="center"><i>42 CFR 441.301(c)(4)(i)</i></p> <p>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</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 members' PCSPs.</p>

Requirements for All HCBS Settings

Compliant?	Federal Requirement	Summary
	of access as individuals not receiving Medicaid HCBS.	
Compliant <i>42 CFR 441.301(c)(4)(ii)</i>	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.
Compliant <i>42 CFR 441.301(c)(4)(iii)</i>	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.
Partially Compliant <i>42 CFR 441.301(c)(4)(iv)</i>	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 standard except for the following: The Members rights states in several sections that the members has the right "to participate" in the PCSP process when the process

Requirements for All HCBS Settings		
Compliant?	Federal Requirement	Summary
		should be lead by the member. The HCBS Final Rule requires that the process be "driven" by the member, not that the member is just "participating", and the process cannot be led by the SADC. Remediation efforts will be concluded by 08/31/2023 and include updating the SADC Policy and Procedure manual to ensure the member is driving the plan of care, and update the language to reflect it.
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.
42 CFR 441.301(c)(4)(vi)(E) Compliant	The setting is physically accessible to the individual. (Not modifiable)	DOH verified the setting is physically accessible to the individual via visual observation during virtual on-site visit.

<p>42 CFR 441.301(c)(4)(vi)(F)</p> <p>Compliant</p>	<p>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.</p>	<p>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.</p>
<p>Standards for Provider-Owned and Controlled Residential Settings Only</p>		
<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

8/16/2023	State Agency/Entity that Conducted the On-Site Visit: NYS DOH & ArchCare Community Life / William Guevara
Description of the Setting: The SADC program is operated on the first floor of a building, in a residential setting in New York, NY. The program can accommodate 75 participants, offers meals, and snacks all day, as well as trips to entertain members with either events or nature walking. Additional services include social work and therapy. Members can take trips to the museum, parks, casino, movies, and restaurants. There is a transportation coordinator to assist members with their needs and activities such as Bingo, billiards, darts, and yoga, along with arts and crafts are available at any time.	

Section Two

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

Individual (Recipient) Interviews The SADC site does not currently have Medicaid enrolled members; 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 conduct member experience surveys. Employee Interviews
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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. Adaptions.docx Bill of Rights.docx Change Activities or Services.docx Community Integration Opportunities Suggestion Box.docx Confidential information.docx Image of the snack area.docx Members Rights.pdf Menu.docx New Training Log.pdf P &P's updated 08-31-2023.docx Participant Rights Photo.docx PCCP Policy.pdf PCP Policy Procedure.pdf PCSP Service Plan 8.31.23.docx PCSP Template.pdf Private Area.docx Private Dining Space.docx Prong 1_Google Maps Verification.docx Remediation Plan s0236.xlsx Request specific staff.docx

SADC HCBS Virtual On-Site Verification_s0236.pdf
Schedule Control.docx
Staff meeting Bronx 6.28.23.pdf
Staff Schedule.docx
Staff Training Verification.pdf
Staff-Volunteer training.xlsx
Transportation Activity Board.docx
Visitor Policy - Signage.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.