



**Department
of Health**

Managed Long Term Care Plan Oversight of Social Adult Day Care Site Compliance with HCBS Final Rule

Frequently Asked Questions (FAQ)

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Frequently Asked Questions

Section 1: SADC HCBS Compliance Review Process

Q1.1: It can be difficult to pre-schedule SADC Annual visits in advance. Does DOH have suggestions on handling this?

DOH does not give guidance on how to pre-schedule the required SADC annual visits, however, if DOH is informed of the date of the scheduled visit, every effort will be made to schedule the DOH on-site compliance review on the same date.

Q1.2: Are SADC HCBS compliance reviews required from all health plans?

All MLTC plans are required to ensure their contracted SADC sites are in compliance with HCBS Final Rule standards. DOH will choose one MLTC plan contracted with the SADC to attend the on-site compliance review. That plan will also be responsible for providing documentation and for working with the SADC to develop a remediation plan if necessary.

Q1.3: Does DOH send a letter to the sites that are deemed fully compliant?

Once the compliance review is completed, DOH sends determination letters on a bi-weekly basis to all MLTC plans contracted with the SADC.

Q1.4: What is the timeframe that DOH allows a SADC to develop their remediation plan with their contracted MLTC?

The MLTC plan is given two (2) weeks to submit the remediation plan to DOH.

Q1.5: Are all HCBS compliance reviews conducted virtually?

Currently, on-site compliance reviews are conducted virtually by DOH.

Q1.6: Will HCBS compliance reviews be conducted annually?

Yes. Visits will be conducted annually.

Q1.7: If sites were already compliant, why are they being reviewed again?

To ensure continued compliance, SADCs will continue to be monitored annually.

Q1.8: How are the SADCs being chosen for a review in 2024?

New SADC sites are reviewed first, followed by the SADCs that were reviewed earliest in the previous year.

Q1.9: For plans that contract with new SADC providers that are already compliant, can DOH issue SADCs a letter evidencing compliance that they can share with plans?

DOH provides compliance determination letters to MLTC plans for each of their contracted SADC sites. Plans are encouraged to share the annual determination letters with their contracted SADC, as DOH does not communicate directly with SADC sites.

Q1.10: Can you confirm if striving to employ male staff members is adequate? Or if a SADC site must employ a male staff and if so, point us to the specific language in the CMS HCBS Final Rule that explicitly states this?

To meet compliance for standard 42 CFR 441.301(c)(4)(v): “Setting facilitates individual choice regarding services and supports, and who provides them.” Members must be offered a choice of staff to render services, especially personal care services. The SADC should make every effort to employ more than one gender of staff to accommodate the preferences of their members.

Q1.11: What is DOH’s specific expectation regarding staffing to ensure compliance with both Equal Employment Opportunity Commission (EEOC) and HCBS ruling?

SADCs are encouraged to employ enough qualified staff that will support the needs of all enrolled members. A 1:7 staff ratio is recommended as stated in the NYC Department of Aging Social Adult Day Services *Standards of Operation and Scope of Services*, § 2, Stand.14.1 [Model Social Adult Day Service \(SADS\) \(nyc.gov\)](#)

Q1.12: Should questions be directed to HCBSADCSiteAssessments@health.ny.gov?

Yes, if MLTC plans have questions regarding the HCBS Settings Final Rule compliance reviews for their contracted SADCs, please email DOH at HCBSADCSiteAssessments@health.ny.gov. Please note, SADC sites should submit all questions to their contracted MLTC plan for handling

Section 2: Person-Centered Service Planning at the SADC level

Q2.1: Was a PCSP template to be used by the SADCs already distributed?

On December 14, 2023, the DOH/NYSOFA released the SADC/SADS HCBS Final Rule Compliant PCSP Template. The template can be found [here](#).

Q2.2: Would it be possible to send everyone a well-completed sample PCSP hitting all the HCBS points?

PCSPs are unique and person-centered so it would not be useful to provide a sample for an individual. However, an updated [PCSP template](#) was developed collaboratively by NYSDOH and NYS Office for the Aging for the SADCs to use which contains every component to meet compliance with the HCBS Final Rule standards when fully completed.

DOH and NYSOFA require all SADC/SADS sites to utilize the issued SADC PCSP template or update their SADC PCSP template to include at minimum all questions and areas covered in the DOH/NYSOFA issued SADC template. MLTC plans are required to verify that their contracted SADC/SADS sites comply with the new SADC PCSP template requirements, and when contracting with a new SADC/SADS site, MLTC plans must verify the DOH/NYSOFA template or corresponding SADC template is already in use or will be once members begin attending.

Additional resources:

[Person-Centered Service Planning Home and Community-Based Services Final Rule Implementation webinar](#) (recording)

[Person-Centered Service Planning Home and Community-Based Services Final Rule Implementation webinar](#) (slides)

Q2.3: Does every contracted SADC have to comply with the new Person-Centered Care Plan Template, or only the SADCs that are considered non-compliant?

DOH and NYSOFA encourage all SADC and SADS sites to utilize the new SADC PCSP template. If a SADC chooses not to use the DOH/NYSOFA issued SADC template, the SADC

must ensure their SADC PCSP template is updated to include, at minimum, all the questions and sections listed in the DOH/NYSOFA issued SADC template.

Q2.4: How many years are SADCs required to keep member records (such as annual assessment/PCSP)?

The MLTC/MAP contract specifies that, "The Contractor shall preserve and retain all records relating to Contractor performance under this Agreement in readily accessible form during the term of this Agreement and for a period of ten (10) years thereafter. All provisions of this Agreement relating to record maintenance and audit access shall survive the termination of this Agreement and shall bind the Contractor until the expiration of a period of ten (10) years commencing with termination of this Agreement or if an audit is commenced, until the completion of the audit, whichever occurs later. "

Section 3: Community Integration

Q3.1: If a SADC site coordinates group outings for meals, does this count as community integration?

SADC sponsored group outings do not count as community integration. An example would be a bus trip to a restaurant where SADC staff are in attendance to monitor members and members are expected to stay with the group. Community integration is considered when a group of members choose to visit a restaurant whereby the SADC staff only assist with arranging reservations or transportation, and do not attend as monitors for the group. In this scenario, members are given autonomy to interact with persons who are not SADC staff, to select their own meals, to select their own seating, and to make their own decisions.

Q3.2: If sites were already HCBS compliant, why are they being reviewed again?

To ensure continued HCBS compliance, SADCs will continue to be monitored annually until further notice.

Q3.3: Should MLTC plans verify the SADC site is compliant prior to going live, and if the SADC is not compliant, should we terminate their contract? If terminated, what is your input on MLTC plans being out of compliance as there is just not enough SADCs out there anymore?

MLTC plans are responsible for conducting an initial review of the SADCs they wish to contract with. Utilizing the suggested tool provided to all plans, the MLTC plan must ensure the SADC is compliant with the HCBS Final Rule prior to finalizing a contract and prior to members receiving SADC services at the site. If the MLTC plan is out of compliance due to a lack of SADC providers within a county, the MLTC plan will be issued a Statement of Agreement which allows a plan to contract with a SADC within a 30 minute or 30-mile radius to meet requirement standards.

Q3.4: How does DOH suggest handling a situation where a member has dementia and is not able to articulate the activities they wish to participate in, and is limited in their ability to independently access the community?

The member's representative/guardian should support the member in the PCSP planning process. The process should include the member's preferences for community integration, and SADC activities, in addition to documenting the supports required to ensure they can participate in their preferred activity. For members determined to be unsafe or incapacitated, the SADC may provide safety support by coordinating services such as transportation, providing staff or arranging for the member's caregiver to accompany them in the community.

Appendix

Glossary and Acronyms	
Acronym / Word	Definition
DOH	Department of Health (NYS)
HCBS	Home and Community-Based Services
CMS	Centers for Medicare and Medicaid Services
MLTC	Managed Long-Term Care
NYS	New York State
SADC	Social Adult Day Care