



**Department
of Health**

Overview for Managed Long Term Care (MLTC) Plans: Social Adult Day Care (SADC) Home and Community Based Services (HCBS) Compliance Process

**New York State Department of Health
Managed Long Term Care Surveillance
SADC HCBS Compliance Team**

DECEMBER 2024

CALENDAR YEAR (CY) 2025 HCBS REVIEWS

AGENDA

- MLTC Plan Resources for HCBS Compliance Activities
- Overview of the HCBS Compliance Review Process
- Identified Trends from CY2024 Reviews and Best Practices
- Updates to HCBS Compliance Review Questions for CY2025
- New Resources Available for CY2025

MLTC PLAN RESOURCES FOR HCBS COMPLIANCE ACTIVITIES

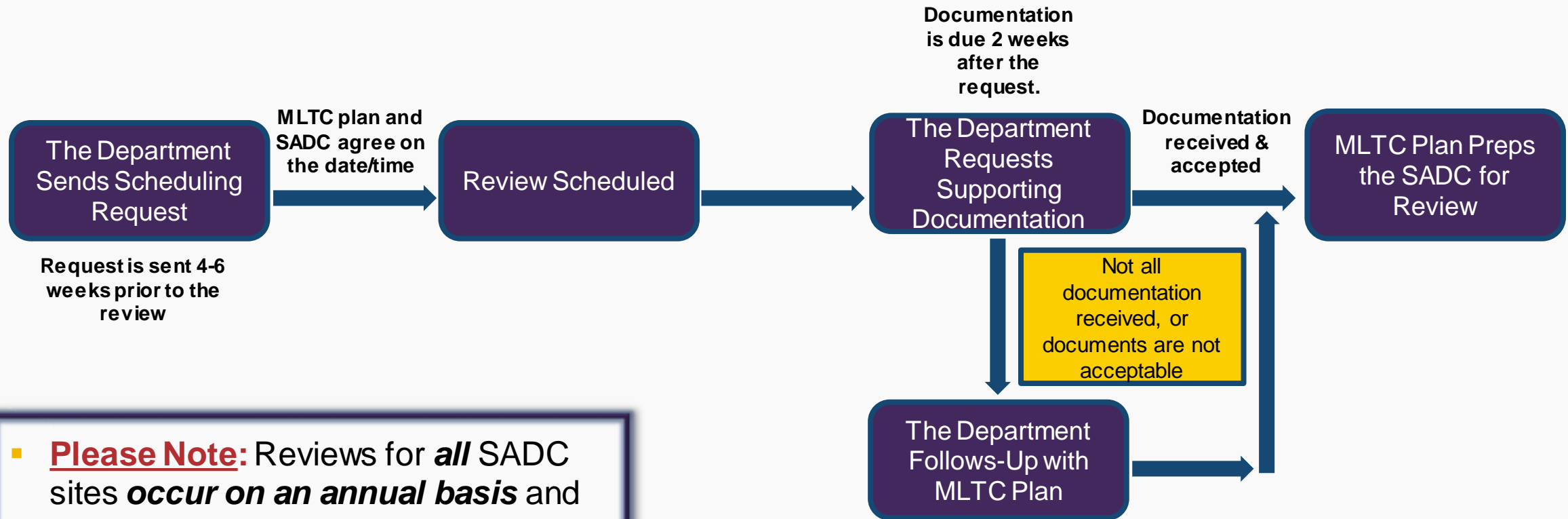
MLTC PLAN RESOURCES FOR HCBS COMPLIANCE ACTIVITIES

- MLTC plans must have adequate resources to complete all required HCBS compliance activities for contracted SADC programs, including:
 - Coordinating with the Department to schedule the HCBS compliance review.
 - Gathering required supporting documentation from the SADC program and submitting to the Department.
 - Working with the SADC program to prepare for the HCBS compliance review.
 - Attending the HCBS compliance review and assisting SADC staff where necessary.
 - Developing an adequate remediation plan together with the contracted SADC program.
 - Oversight of SADC program implementation of the accepted remediation plan.
 - Gathering proof of remediation and providing to the Department upon request.
- When scheduling HCBS compliance reviews for CY2025, MLTC plans are required to choose from the date/time options provided by the Department. The Department will no longer accommodate requests for alternate date/time options.

Please Note: The Department may schedule meetings with MLTC plans to discuss their resources for completing HCBS compliance review activities. If a meeting is requested, MLTC plans should be prepared to describe their ability to complete HCBS compliance activities within the required timeframes.

OVERVIEW OF THE HCBS COMPLIANCE REVIEW PROCESS

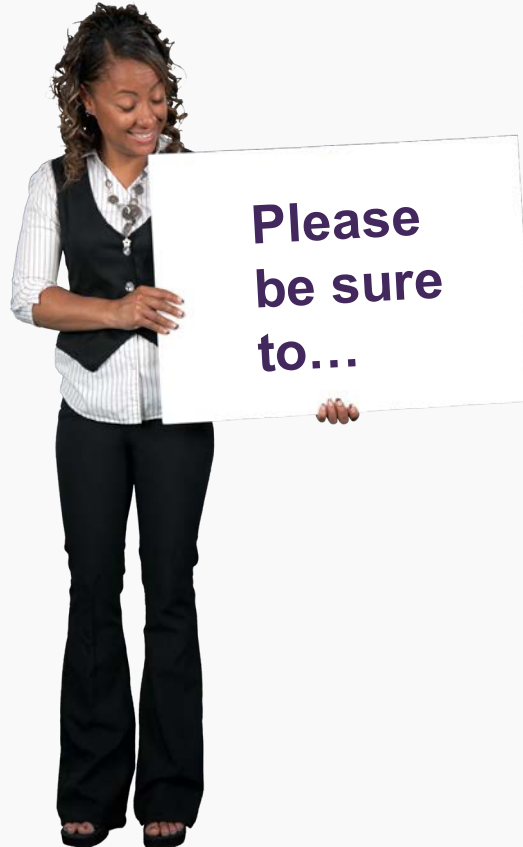
SCHEDULING AND REQUESTING SUPPORTING DOCUMENTATION



- **Please Note:** Reviews for *all* SADC sites *occur on an annual basis* and may not be scheduled with the same MLTC plan each year.

SCHEDULING AND REQUESTING SUPPORTING DOCUMENTATION

- Ensure SADC understanding regarding the purpose of the review and the requirements being verified.
- Contact the SADC to confirm the preferred date/time for the review and notify the Department within 3 business days.
- Obtain all required supporting documentation from the SADC and review for compliance.



- Submit supporting documentation to the Department by the requested due date.
- Respond timely to any further requests for information.
- Communicate any challenges or questions you have at any point during the process.

MLTC PLAN PREPARATION FOR THE REVIEW



Arrange for a language translator, if needed.

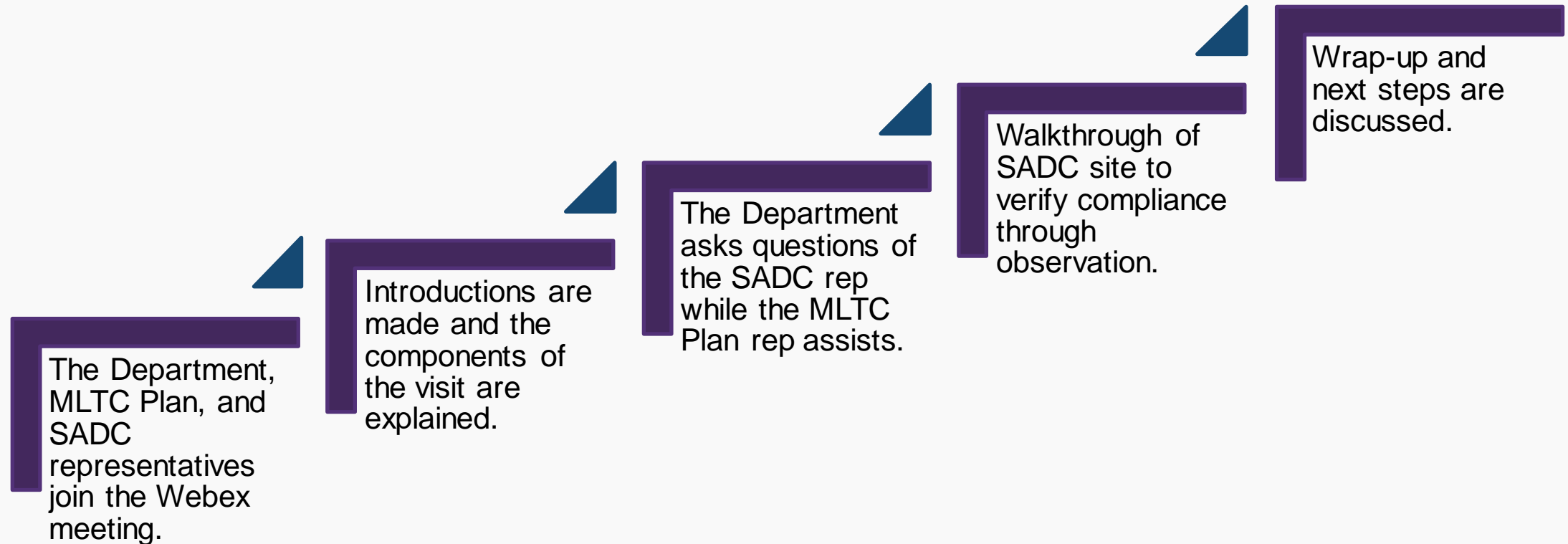


Arrive at least 30-minutes before the scheduled time, allowing time to connect to the WiFi and join the WebEx.



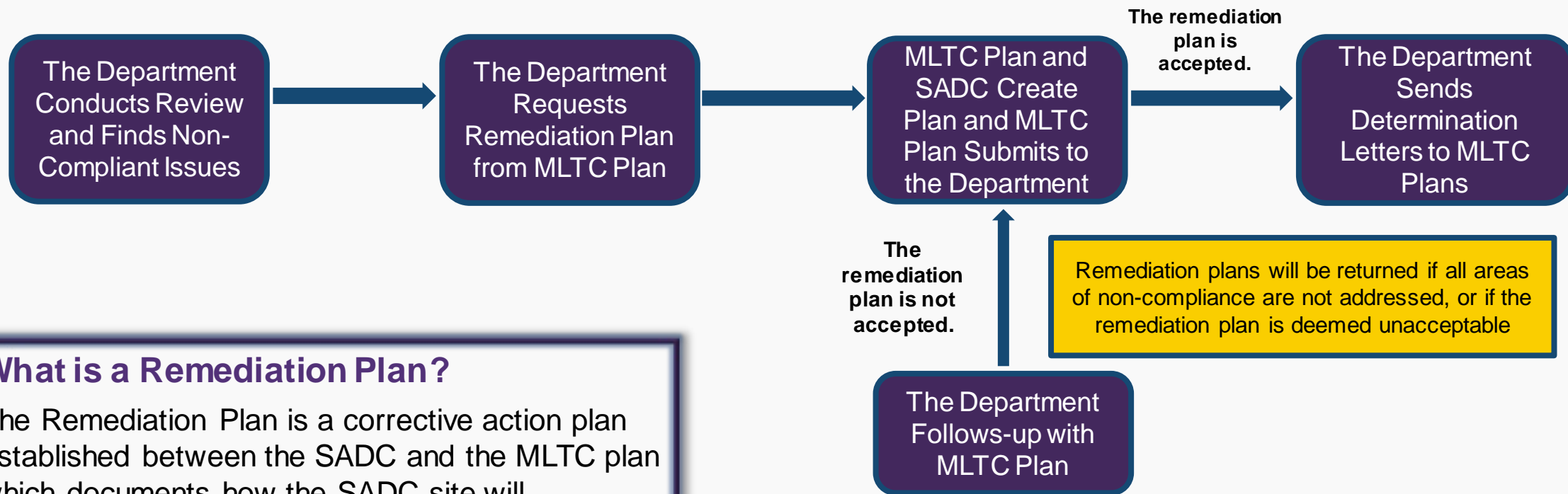
Confirm that the SADC rep is prepared and is aware of what will be asked.

HCBS COMPLIANCE REVIEW



- **Please Note:** HCBS Compliance Reviews generally take 2-hours to complete.

SADC REMEDIATION PLANS



What is a Remediation Plan?

The Remediation Plan is a corrective action plan established between the SADC and the MLTC plan which documents how the SADC site will remediate any non-compliance identified during the HCBS Compliance Review.

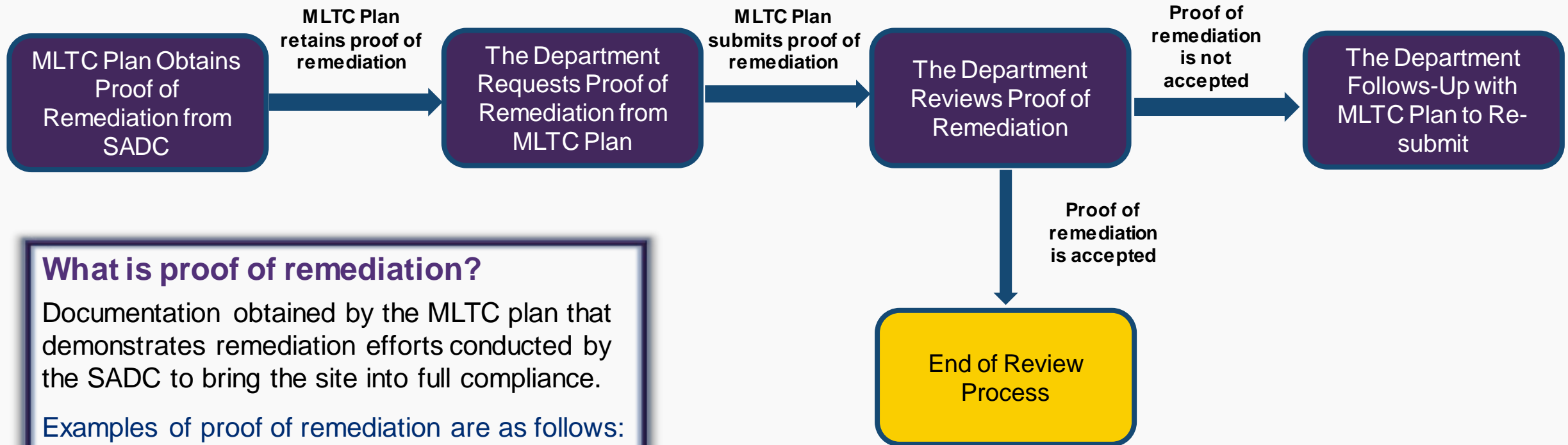
SADC REMEDIATION PLANS



- Schedule a meeting with the SADC to discuss areas of non-compliance and work with the SADC to develop an acceptable Remediation Plan.
- Submit an acceptable Remediation Plan which contains:
 - Appropriate actions to remediate EACH issue found not-compliant.
 - The target date for completing the specified actions.
 - The SADC staff member responsible for implementing the specified action(s).
- Submit the completed Remediation Plan to the Department by the due date.

▪ **Please Note:** Remediation plans will be returned if all areas of non-compliance are not addressed, or if the remediation plan is deemed unacceptable.

PROOF OF REMEDIATION



What is proof of remediation?

Documentation obtained by the MLTC plan that demonstrates remediation efforts conducted by the SADC to bring the site into full compliance.

Examples of proof of remediation are as follows:

- Updated SADC policies and procedures.
- Updated SADC PCSP template.
- Evidence of resources for participants.

PROOF OF REMEDIATION

- Retain proof of remediation efforts for audit purposes.
- Submit proof of remediation to the Department when requested.



Be sure
to...

- **Please Note:** The Department will typically request that the MLTC plan that attended the review work with the SADC to submit proof of remediation. However, all MLTC plans contracted with the SADC are responsible for ensuring the remediation actions are completed and for obtaining and retaining proof of remediation.

IDENTIFIED TRENDS FROM CY2024 REVIEWS AND BEST PRACTICES

IDENTIFIED TRENDS AND BEST PRACTICES

42 CFR 441.301(c)(4)(i):

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.



COMMUNITY INTEGRATION IS...

While attending the SADC, all participants, **regardless of their health/safety needs**, are offered opportunities to pursue their interests and goals through activities in their community, with supports coordinated by the SADC.

Example #1:

A participant who is interested in reading joins a book club at the local library and the SADC supports the participant and their family in identifying transportation.

Example #2

A participant with health/safety risks has a family member pick them up from the SADC once a month to go to lunch.

Example #3

A participant who has a goal of improving their swimming skills is supported by the SADC in signing-up for a swim class at the local YMCA, and the SADC supports the participant and their family in identifying transportation to the swim class.

SADC STAFF SHOULD...



Support participants interested in employment and volunteer opportunities outside of the SADC to apply and attend.



Encourage participants to join a community-based club or group that they are interested in and relates to their goals.



Coordinate individualized participant attendance at community events or activities in which participants express interest.



COMMUNITY INTEGRATION

Identified Trends



- In many cases, there was no evidence of community integration opportunities being offered or supported.
- Group ‘outings’ were incorrectly regarded as community integration.
- Policies and procedures related to supporting participants with health and/or safety needs in accessing the community not present, or unclear.
- Participant goals not aligned with community integration activities or vice versa.
- PCSPs documented that community activities were “declined,” but did not indicate what options were offered.
- HCBS Final Rule standards were copied directly into policy documents rather than incorporated into SADC policies and procedures to describe how the SADC implements community integration.

COMMUNITY INTEGRATION

Best Practices



- Support participants by offering information regarding community events, employment, and volunteer opportunities that directly relate to their goals and interests.
- Utilize the Person Centered Planning (PCP) process to elicit a participant's community integration goals and interests and document all opportunities offered to and chosen by the participant in the PCSP.
- Coordinate and document all necessary supports, including who is assigned to assist the participant, the transportation method for attending, etc. in the PCSP.
- Ensure all SADC policies and procedures specify how the HCBS Final Rule requirements regarding community integration are implemented at the SADC.

IDENTIFIED TRENDS AND BEST PRACTICES

42 CFR 441.301(c)(4)(iii):

Setting ensures a participant's rights of privacy, dignity and respect, and freedom from coercion and restraint.

PRIVACY, DIGNITY, RESPECT, AND FREEDOMS

CHOICE: Participants have choice in:

- Activities in which to participate.
- Meal options and times.
- Staff member(s) who render services, including personal care assistance.

PRIVACY: Participants have the right to privacy:

- When having a visitor.
- When conducting a confidential conversation.

FREEDOM: Participants have the freedom to:

- Handle their own money.
- Choose who they spend their time with.
- Access the community independently or with supports.



PRIVACY, DIGNITY, RESPECT, AND FREEDOMS

Identified Trends	Examples
<p>A participant’s right to choose their preferred staff to assist with their needs was not clearly defined in program documentation, including policies and/or PCSPs.</p>	<ul style="list-style-type: none"> ➤ Many PCSP templates do not document a participant’s preference for staff to assist with needs. ➤ Person-centered planning policies and/or Participant Rights documents do not advise participants of their right to choose a staff person of their preference, or how to go about requesting their preferred staff.
<p>Participant Rights documents contained wording that implies under some circumstances, the use of restraints, seclusion, and/or coercion could be acceptable.</p>	<ul style="list-style-type: none"> ➤ The word “unnecessary” was included in the SADC policy language which implies that there could be times when restraints, seclusion, and/or coercion would be used.
<p>Participant Rights documents and/or policies and procedures omitted information on a participant having access to their own funds and how participants were made aware of this right.</p>	<ul style="list-style-type: none"> ➤ SADC Participant Rights document did not mention a participant’s right to access their own funds, and there was no evidence that participants were notified of this right.
<p>There were limitations on participant’s rights to have visitors and privacy for confidential conversations.</p>	<ul style="list-style-type: none"> ➤ SADC visitor policies had restrictions for participant’s visitors, some SADC sites did not have a space for participants to meet privately with visitors or to have private conversations.

PRIVACY, DIGNITY, RESPECT, AND FREEDOMS

Best Practices



- If necessary, update the Participant Rights document to ensure that all rights to privacy, dignity, respect, and freedoms are documented.
- If applicable, remove the word “unnecessary,” or any similar language that implies the use of restraints, seclusion, and/or coercion could be employed.
- Ensure participants:
 - Have the choice to select which staff member provides services and support.
 - Are allowed to have visitors at any time.
 - Have the right to a private space to conduct confidential conversations with visitors, take phone calls, etc.
 - Are given a choice in who they spend their time with while at the SADC.
 - Have access to, and control over their own funds.
 - Have freedom to choose which activities they would like to participate in or to not participate.

Identified Trends and Best Practices

42 CFR 441.301(c)(4)(iv):

Setting 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.

INDIVIDUAL INITIATIVE/AUTONOMY

Identified Trends



- Physical space was cluttered causing difficulty for participants with wheelchairs or other assistive devices in moving about the facility.
- Barriers such as inoperable ramps and/or elevators impeded participants movement in and out of the facility.
- Participants not always made aware of their right to come and go from the setting without restrictions.

Best Practices



- Rearrange furniture within the setting to allow participants with wheelchairs or other assistive devices to move freely throughout the facility.
- Ensure ramps or elevators are in working order.
- Inform participants of their rights to come and go from the setting without restrictions via clearly visible signage or other means.

Identified Trends and Best Practices

42 CFR 441.301(c)(4)(vi)(c):

Setting ensures individuals have the freedom and support to control their schedules and activities; and have access to food at any time.

FREEDOM TO CONTROL SCHEDULE, ACTIVITIES, FOOD

Identified Trends



- There were no snacks available to participants throughout the day.
- There was no information to notify participants of the availability of snacks throughout the day.
- Modifications to this standard were not always documented.

Best Practices



- Make snacks available for participants throughout the day.
- Inform participants of the availability of snacks throughout the day.
- Document any modification to this standard on the participant's PCSP.

Identified Trends and Best Practices

**SADC Person Centered Service Plan
(PCSP) and Person Centered Planning
(PCP) Process Compliance**

CREATING, UPDATING, AND SHARING A PCSP

- MLTC plans are required to develop and maintain a comprehensive Person Centered Service Plan for participants that was created by the participant and the MLTC plan.
 - The PCSP is intended to be a “living” document which is updated at least on an annual basis, or more often, when there are changes in the participant’s circumstances.
 - The PCSP should be shared with all relevant service providers, including the SADC program, so that the SADC PCSP can be discussed with the participant and updated appropriately.

SADC PERSON CENTERED SERVICE PLAN

“The person-centered service plan must reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports. Commensurate with the level of need of the individual, and the scope of services and supports available.”



PERSON CENTERED SERVICE PLANS SHOULD...



Demonstrate that participants lead the PCP process, and the focus is on what is *important* to the participant, not what is *good* for the participant as determined by someone else.



Align goals with activities and community integration. Each goal should have an activity within the facility and/or in the community.



Provide support for all participants to take part in their selected activities, including those with health/safety needs.

PCSP AND PCP PROCESS

Identified Trends



- Documented goals and activities were not unique to the participant.
- Supports provided to the participant did not appropriately address the participant's needs.
- The participant's health/safety needs, and the corresponding supports to address needs, were not documented.
- The details and justification for any modifications to a participant's rights were not documented.

PCSP AND PCP PROCESS

Best Practices



- Ensure PCSPs are participant-driven, and goals and activities align with the participant's interests.
 - Providing a checklist of activities impedes on the participant's ability to choose their own interests and is not acceptable documentation.
- Prioritize what *matters* to the participant over what is deemed *good for* the participant by someone else.
- The PCSP must be updated at least annually, or sooner if there is a change in the participant's physical or mental health, or if the participant requests a change.
- Clearly define any supports needed for participants to join in their selected activities.
- Community integration goals and activities must be offered, and acceptance or declination documented.

UPDATES TO HCBS COMPLIANCE REVIEW QUESTIONS FOR CY2025

UPDATES TO VERIFICATION QUESTIONS FOR CY2025

For CY2025, some questions with multiple parts were divided so that the individual components could be assessed independently.

Example

➤ **CY2024 Question:**

- Does the setting support members to: Make their own decisions? Associate with others? Access their money?

➤ **CY2025 Revised Questions:**

- Does the setting support members to make their own decisions on their daily schedules and activities?
- Does the setting support members to associate with whom they choose?
- Does the setting support members to access their money?

UPDATES TO PCSP REVIEWS FOR CY2025

For CY2025, there will be a more comprehensive review of participant's PCSPs, including an evaluation of how the PCSP template was completed.

PCP Process

- The questions in this standard ask whether the PCP process was conducted appropriately.
 - Ex: Are the goals indicated on the PCSP personalized to the participant?

PCSP Completion

- The questions in this standard ask whether the PCSP template was completed fully and accurately.
 - Ex: Does the PCSP document pertinent diagnoses, health issues and/or conditions for the member?

NEW RESOURCES AVAILABLE FOR CY2025



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UPDATED SADC/SADS PCSP TEMPLATE

- The Department collaborated with the NYS Office for the Aging (NYSOFA) to release an updated SADS/SADC PCSP template on 10/11/2024.
- The 'Personal Care Preference' section on page 3 of the template has been expanded to document whether the SADC can accommodate a participant's preference for who provides their personal care.

Personal Care Preference
Does the participant have a preference of who provides their personal care assistance? (ex. A female participant may prefer a female staff member assist her with toileting personal care needs.) <input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, describe what the preference is: <small>Click or tap here to enter text.</small>
If the participant has a personal care preference, can the SADC accommodate this preference? <input type="checkbox"/> Yes <input type="checkbox"/> No
If no, was the participant notified that their preference could not be accommodated either prior to selecting the SADC or at the time their preference could no longer be accommodated AND was the participant given the option to choose a different SADC provider based on this limitation to their rights? <input type="checkbox"/> Yes <input type="checkbox"/> No

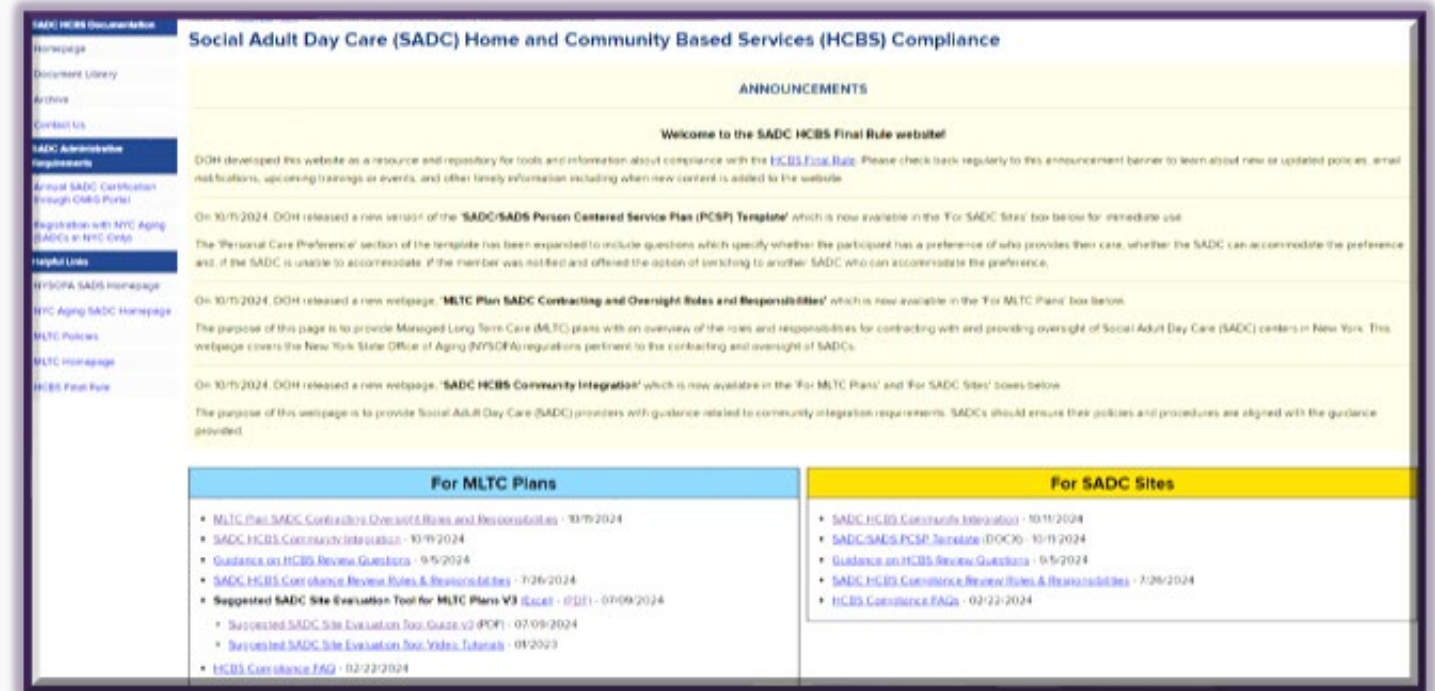
Note: A SADC/SADS PCSP template user guide is currently being developed.

SADC HCBS COMPLIANCE WEBSITE

➤ On May 15, 2024, the SADC HCBS Compliance website went live.

➤ This website was developed as a resource and repository for tools and information about compliance with the HCBS Final Rule.

➤ MLTC plans and SADC sites should frequent the site to access new or updated policies, email notifications, upcoming trainings or events, and other timely information including announcements when new content is added to the website.



WEBSITE RESOURCES FOR MLTC PLANS AND SADCS

Helpful resources housed on the SADC HCBS Compliance website include:

[MLTC Plan SADC Contracting Oversight Roles & Responsibilities](#)

- ❑ The purpose of this page is to provide MLTC plans with an overview of the roles and responsibilities for contracting with and providing oversight of SADC sites in New York.

[SADC HCBS Compliance Review Roles & Responsibilities](#)

- ❑ The purpose of this webpage is to provide an overview of the HCBS compliance review process and roles and responsibilities of the Department, MLTC plans, and SADC sites at each phase of the review.

WEBSITE RESOURCES FOR MLTC PLANS AND SADCS

[SADC HCBS Community Integration](#)

- ❑ The purpose of this webpage is to provide SADC providers with guidance related to community integration requirements. SADCs should ensure their policies and procedures are aligned with the guidance provided.

[Guidance on HCBS Compliance Questions](#)

- ❑ The purpose of this webpage is to provide guidance to SADC sites regarding compliance with CMS HCBS Settings Final Rule standards.

[HCBS Compliance Review FAQ](#)

- ❑ A compilation of frequently asked questions for MLTC plans relating to HCBS settings final rule compliance.

THANK YOU!

THE RECORDING OF TODAY'S PRESENTATION WILL BE SHARED SOON.

THE DEPARTMENT WILL REVIEW ALL QUESTIONS RECEIVED DURING THE PRESENTATION AND

ANY ADDITIONAL QUESTIONS MAY BE DIRECTED TO:

HCBSADC SITEASSESSMENTS@HEALTH.NY.GOV



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