



## Social Adult Day Care (SADC) Home and Community Based Services (HCBS) Compliance Review Process Roles & Responsibilities

The purpose of this document is to provide an overview of the Home and Community Based Services (HCBS) compliance review process and the roles and responsibilities of the New York State Department of Health (The Department), Managed Long Term Care (MLTC) plans, and Social Adult Day Care (SADC) sites within each phase of the review. Click below to expand information on the phase of the review you would like to learn more about.

**Note:** This document solely addresses SADC HCBS compliance reviews. You may visit the [New York State Office for the Aging](#) (NYSOFA) website for more information about Social Adult Day Services (SADS) oversight requirements

### HCBS Final Rule

All SADC sites contracted with MLTC plans must be reviewed annually to ensure initial and ongoing compliance with the [Centers for Medicare and Medicaid \(CMS\) Home and Community Based Services \(HCBS\) Settings Final Rule](#). The Department is responsible for verifying compliance by evaluating SADC documentation, policies, procedures and through comprehensive assessment of the SADC Person Centered Service Plan.

The HCBS Final Rule requires all Home and Community Based Settings meet the following requirements:

- 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.
- Setting ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint.
- 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.
- Setting facilitates individual choice regarding services and supports, and who provides them.
- Setting ensures individuals have the freedom and support to control their schedules and activities; and have access to food at any time.
- Setting ensures individuals can have visitors of their choosing at any time.
- Setting is physically accessible to the individual.

### Scheduling and Requesting Documentation

The HCBS compliance review process begins with a request from the Department to the MLTC

plan to schedule a date and time for the HCBS compliance review. The request is sent six weeks in advance, and whenever possible, the Department attempts to schedule reviews to coincide with the MLTC plan's annual site evaluations. The MLTC plan should respond to the request from the Department within three (3) business days to confirm the SADC's selected date and time for the review and include the names of the MLTC plan and SADC representatives who will attend. Unfortunately, the Department is unable to accommodate requests for alternate dates and times due to the large number of reviews to complete in a specified timeframe.

**Note:** If the MLTC plan does not have any members enrolled at the SADC, please inform the Department at this stage of the process.

The Department will send an email to the MLTC plan to confirm the selected date and time for the review. This email will also include a copy of the SADC HCBS compliance review questions. It is the expectation of the Department that the MLTC plan representative review the questions with the SADC representative prior to the day of the visit. Further, the MLTC plan representative should confirm that the SADC representative understands the purpose of the review, and all the requirements being verified for compliance.

A subsequent email will be sent to the MLTC plan requesting a member roster, the SADC HCBS Compliance Member Experience Survey and a preliminary documentation checklist. MLTC plans should use the checklist to ensure that all required documents are submitted to the Department within ten business days of receiving the request.

The MLTC plan should reach out to the SADC for any documents needed from the preliminary information checklist. Prior to submitting the documents to the Department, the MLTC plan must review them for accuracy, including that the SADC has submitted the most current versions of the requested documents and that documents have been translated into English, if necessary. Additionally, in instances where documents contain handwriting (such as PCSPs), make sure the handwriting is clear and legible before submitting to the Department for review. All documents should be received by the due date.

**Note:** If the SADC representative has any questions about the compliance review process, they should submit their questions to the MLTC plan representative.

## The Department Responsibilities

- Email the MLTC plan to offer two potential dates and times for the compliance review.
- Send a Webex invitation to the MLTC plan representative(s) for the agreed upon date and time.
- Request preliminary documentation, including member experience surveys and completed PCSPs, from the MLTC plan.
- Review supporting documentation for adequacy and request additional or missing information, if necessary.

## MLTC Plan Responsibilities

- Contact the SADC to choose a preferred date/time for the review and confirm with the Department within three (3) business days.
- Ensure the SADC's understanding of the purpose for the compliance review and all



standards to be verified.

- Complete the SADC HCBS Compliance Member Experience Survey with the SADC member.
- Verify the following, prior to the day of the compliance review:
  - The SADC has an adequate Wi-Fi connection.
  - A translator is available to assist, if necessary. A translator can be a trusted third-party vendor or someone the MLTC plan has identified with the skills to provide in-person translation service.
  - The SADC has a fully charged, video capable device to log into the Webex meeting.
  - Collect all necessary supporting documentation, review them for compliance, and submit to the Department by the due date.
- Respond timely to any further requests for information from the Department.
- The MLTC plan is responsible for keeping all the SADC records (site visit records and documents ex. certificate of occupancy) and should be ready to produce them when requested within two (2) business days by the Department.

**Note:** Review the Department's expectations and the compliance review questions that will be asked during the compliance review with the SADC representative before the visit.

## SADC Responsibilities

- Select and confirm the date and time for the compliance review with the MLTC plan the from the options provided by the Department.
- Understand the purpose of the SADC HCBS compliance review and all applicable HCBS standards.
- Schedule a meeting with the MLTC plan representative to get answers to questions regarding the HCBS compliance review process and the SADC HCBS compliance review questions.
- Verify the following, prior to the day of the compliance review:
  - There is an adequate Wi-Fi connection.
  - Work with the MLTC plan to arrange for a language translator (if necessary). A translator can be a trusted third-party vendor or someone the MLTC plan has identified with the skills to provide in person translation service.
  - Ensure there is a is fully charged video capable device available to log into the Webex meeting.
- Provide the most recent version of ALL necessary supporting documentation to the MLTC plan by the due date and have duplicate copies of the documents ready on the day of the review.

## During the SADC HCBS Compliance Review

On the day of the visit, the MLTC plan and SADC representatives should arrive at least fifteen minutes before the review start time to set up for the meeting.



SADC HCBS compliance reviews may take up to three hours. During the interview portion of the review, MLTC plan representatives may assist SADC staff by offering clarification to questions/answers when needed and take notes or photos if necessary. Occasionally, reviewers will request additional supporting documentation during the visit. MLTC representatives should catalogue any such requests and submit to the Department by the agreed upon date.

For example, the reviewer may observe information regarding public transportation that was not previously submitted to the Department on the SADC bulletin board. The reviewer can request for the MLTC to take a picture of the missing information and submit to the Department after the HCBS compliance review. The MLTC should be taking photos of anything that requires remediation during the visit. During the site walkthrough, the MLTC and SADC representatives should be able to provide the reviewer with explanations and answers related to the observations that are made.

## The Department Responsibilities

- Log-in to the Webex at least fifteen minutes before the visit start time.
- Conduct SADC site interview with the SADC and MLTC plan representatives.
- Walk through the facility to verify site compliance.
- Take notes of any questions or concerns and/or missing documents to be requested.

## MLTC Plan Responsibilities

- Arrive for the visit at least fifteen minutes before the visit start time.
- Assist the SADC representative during the interview portion of the HCBS compliance review by clarifying questions posed by the by the Department reviewer.
- Note any missing documents requested by the Department and submit by the agreed upon date.
- During the walkthrough portion of the HCBS compliance review, take photos as requested by the reviewer.
- Take photos of any area that requires remediation.

## SADC Responsibilities

- Answer the questions from the Department's reviewer with clarity.
- Direct the reviewer to all areas of the building that are utilized by members.
- Be prepared to show copies of documents requested during the visit.
- Take notes of any questions or concerns and/or missing documents that may be requested by the Department's reviewer.

## Post SADC HCBS Compliance Review Activities

After the compliance review, the Department reviewer will determine compliance based on all the information gathered. During that period, the reviewer may request additional documentation to be submitted by an agreed upon due date.

**Compliant:** When the SADC is found compliant with all HCBS Final Rule standards and the

SADC has met [New York State Office for Aging \(NYSOFA\)](#) compliance regulations, all MLTC plans contracted with the SADC will be notified. The SADC HCBS compliance review process is complete for that year.

**Not Compliant:** If the Department identifies areas of non-compliance with the HCBS Final Rule standards the MLTC plan that attended the HCBS compliance review will be informed of the determination, and a remediation plan request will be sent to the plan.

Note: See [Proof of Remediation Handling](#) for the responsibilities of all contracted MLTC plans.

## The Department Responsibilities

- Complete a thorough review of the SADC using all information gathered before and during the on-site review.
- Request more information if needed.
- Inform the MLTC plan of compliance findings.
- Request a remediation plan from MLTC plan if needed.

## MLTC Plan Responsibilities

- Submit any missing documents or photos requested by the Department.
- Inform the SADC of compliance findings and, if a remediation plan is requested, meet with the SADC and work with them to develop an acceptable remediation plan.

## SADC Responsibilities

- Submit any documents to the MLTC plan that were requested by the Department.
- Work with the MLTC plan to develop an appropriate remediation plan, if required.

## Remediation Plan Request and Handling

If the SADC was determined to be non-compliant in one or more areas, the MLTC plan that attended the SADC HCBS compliance review will be notified of the determination and a remediation plan request will be sent to them. The remediation plan is an action plan established between the SADC and the MLTC plan which contains detailed steps on how the SADC site will remediate any areas of non-compliance identified during the HCBS Compliance Review. The MLTC plan and SADC should collaboratively develop a remediation plan that will bring the SADC site into compliance and submit it to the Department within ten business days.

For detailed guidance on the remediation plan process, please review the [Guidance on Remediation Plan and Proof of Remediation](#) webpage on the SADC HCBS compliance website.

Once the remediation plan is approved by the Department, all MLTC plans contracted with the SADC will be notified of the determination and will receive the approved remediation plan for their records.



## The Department Responsibilities

- Send a remediation plan request which identifies areas of non-compliance to the MLTC plan that the HCBS compliance review.
- Review the submitted remediation plan to verify that it contains all necessary actions to bring the SADC into compliance.
- Send final determination letters with a copy of the remediation plan, to all MLTC plans contracted with the SADC.

## MLTC Plan Responsibilities

- Collaborate with the SADC to create a remediation plan which addresses all areas of non-compliance.
- Submit the completed remediation plan to the Department within ten business days.
- Respond promptly to any other requests from the Department.
- Submit proof of remediation to the Department when requested.

**Note:** All MLTC plans contracted with the SADC are responsible for ensuring remediation activities are implemented, for obtaining proof of completion, and monitor ongoing compliance.

## SADC Responsibilities

- Work with the MLTC plan to develop an appropriate remediation plan to address all areas of non-compliance.
- Submit the completed remediation plan to the MLTC plan.
- Ensure the remediation plan is implemented.
- Submit proof of remediation to the MLTC plan, when requested.

## Proof of Remediation Handling

Proof of remediation is documentation or other evidence which demonstrates that the actions described in the approved remediation plan have been completed. The Department will request proof of remediation after the target completion date indicated on the remediation plan. For example, if a SADC indicates that the actions to remediate non-compliance will be fully implemented by December 13<sup>th</sup>, 2024, the request for proof of remediation will be sent after that date.

For detailed guidance on the proof of remediation process go to the [Guidance on Remediation Plan and Proof of Remediation](#) webpage on the SADC HCBS compliance website.

Once the remediation plan is approved, all MLTC plans contracted with the SADC will be notified of the determination and will receive the approved remediation plan for their records. All plans are responsible for collecting and saving documentation relating to proof of remediation. Ex. If there is a missing menu on the bulletin board and the SADC indicates in the remediation plan that they will add the menu to the bulletin board. It is the responsibility of **ALL** contracted MLTC plans to collect proof of the remediated action (in this example, a photograph of the menu

on the bulletin board).

## The Department Responsibilities

- Request proof of remediation from MLTC plan.
- Review submitted proof of remediation for compliance.
- Inform the MLTC plans of acceptance or non-acceptance of the proof of remediation.
- Request additional proof of remediation if needed.

## MLTC Plan Responsibilities

- Collect and submit proof of remediation to the Department when requested.
- Retain proof of remediation for audit purposes.
- All MLTC plans contracted with the SADC are responsible for ensuring the remediation actions are implemented and obtain proof of these actions. This applies to all contracted MLTC plans even if they did not attend the site visit where the remediation issue was identified.
- Monitor the SADC for ongoing compliance with the HCBS Final Rule requirements.

## SADC Responsibilities

- Submit proof of remediation to the MLTC plan when requested.
- Maintain compliance with the HCBS Final Rule requirements.