NEW YORK STATE | **Department of Health**

Guidance on Home and Community Based Services (HCBS) Compliance Review Questions

The purpose of this document is to provide guidance to Managed Long Term Care (MLTC) plans and Social Adult Day Care (SADC) sites regarding compliance with Centers for Medicare and Medicaid (CMS) Home and Community Based Services (HCBS) Settings Final Rule standards and other state and federal requirements, such as annual certification through the Office of the Medicaid Inspector General (OMIG) and registration with New York City (NYC) Department for the Aging (SADCs in NYC only).
Each section below can be expanded to learn more about the standard.

Note: The following Centers for Medicare and Medicaid Services (CMS) standards are not reviewed at the SADC level, and therefore, not included:

- 42 CFR 441.301(c)(4)(ii)
  - This requirement is completed by the Managed Long Term Care (MLTC) Plan during the person-centered planning process.
- 42 CFR 441.301(c)(4)(vi)(A) & 42 CFR 441.301(c)(4)(vi)(B)
  - These standards are not applicable to SADCs as they are non-residential programs.

Prong 1 and 2: Institutional Characteristics

Standard **42 CFR 441.301(c)(5)(v)** of the HCBS Final Rule states a SADC setting "*will be presumed to be a setting that has the qualities of an institution unless the Secretary determines through heightened scrutiny, based on information presented by the State or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.*"

Purpose of the Standard:

New York State has an obligation to identify settings that are presumed institutional. The New York State Department of Health (the Department) requires settings to be compliant with both Prong 1 and Prong 2 for the standard to be met. If a setting is determined to be either Prong 1 or Prong 2 and is found to be partially compliant or non-compliant, the site is identified and referred for heightened scrutiny.

CMS HCBS Settings Standard Description:

Prong 1

Is the setting in a publicly or privately operated facility that provides inpatient institutional treatment?

Compliance Criteria:

If the SADC is in a publicly or privately operated facility that provides inpatient institutional treatment, the SADC must be able to demonstrate that it operates independently of the institution and does not have institutional characteristics to be compliant.

Based on evidence submitted by the Department, CMS will determine if the evidence provided confirms that a setting does not have institutional characteristics and does have the qualities of home and community-based settings.

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Prong 2

Is the setting in a building on the grounds of, or adjacent to, a public institution?

Compliance Criteria:

If the SADC is located on the grounds of, or is adjacent to, a public institution, the SADC should be able to demonstrate that it operates independently of the institution.

Based on evidence submitted by the Department, CMS will determine that a setting does not have institutional characteristics and does have the qualities of home and community-based settings.

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

CMS HCBS Settings Standard Description:

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.

Purpose of the Standard:

CMS Standard 42 CFR 441.301(c)(4)(i) is designed to measure SADC compliance in supporting members rights to community integration and how members are informed of community integration opportunities. The Department requires compliance with all twelve (12) questions below for this standard to be met.

Q1.

Does the SADC allow members to attend and participate in individualized community activities, for the amount of time desired by the members?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are provided with options for individualized activities, outside of the facility, based on their interests, and for the amount of time desired.

- SADC documentation such as written policies, a Member Handbook given to all members, or signage posted within the facility, must clearly indicate that members are made aware of their right to participate in individualized community activities of their choice, for the amount of time they desire.
- The SADC must not institute general restrictions or limitations on a member's ability to

participate in individualized community activities based on the health or safety needs of other members attending the SADC.

Notes:

- It is not compliant if any documentation such as written polices, a Member Handbook or signage posted within the facility states there is a limitation on the amount of time a member can spend participating in individualized community activities. It is not compliant if the SADC does not allow members to attend and participate in individualized community activities.

More information related to compliance with community integration standards can be found here: [Community Integration webpage](#).

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Q2.

Is information regarding transportation available to members in a convenient manner?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that public transportation information, such as bus and subway routes, taxi services, ride shares, and walking instructions/maps from SADC to closest public transit stop(s) are made available to members to assist them to independently access the community. This information can be provided to members via the member handbook, signage posted within the facility or other relevant documentation.

Notes:

It is not compliant if the SADC does not notify its members about public transportation options. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

- It is important that member materials are in a format (ex: print and electronic) and language that is accessible to the member.
- If no public transportation exists, it is important that the SADC supplies members with information regarding alternate transportation options including any available support from the SADC or MLTC plan.

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Q3.

Does the setting support members to access their money?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are aware of their right to access their own money. The SADC may use any of the following means to inform members (it is preferable to have multiple notification methods) that they have access to their own money:

- Documentation such as a Member Handbook.
- Specific HCBS and/or SADC policy that informs members of this right.
- Signage or notifications placed in common areas throughout the facility.

Note:

It is not compliant if the SADC does not have a Member Rights document, a specific HCBS and/or SADC policy that informs members of this right. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation. In addition, it is not compliant if the SADC does not support members to access their money.

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Q4.

Does the SADC make members aware of their right to integrate into the greater community?

Compliance Criteria:

To be compliant, SADC documentation should clearly indicate how members are informed of their right to integrate into the greater community.

The SADC may use any of the following means to inform members of their right to integrate into the greater community:

- Documentation such as a Member Handbook.
- Signage or notifications placed in common areas throughout the facility.

Note:

It is not compliant if the SADC documentation, or internal policies shared with members. Additionally, it is not compliant if the SADC does not have a members rights document, a specific HCBS and/or SADC policy that informs members of this right, or if there is no signage or notifications placed in common areas to inform members of this right.

- More information related to compliance with community integration standards, including the difference between group outings and individualized activities can be found here: Community Integration webpage.
- More information on what must be included in the member rights document can be found in the member rights notification dated 4/25/2025.

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Q5.

Does the SADC support members who seek opportunities and activities within the greater community?

Compliance Criteria:

To be compliant, the SADC must support members in identifying opportunities and activities within the greater community by providing at least the following information:

- Various opportunities and activities occurring within the greater community.
- Available supports and how to request them, if needed, to participate in their selected activity independently.
- How to get support to identify opportunities within the community.

The SADC may use any of the following means to provide this information to members:
- Documentation such as a Member Handbook and written policies.
- Signage or notifications placed in common areas throughout the facility.

Notes:

It is not compliant if the SADC does not support members who seek opportunities and activities within the greater community and/or if members are not aware of this option. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation. The SADC must not limit the member to a predetermined list of opportunities.

- Group outings and activities conducted at the SADC are not considered individual community integration.

More information related to compliance with community integration standards can be found here: Community Integration webpage.

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Q6.

Does the SADC make members aware of their right to seek competitive employment and work or volunteer opportunities?

Q7.

Does the SADC support members who wish to seek competitive employment and work or volunteer opportunities?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are informed of and supported in, their right to seek competitive employment and work or volunteer opportunities.

The SADC must inform and support members by providing the following information:

- How members can communicate their interest in an employment and/or volunteer opportunity.
- How they can request support in identifying or attending employment and/or volunteer opportunities.
- Posting opportunities in public areas.

Notes:

It is not compliant if the SADC does not notify or support members in their right to seek competitive employment and work or volunteer opportunities. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

- Working or volunteering at the SADC is not considered a compliant employment or work/volunteer opportunity.
- The SADC may support members in pursuing work and/or volunteer opportunities by referring them to their MLTC plan care manager for assistance, however, this cannot be the only identified support.

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Q8.

Does the SADC allow members, who are known to be safe and competent, the freedom to move about the setting, including the freedom to go outside as they choose?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that there are no restrictions that prevent members from moving about the setting or coming and going from the facility as they choose. This is true even if members at the SADC have a diagnosis that presents a health and/or safety risk such as dementia or Alzheimer's disease, which may necessitate a restriction on freedom of movement. The SADC documentation must contain language which confirms that members who are known to be safe and competent have freedom of movement inside and outside of the facility.

Note:

It is not compliant if the SADC does not allow members who are known to be safe and competent to move about the facility freely and/or if members are not aware that they can move freely about the facility. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

- The SADC must not institute general restrictions that limit members movements.

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Q9.

Does the site allow members to receive services or attend appointments in the community?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that there are no restrictions on a member's ability to receive services or attend appointments in the community. Services and/or appointments should not be limited in any way.

Notes:

It is not compliant if the SADC restricts members from receiving services or attending appointments in the community and/or if members are not aware of this option.

- Services and appointments may include health (physical, behavioral, etc.), or community (DMV, LDSS, etc.) visits and appointments.
- Services and appointments should not be limited in any way.

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The following questions are specific to the review of Person Centered Service Plans (PCSP).

The Department has developed an HCBS Final Rule compliant SADC/SADS PCSP template. This template is a care planning tool that can be used to ensure the person-centered planning (PCP) process is performed appropriately per HCBS Final Rule requirements.

The Department encourages the use of the template [SADC/SADS PCSP Template](#) however, if a SADC chooses to use an alternative template, that template must contain at minimum, the same questions equivalent to the state issued template.

For further information, please see the [SADC/SADS PCSP Template User Guide](#) for guidance on completing the state issued PCSP.

Q10.

Does the PCSP document the supports needed for the member to attend community activities?

Compliance Criteria:

To be compliant, the SADC PCSP must indicate whether the member needs support to attend their chosen community activities. If so, the PCSP must also document all the support/s needed for the member to participate in the activities listed on their PCSP. Any supports required must be appropriate for the member per their diagnosis and safety needs.

Note:

It is not compliant if the SADC does not document the supports needed and/or provided to the member in the PCSP.

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Q11.

Does the site support the integration of the member with the community, even if there are health/safety risks which need personalized support for the member?

To be compliant, the SADC PCSP must indicate if the member has any health or safety needs based on diagnoses, the member's capacity for independence, activities for daily living (ADLs) supports, and the community integration opportunities that were offered to the member regardless of health/safety risks. The SADC PCSP must indicate what supports are needed and given to the member to safely participate in community integration activities. The SADC should ensure that there are no general restrictions for community activities due to a member's health or safety needs.

Notes:

It is not compliant if the SADC does not provide supports members need to participate in community integration activities.

- The SADC PCSP must clearly list all the supports that members need to participate in community integration activities.
- The SADC PCSP should indicate If a member's guardian/caretaker restricts community integration activities because of a diagnosis/condition.

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Q12.

Does the PCSP document if the member is interested in working and/or volunteering and if so, detail the work and/or volunteer opportunity(s) they are pursuing?

To be compliant, the SADC PCSP must document the member's interest in working and/or volunteering. If the member is interested in work and/or volunteer opportunities, the PCSP must also document what the opportunity is, including details about the frequency of the activity or

schedule, and what supports are provided. If the member declines the opportunity, or is unable to work and/or volunteer, the PCSP must document the reason why.

Note:

- It is not compliant if the SADC PCSP does not indicate the member was offered opportunities and their level of interest in working and/or volunteering.
- It is not compliant if the SADC PCSP indicates that supports are required for the member to attend the work/volunteer activity and the supports are not documented.
- It is not compliant if the SADC PCSP indicates the member is unable to work and/or volunteer; but does not include the reason.

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

CMS HCBS Settings Standard Description:

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

Purpose of the Standard:

CMS Standard 42 CFR 441.301(c)(4)(iii) requires the SADC's compliance with supporting individual members rights to privacy, dignity, respect, and freedom from coercion and restraint, and how members are informed of these rights. To comply with this standard, the Department requires compliance with all eight (8) questions below.

Q1.

Does the SADC provide a private dining space if requested by a member?

Compliance Criteria:

To be compliant, the SADC should have a private dining space or area available for members upon request, and members must be made aware that the private dining space is available for use and how to request the space if needed.

SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

Note:

It is not compliant if the SADC does not provide a private dining space to members who request it and/or if members are not aware that they have the option to request a private dining space. A private space does not necessarily mean a room with a closed door, it can be a makeshift space that is created as needed or a designated area away from others.

Q2.

Does the site ensure member information (medical, diet information, etc.) is kept private/confidential?

Compliance Criteria:

To be compliant, the SADC must have a designated area to securely store member files and personal information. The SADC should ensure members' information is kept in a locked cabinet, or in an office that is only accessible to SADC staff.

Note:

It is not compliant if the SADC does not ensure that members' information is kept private/confidential.

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Q3.

Is there a private space for members to have discussions on health or personal matters?

Compliance Criteria:

To be compliant, the SADC must maintain a private area in which to conduct any private or personal conversations with members. The space does not need to be a separate room, but it does need to provide privacy for members.

Note:

It is not compliant If the SADC does not have a private space for members to have discussions on health and personal matters.

- A private space does not necessarily mean a room with a closed door, it can be a makeshift space, that is created when needed, or a designated area away from others.

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Q4.

Does the site provide the opportunity and space for all members to do activities such as speaking on the telephone and visiting with others in private?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are provided with the opportunity and space to speak on the telephone and visit with others privately. Members must be made aware of the space available and informed of how to use or request the space, if they cannot access it freely. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

Note:

It is not compliant if the SADC does not provide the opportunity and space for members to speak on the phone and visit with others in private and/or if members are not aware of this option.

- A private space does not necessarily mean a room with a closed door, it can be a makeshift space that is created when needed or a designated area away from others.

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Q5.

Does the SADC ensure that a member's behavior does not impede on the rights of other members?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that there are processes and procedures in place to ensure that individual member rights are not impacted because of another member's behavior or caused by the supports another member may require.

The following SADC documentation must contain language which confirms that the SADC has a procedure in place and staff are trained on handling behavioral issues:

- Behavior management policy/procedure.
- Staff training policy.
    - Such policies must outline intervention processes, or evidence of behavior management (or other similar training) completed by the staff.

Note:

It is not compliant if the SADC cannot provide documentation of policies and procedures, or that staff are trained in behavioral techniques, geriatric behavioral health, or other related topics.

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Q6.

Does the staff interact and communicate with members respectfully and in a manner in which the member would like to be addressed at all times?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that staff interact and communicate with members respectfully and in the manner requested by the member.

- SADC staff must avoid using "elderspeak" in their interactions with members.
- Interactions between the members and staff should be respectful, and staff should be attentive and not speak to members in a harsh tone of voice.
- Members should be identified by their preferred name and in their preferred language they indicated during the person centered planning process.

The following SADC documentation must contain language which confirms that members have the right to be treated with respect and dignity:

- The Member Rights document.
- SADC program policies.
- Staff training documents.

Note:

It is not compliant if the SADC is unable to provide documented training on the topic of caring for the elderly or if it is found that staff have inappropriate interactions or communication with members. It is also not compliant if any program policies contain language that suggest members are not treated with dignity and respect.

Visit the [Person Centered Planning and Practice Resource Library](#) for trainings and resources related to interacting and communicating with members.

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Q7.

Do members have the right to be free from all abuse and harm, including but not limited to, physical or chemical restraints, seclusion, coercion, and neglect?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are free from all harm and abuse, the use of restraints (chemical and physical), verbal and physical abuse, intimidation, discrimination, seclusion, neglect, and coercion.

The SADC must ensure that at least the following documentation can be provided for verification:

- The Member Rights document (this needs to be publicly posted in the facility).
- The Member Handbook.
- Person Centered Planning Policy.
- HCBS Policy.
- Signage or notifications placed in common areas throughout the facility.

Note:

Words such as "unnecessary" or "when necessary" should never be used when describing members' rights. For example, "members have a right from unnecessary harm, abuse, seclusion" is not compliant because it suggests that there are times when such abuse would be used.

It is not compliant if language in multiple areas such as the Member Rights, written policies, and signage do not explicitly indicate that SADC members have the right to be free from all harm and abuse such as, physical and chemical restraints, verbal and physical abuse, intimidation, discrimination, coercion, seclusion, and neglect.

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The following question is specific to the review of Person Centered Service Plans (PCSP).

The Department has developed an HCBS Final Rule compliant SADC/SADS PCSP template. This template is a care planning tool that can be used to ensure the person-centered planning (PCP) process is performed appropriately per HCBS Final Rule requirements.

The Department encourages the use of the [SADC/SADS PCSP Template](#) however, if a SADC chooses to use an alternative template, that template must contain at minimum, the same questions equivalent to the state issued template.

For further information, please see the [SADC/SADS PCSP Template User Guide](#) for guidance on completing the state issued PCSP.

Q8.

Does the PCSP document the member's preference in regard to who provides their personal care assistance?

Compliance Criteria:

To be compliant, the SADC PCSP must document the member's preference for personal care assistance. This does not refer to a specific person, but rather a characteristic that the member may prefer for who provides services. For example, a female member may prefer a female staff member to help with toileting and continence needs. This question cannot be left blank even if the member has no preference, the SADC PCSP should indicate "No preference."

Note:

It is not compliant if the SADC PCSP does not indicate member's preference for personal care and if that field is left blank. Further, If the SADC uses a PCSP template that is different from the suggested SADC PCSP template, that template must have all the same fields. It is not compliant, if the PCSP template does not have space to indicate member preference for personal care assistance.

If the SADC/SADS cannot accommodate the participant's preference, the participant must be notified and given the option to choose a different SADC/SADS program which could accommodate their preference.

The notification should occur prior to enrolling in the SADC/SADS, otherwise, the participant should be notified when the SADC/SADS can no long meet the participant's preference.

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

CMS HCBS Settings Standard Description:

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.

Purpose of the Standard:

CMS Standard 42 CFR 441.301(c)(4)(iv) is designed to measure the SADC's compliance with supporting individual member rights to autonomy and independence in making life choices. To comply with this standard, the Department requires compliance with all ten (10) questions below.

Q1.

Does the site allow individuals' movement with none of the following barriers: gates, locked doors, fences?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that there are no restrictions which prevent members from moving about the setting or accessing outside space as they choose. The SADC must also demonstrate that members are informed of their right to freely move about the facility.

Members should have free access to all areas of the SADC facility that is designated for program use. Barriers such as locked doors, locked gates or fences should not be utilized.

Note:

It is not compliant if the SADC places barriers that prevent members from freely moving about the facility.

Q2.

Does the site offer options for members to meet physical environment goals and needs?

Compliance Criteria:

To be compliant, the SADC should consider its member capacity and physical space available for use to ensure all members' physical goals and needs are met.

- The SADC must ensure that the space can accommodate all members in attendance and the members can navigate designated areas while using wheelchairs, rollators, or other assistive devices.

Note:

It is not compliant if the SADC does not provide enough space to meet members' physical and environmental goals and needs or cannot accommodate mobility devices.

Q3.

Does the SADC afford opportunities for member activities that focus on the needs and desires of the members served?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are afforded opportunities for activities based on their needs and desires. Members should be able to contribute suggestions and feedback and express their preferences for activities they would like.

Note:

It is not compliant if the SADC does not provide opportunities or activities that focus on the needs and desires of the members served or if members are not aware of the option to suggest their preferred activities.

Q4.

Does the setting support members to make their own decisions on their daily schedules and activities?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are supported in making their own decisions regarding their daily schedules and activities.

While many SADCs create a daily schedule for planning purposes, members should know that they are not restricted by a schedule, and they can decide how to spend their time at the SADC. It is important that members are informed of their choices upon enrollment and regularly thereafter. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

Note:

It is not compliant if the SADC does not support members to make their own decisions on their daily schedules or if members are not aware of this option.

- The SADC should be prepared to support members who choose not to participate or choose to participate in a different activity at any time.

Q5.

Does the setting support members to associate with whom they choose?

Compliance Criteria:

Members who attend SADCs should be allowed to associate with whomever they choose to, and for however long they choose to. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

Note:

It is not compliant if the SADC does not support members to associate with whom they choose or if members are not aware of this option. It is not compliant if documentation such as a Member Handbook or signage do not indicate that members may associate with whom they choose.

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Q6.

Does the SADC provide information to members about how to make a request to make changes to their SADC PCSP?

Compliance Criteria:

To be compliant, the SADC must ensure that members are aware of their right to request changes to their service plans, including updating their preferences, goals, activities, or services, and how to request these changes. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

Note:

It is not compliant if the SADC does not have a process or provide members with information about how to request changes to their PCSP.

- Per [NYCRR 6654.20](#) the service plan must be reviewed as necessary, at least once annually, or whenever a change is requested.
- A notification or sign simply stating a member has a right to change their SADC PCSP is not sufficient. It must include who to contact and how to request a change.

Q7.

Does the SADC allow members to choose with whom they spend their time while at the setting?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are allowed to choose whom they spend time with while at the SADC program. SADCs should not have assigned seating, or any other means of separating members, and members should be aware of this right. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

Note:

It is not compliant if the SADC implements assigned seating, does not allow members to choose with whom they spend their time with, and/or if members are not aware of their right.

Q8.

Do all documents indicate the member leads or directs the person-centered planning (PCP) process?

Compliance Criteria:

To be compliant, members and/or their legal representatives must lead the PCP process. The SADC must ensure that all policies indicate that the member leads or directs the PCP process.

Acceptable language/terms to use in the PCP planning process are:

- "Leads."
- "Directs."
- "Drives."

The SADC can inform members of this right by:

- Documentation such as a Member Handbook.
- Signage or notifications placed in common areas throughout the facility.
- On the PCSP template.

Note:

It is not compliant if the SADC policies do not indicate that members lead or direct the PCP process or use the following language in policies.

SADC documents and policies that contain terms/language such as these, is not compliant:

- Members "participate in."
- Are "a part of."
- "In conjunction with."

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The following questions are specific to the review of Person Centered Service Plans (PCSP).

The Department has developed an HCBS Final Rule compliant SADC/SADS PCSP template. This template is a care planning tool that can be used to ensure the person-centered planning (PCP) process is performed appropriately per HCBS Final Rule requirements.

The Department encourages the use of the SADC/SADS PCSP Template however, if a SADC chooses to use an alternative template, that template must contain at minimum, the same questions equivalent to the state issued template.

For further information, please see the SADC/SADS PCSP Template User Guide for guidance on completing the state issued PCSP.

Q9.

Are the SADC Activities indicated on the PCSP personalized to the member?

The SADC PCSP must document the activities offered and the activities chosen by the member. The activities should be unique to the member and document their preferences.

Note:

It is not compliant if the SADC PCSP does not list the activities that were offered to the member, the activities the member chose, or are not unique to the member's preferences.

Q10.

Are the community activities indicated on the PCSP personalized to the member?

The SADC PCSP must indicate what activities were offered to the member and what activities the member chose or declined. Community activities chosen should be personalized for the member based on their preferences and abilities. The member's preferences, strengths, needs, and goals must align with the community activities. The SADC PCSP should not contain language such as "staff suggest or encourage" but rather use language such as "member chose or selected".

Note:

It is not compliant if the SADC PCSP does not list the community activities that were offered and either declined or chosen, are not unique to the member's preferences and abilities, or if language such as "staff encourage or suggest" is used.

It is not compliant if the community integration activities listed are essentially SADC group outings.

42 CFR 441.301(c)(4)(v)

CMS HCBS Settings Standard Description:

Setting facilitates individual choice regarding services and supports, and who provides them.

Purpose of the Standard:

CMS Standard 42 CFR 441.301(c)(4)(V) is designed to measure the SADC's compliance with supporting individual members' choices regarding services and supports and who provides them. To comply with this standard, the Department requires compliance with the three (3) questions below.

Q1.

Does the setting have enough staff to support members as needed?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate during the HCBS compliance review that sufficient staff are employed to ensure:

- That members maintain their independence and are assisted with daily activities when needed.
- The number of staff scheduled to work on average can meet or exceed the suggested 1:7 ratio.
- The SADC ratio of staff to members should be documented in the SADC policy or staff rosters and updated as necessary.

Note:

It is not compliant if the SADC does not have enough staff to support members as needed, and if the SADC policy does not indicate that sufficient staff are employed.

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Q2.

Does the setting ensure staff are knowledgeable about the capabilities, interests, preferences, and needs of members?

Compliance Criteria:

To be compliant, the SADC should be able to demonstrate how staff are made aware of each member's capabilities, interests, preferences, and needs. The SADC must have a process and/or procedure to ensure that staff is kept up to date with changes and preferences of the members served.

This can be done through:

- Staff meeting notes or memos.

- Staff meeting agendas.
- SADC policies and procedures.

Note:

It is not compliant if the SADC does not communicate information about members or cannot demonstrate how staff are knowledgeable about the members' capabilities, interests, preferences and needs.

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The following question is specific to the review of Person Centered Service Plans (PCSP).

The Department has developed an HCBS Final Rule compliant SADC/SADS PCSP template. This template is a care planning tool that can be used to ensure the person-centered planning (PCP) process is performed appropriately per HCBS Final Rule requirements.

The Department encourages the use of the SADC/SADS PCSP Template however, if a SADC chooses to use an alternative template, that template must contain at minimum, the same questions equivalent to the state issued template.

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Q3.

Does the PCSP document if the SADC was able to meet the member's preference regarding who provides their personal care assistance and if not, was the member given the opportunity to choose to receive services elsewhere?

To be compliant, the SADC PCSP must document the member's preference(s) regarding who provides their personal care assistance.

- It is acceptable to document "no preference" if the member does not have one.

Additionally, if the SADC is not able to meet the member's preference(s), the SADC PCSP must notify the member and clearly document:

- The notification to the member of the SADC's inability to meet their preference(s).
- The member was offered to attend a different SADC that can accommodate their preference(s).
- The member's acknowledgment of the above.

Note:

It is not compliant if the SADC PCSP question is left blank or states "N/A", and if all the following are not documented: the member's preference(s) regarding who assists with their personal care services; if the SADC is unable to meet the member's preference(s), the member was offered to attend a different SADC; and the acknowledgement that the member received the notification.

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

CMS HCBS Settings Standard Description:

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

Purpose of the Standard:

CMS Standard 42 CFR 441.301(c)(4)(vi)(c) is designed to measure the SADC's compliance with ensuring individuals have freedom and support to control their schedules and activities and to ensure they always have access to food. To comply with this standard, the Department requires compliance with all six (6) questions below.

Q1.

Does the SADC provide for more than one meal option if requested by a member?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that more than one meal option is available to members at every meal served and members are aware of how to request the alternate meal.

The SADC may use posted signs within the facility to inform members of meal options and how to request it. Alternate menu options can also be placed on the SADC meal menu for members.

Note:

It is not compliant if the SADC does not have more than one meal option or if members are not informed of how to request an alternate meal.

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Q2.

Are SADC activities adapted to members' needs and preferences?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that SADC activities can be adapted to meet member needs and preferences.

- The SADC must ensure that members have supportive equipment, tools, and other accommodations needed to participate in their selected activities.
- Members must be informed that activities can be adapted or adjusted if needed or desired AND how to request the accommodations.

Note:

It is not compliant if the SADC does not modify or provide activity accommodations to members who need them or if members are not aware of this option.

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Q3.

Are members given flexibility in when they can have a meal?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are provided with flexibility regarding mealtimes. The SADC may offer regularly scheduled mealtimes; however, members should be able to request and receive meals outside of those times. SADCs should ensure this information is readily accessible to members through multiple ways, such as a member handbook, clearly posted signage within the facility, or other relevant documentation.

Note:

It is not compliant if the SADC does not provide members with flexibility in when they can have their meals or if members are not aware of this option.

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Q4.

Are members given access to food and drinks throughout the day, at all times?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members always have access to food and drinks throughout the day. Members must be informed of their right to have food and drinks and if applicable, how to request food or a drink.

The SADC may use any of the following means to provide this information to members:
- Documentation such as in the Member's Rights document, on the meal menu, or SADC written policies.
- Signage or notifications placed in common areas throughout the facility.

Note:

It is not compliant if the SADC does not provide access to food and drink throughout the day or if members are not aware of this right.

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Q5.

Does the SADC provide members with flexibility in their daily schedule?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are provided with flexibility in their daily schedule for activities of their own choosing.

- The SADC must not dictate a member's schedule but should allow them to select their own schedule based on their preference of activities.
- SADC should ensure that members are aware of this right through signage, or notifications placed in common areas throughout the facility, policies, or other means as determined by the SADC.

Note:

It is not compliant if the SADC does not provide members with flexibility in their daily schedule or if members are not aware of this option.

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Q6.

Does the PCSP document the supports needed for the member to participate in SADC activities of their choosing?

To be compliant, the SADC PCSP must document whether the member requires any supports to participate in their chosen activities. If the member requires support, the supports provided should be documented and appropriate based on their documented diagnosis and/or health or safety needs. If the member does not require any supports, this must also be documented in the PCSP.

Note:

It is not compliant if the SADC PCSP does not document the types of support required and provided or does not indicate whether supports are needed. It is not compliant if the field is left blank.

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

CMS HCBS Settings Standard Description:

Setting ensures individuals are able to have visitors of their choosing at any time.

Purpose of the Standard:

CMS Standard 42 CFR 441.301(c)(4)(vi)(D) is designed to measure the SADC's compliance with supporting individual members rights to have visitors of their choosing at any time. To comply with this standard, the Department requires compliance with one (1) question below.

Q1.

Does the site allow members to have visitors of their choosing at any time?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members are allowed to have visitors of their choosing at any time.

The SADC may use any of the following means to notify members that they have the right to have visitors at any time:

- An SADC visitor's policy which must state clearly that visitors are allowed at any time

during daycare hours.
- Signage or notifications placed in common areas throughout the facility which notifies members of this right.

Note:

If the SADC does not allow members to have visitors of their choosing at any time and/or if members are not aware of this option, the standard is compliant.

- Visitor logs/sign-in sheets (completed or blank) are not acceptable documentation unless the policy is written on the log document and the members are also made aware of this right.
- With the end of the public health emergency due to COVID-19, no restrictions solely for this purpose are acceptable.
- It is not compliant if members ae not made be aware of their right to have visitors of their choosing at any time. It is not compliant if provided documentation is an internal policy which is not shared with the member.

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

CMS HCBS Settings Standard Description:

Setting is physically accessible to the individual.

Purpose of the Standard:

CMS Standard 42 CFR 441.301(c)(4)(vi)(E) is designed to measure the SADC's compliance with supporting individual members who may be physically challenged. The Department requires compliance with one (1) question below.

Q1.

Is the site physically accessible to the members, including access to bathrooms and break rooms?

Compliance Criteria:

To be compliant, the SADC must be able to demonstrate that members of all abilities can access the spaces designated for the program.

- If there is more than one floor utilized for the SADC program, members using assistive devices must be able to access each floor of the facility.
- Elevators and ramps should be in good working condition throughout the facility.
- Restrooms should be large enough to accommodate wheelchairs, and spaces between tables should easily accommodate wheelchairs and rollators.

Note:

It is not compliant If the SADC is not physically accessible to the members.

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

CMS HCBS Settings Standard Description:

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.

Purpose of the Standard:

CMS Standard 42 CFR 441.301(c)(4)(vi)(F) is designed to measure the SADC's compliance with providing modifications of additional conditions. To comply with this standard, the Department requires compliance with the two (2) questions below.

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Q1.

Does the SADC PCSP document, and appropriately justify any modification to the freedoms allotted all members via the HCBS Settings Final Rule?

Compliance Criteria:

To be compliant, the SADC PCSP must indicate if there are any modifications to the following three (3) applicable HCBS Rights for SADC Members:

- Freedom to support and control their schedules.
- Have visitors of their choosing at any time.
- Have access to food at all times.

Any modifications to the rights mentioned above must be unique to the member and not be a general policy applicable to all members. If there is a modification to a member's right(s) the SADC PCSP must provide the justification and details of the modification, and include the following:

- Diagnosis/condition related to the modification.
- Positive interventions and supports used before the modification was implemented.
- The method for collection and review of data for effectiveness.
- Timeframes/limits for review and determination of the need for a modification.
- Assurance that the modification will cause no harm.

Note:

This SADC PCSP field cannot be left blank, if the member does not require HCBS rights modifications it should be marked "none or N/A". It is not compliant if any details listed above are not documented for all HCBS rights modifications.

Other: Training

Purpose of the Standard:

The SADC must ensure that all volunteers and staff are trained on both federal and state regulations including the requirements in the HCBS Final Rule, and person centered planning upon hire and annually. In addition, all staff are required to be trained on SADC policies that protect members' rights. To comply with this standard, the Department requires compliance with the question below.

Q1.

Do all staff receive training related to HCBS specific policies and person-centered planning, practice, and thinking?

Guidance for Compliance:

To be compliant, the SADC must be able to demonstrate that all staff and volunteers:

- Complete necessary trainings related to HCBS compliance.
- Are aware of the requirements of the HCBS Final Rule.
- Know how person centered planning, practice, and thinking are developed and implemented.

Note:

It is not compliant if the SADC does not provide training to staff and volunteers relating to HCBS specific policies and person centered planning, practice and thinking, or cannot provide documentation of training completion.

Other: SADC Admin

Purpose of the Standard:

For the SADC to be compliant in this area, there must be evidence that the SADC is Certified with the Office of the Medicaid Inspector General (OMIG) and is Registered with the New York City Office of the Aging (if located in one of the five NYC boroughs). The Department requires compliance with the two (2) questions below.

Q1:

Did the SADC certify their compliance with the standards and requirements set forth in Title 9 NYCRR §6654.20, within the last 365 days (12 months), through the Office of the Medicaid Inspector General (OMIG)?

Compliance Criteria:

To demonstrate compliance, the SADC must provide evidence that they completed annual certification with the OMIG per MLTC Policy 15.01a.

By completing this certification, the SADC attests to compliance with Title 9 NYCRR section

6654.20, as required under Article VII, §C of the Managed Long Term Care model contract.

Note:

It is not compliant if the SADC does not complete their annual OMIG certification.

Q2.

(Applies to SADCs located in the five Burroughs of NYC Only)

Did the SADC register with the New York City Department for the Aging (NYC Aging), if required?

Compliance Criteria:

To be compliant, the SADC must provide evidence that they completed registration with the NYC Aging prior to operating, whenever there was a location change, or change of Director.

SADCs are also required to keep their contact information updated, and any changes to information must be submitted to NYC Aging no later than the effective date of the change.

Note:

It is not compliant if the SADC is not registered with the NYC Aging (as required).

Other: PCP Process and PCSP Completion

The Department also evaluates the members' PCSP to determine if the Person Centered Planning (PCP) was conducted appropriately, and that the SADC Person Centered Service Planning process was completed correctly and totally. Please see The Department's Person Centered Library for guidance on how to perform the PCP process and see for guidance on how to complete the SADC PCSP template, see the SADC/SADS PCSP Template User Guide.