

**New York State Medicaid Home and Community-Based Services**

**Heightened Scrutiny Evidence Packet**

**Setting Information**

<b>Provider Name</b> Carmel Richmond Health Care & Rehabilitation		
<b>Location of Setting</b> 88 Old Town Rd, Staten Island, NY 10304	<b>Type of Setting</b> Social Adult Day Care (SADC)	<b>Medicaid Home and Community-Based Services Being Provided at the Setting</b> Social Adult Day Care (SADC) Services

**Heightened Scrutiny Prong**

<b>Yes</b>	<b>Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment.</b>
<b>No</b>	<b>Prong 2: Setting is in a building on the grounds of, or adjacent to, a public institution.</b>
<b>Yes</b>	<b>Prong 3: Setting has the effect of isolating individuals from the broader community.</b>

**Qualification for Prong**

The SADC site is located in the same building as a residential nursing home, the SADC operates on the ground floor while the nursing home operates on the second floor. Additionally, the SADC site has the effect of isolating individuals from the broader community. Details on isolating characteristics, which are being or were already remediated, are found in the All HCBS Settings and Additional Requirements for Provider-Owned or Controlled Settings sections below.

**Provider Compliance Summary**

<b>Requirements for All HCBS Settings</b>		
<b>Compliant?</b>	<b>Federal Requirement</b>	<b>Summary</b>
Compliant <i>42 CFR 441.301(c)(4)(i)</i>	The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree	DOH verified members have access to the greater community by confirming transportation options, support for volunteer/employment opportunities, staff resources, and that member preferences are accommodated by reviewing activity calendars, transportation schedules, daily sign-in/out sheets, and inclusion of preferences in members' PCSPs.

## Requirements for All HCBS Settings

Compliant?	Federal Requirement	Summary
	of access as individuals not receiving Medicaid HCBS.	
<p style="text-align: center;"><i>42 CFR 441.301(c)(4)(ii)</i></p> <p>Compliant</p>	<p>The setting is selected by the individual from among setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>The member must choose the SADC site prior to attending. This is done through the person-centered planning process, which is conducted by the MLTC plan. If it is determined the member qualifies and needs SADC, the MLTC plan care manager supplies a list of available SADC site options, and the member makes their selection of where they would like to attend and receive services. The MLTC plan care manager documents the need and the choice of SADC site in the MLTC plan PCSP.</p>
<p style="text-align: center;"><i>42 CFR 441.301(c)(4)(iii)</i></p> <p>Partially Compliant</p>	<p>Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>DOH verified members have privacy, are treated with respect and dignity, and are supported to choose their own schedules and activities based on their preferences by reviewing member PCSPs, SADC policy manuals, member experience surveys, staff training topics, and observing the spaces allocated for privacy. The SADC has demonstrated compliance in all areas of the standard except for the following: The SADC representatives confirm that members have flexibility in their daily schedule, however there is no documentation to show how members are informed of their flexibility or choices. Remediation efforts will be concluded by 09/26/2023 and include: the SADC will post a notice informing members they can choose their activities and update its member rights document to indicate members</p>

<b>Requirements for All HCBS Settings</b>		
<b>Compliant?</b>	<b>Federal Requirement</b>	<b>Summary</b>
		have the right to change their schedule to any day or time of the week.
42 CFR 441.301(c)(4)(iv) Compliant	Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	DOH verified staffing ratios, programming, and recreational areas as well as any barriers to free movement, and those individualized activities are offered by reviewing staff schedules, member PCSPs, activity schedules, and through on-site observation.
42 CFR 441.301(c)(4)(v) Compliant	Facilitates individual choice regarding services and supports, and who provides them.	DOH verified staff knowledge of members' needs and interests, as well as members' individual choice regarding their activities and supports, and the staff who provide them by evaluating member experience survey results, and reviewing SADC policies, and member handbooks, as well as through observation during the virtual on-site review.
<b>Additional Requirements for Provider-Owned or Controlled Settings</b>		
<b>Compliant?</b>	<b>Federal Requirement</b>	<b>Summary</b>
<b><i>Standards for Provider-Owned and Controlled Residential and Non-Residential Settings</i></b>		
42 CFR 441.301(c)(4)(vi)(C) Compliant	Individuals have the freedom and support to control their schedules and activities; and have access to food any time.	DOH verified the availability for meal options, private dining spaces, activity modifications, and the freedom to take breaks and eat meals at the member's request by reviewing weekly menus, policy manuals, and through on-site observation.
42 CFR 441.301(c)(4)(vi)(D) Compliant	Individuals are able to have visitors of their choosing at any time.	DOH verified the acceptance of visitors during program hours by reviewing visitor policies and sign-in/out forms.
42 CFR 441.301(c)(4)(vi)(E) Compliant	The setting is physically accessible to the individual. (Not modifiable)	DOH verified accessibility of the facility through observation, during the virtual on-site review.

<p>42 CFR 441.301(c)(4)(vi)(F)</p> <p>Compliant</p>	<p>Any modifications of the additional conditions under 441.301(c)(4)(vi)(A) through (D) for provider-owned and controlled settings must be supported by a specific assessed need and justified in the person-centered service plan.</p>	<p>No completed member SADC PCSPs were available for review due to no members from the MLTC plan the virtual on-site visit was conducted attending the SADC site at the time. However, the SADC PCSP template has a section for indicating any necessary modifications.</p>
<b>Standards for Provider-Owned and Controlled Residential Settings Only</b>		
<p>42 CFR 441.301(c)(4)(vi)(A)</p> <p>Not Applicable</p>	<p>The unit or dwelling is a specific physical place that is owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has the same responsibilities and protections from eviction as all tenants under landlord/tenant law of the State, county, city, or other designated entity. In settings where tenant laws do not apply, a lease, residency agreement or other written agreement is in place providing protections to address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant law.</p>	<p>SADC sites are non-residential, and therefore this standard is not applicable.</p>
<p>42 CFR 441.301(c)(4)(vi)(B)</p> <p>Not Applicable</p>	<p>Each individual has privacy in their sleeping or living unit: (1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. (2) Individuals sharing units have a choice of roommates in that setting. (3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>SADC sites are non-residential, and therefore this standard is not applicable.</p>

### Recommendation

As required by 42 CFR 441.301(c)(5), the State of New York submits this request for heightened scrutiny review of the SADC site identified above. The State has validated and compiled evidence that the SADC site is not institutional in nature and will have remediated all isolating characteristics prior to March 17, 2023.

## Section One

### On-Site Visit Observation

<b>Date(s) Conducted:</b> 8/10/2023	<b>State Agency/Entity that Conducted the On-Site Visit:</b> NYS DOH & ArchCare Community Life / William Guevara
<b>Description of the Setting:</b>  The Carmel Richmond Health Care & Rehabilitation Social Adult Day Care (SADC) is located in Staten Island, NY. The SADC operates on the first floor of the building in a residential neighborhood. It is part of the Archcare service delivery system. Members of this daycare have access to a cafe, a beauty salon, a barber shop, and a chapel all located on the first floor just outside the daycare, but within the building. Members interact with people in the community, independently and as a group. The day care caters to a small population and that setting is that of a homelike environment. Public transportation is available to the facility in addition to private transportation and ride sharing services. Members at this daycare enjoy the outdoor patio and frequently venture out into the community to take advantage of the nearby shops and eateries.	

## Section Two

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

<b>Individual (Recipient) Interviews</b>  The SADC site does not currently have Medicaid enrolled members; therefore, no member experience surveys were conducted during the virtual on-site review. However, during future ongoing monitoring and compliance verification efforts, DOH and the MLTC plans will conduct member experience surveys. <b>Employee Interviews</b>
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## Section Three

### Additional Evidence

<b>The following evidence has been compiled that demonstrates the setting is integrated in, and supports full access of, individuals receiving HCBS into the greater community.</b>  Activity Calendar.jpg Alternate Meal Options.jpg Community Resources.jpg Council Meeting.jpg Excerpt from Members Rights Activities Adapted.pdf HHA Services Rendered.jpg Members Rights 7-20-23.pdf Menu.pdf PCSP Template.pdf Person Centered Service Planning Policy.docx Prong#1_Google Maps Verification.PNG Remediation Plan.xlsx SADC HCBS Virtual On-Site Verification_s0235.pdf SADC PCSP Policy.pdf Service and Activity Change Request.pdf Staff List.pdf
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Staff Meeting.pdf  
Staff Training.pdf  
Training Verification.pdf  
Transportation Information Board.jpg  
Transportation Support.jpg

## Section Four

### Public Comments Summary

#### Public Comment Period

**From:** Click or tap to enter a date.

**To:** Click or tap to enter a date.

#### Summary of Public Comments Received for the Setting

Click or tap here to enter text.

#### Summary of the State's Response to the Public Comment Received

Click or tap here to enter text.