

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

**Heightened Scrutiny Evidence Packet**

**Setting Information**

<b>Provider Name</b> Riverstone Senior Life Services		
<b>Location of Setting</b> 99 Fort Washington Ave, New York, NY 10032	<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>No</b>	<b>Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment.</b>
<b>Yes</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 adjacent to the parking garage of the New York Presbyterian Columbia University Irving Medical Center. 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>
<p><i>42 CFR 441.301(c)(4)(i)</i></p> <p>Partially Compliant</p>	<p>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</p>	<p>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. The SADC has</p>

## Requirements for All HCBS Settings

Compliant?	Federal Requirement	Summary
	of access as individuals not receiving Medicaid HCBS.	demonstrated compliance in all areas of the standard except for the following: There is no documentation that members have a right to handle their own funds, there is no process documented on how members can make their preference and needs known, and the PCSP did not offer community integration opportunities. Remediation efforts will be concluded by 9/30/2023 and include conducting morning meetings with members to obtain their feedback/suggestions, revise the Member Rights policy to include having access to their own funds, and updating the PCSP to include community integration options.
<p style="text-align: center;"><i>42 CFR 441.301(c)(4)(ii)</i></p> <p>Compliant</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.	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 style="text-align: center;"><i>42 CFR 441.301(c)(4)(iii)</i></p> <p>Partially Compliant</p>	Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	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

## Requirements for All HCBS Settings

Compliant?	Federal Requirement	Summary
		<p>observing the spaces allocated for privacy. The SADC has demonstrated compliance in all areas of the standard except for the following: The Policy and Procedure manual contains the language "free from 'unnecessary' harm", which is not compliant with the HCBS Final Rule, the PCSP template did not have a place to document a member's choice in staff, there was no evidence to ensure members are aware of their right to handle their own funds, or a process on how to handle a disruptive member. Remediation efforts will be concluded by 9/30/2023 and include revision to the Member Rights policy to access their own funds, developing a procedure for disruptive behaviors, updating the PCSP template to include preferences for staff, and revise the language to exclude the word 'unnecessary' from the rights Policy and Procedure manual.</p>
<p><i>42 CFR 441.301(c)(4)(iv)</i>  Partially Compliant</p>	<p>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.</p>	<p>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. The SADC has demonstrated compliance in all areas of the standard except for the following: the front door is locked at all times and members must be let in and out, and the PCSP template states the</p>

Requirements for All HCBS Settings		
Compliant?	Federal Requirement	Summary
		member is 'a part of' the PCSP process. Remediation efforts will be concluded by 9/30/2023 and include revisions to the PCSP template to include the PCSP process is driven by the member, and the front door will remain unlocked so all members can access as needed.
<p><i>42 CFR 441.301(c)(4)(v)</i></p> <p>Partially Compliant</p>	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. The SADC has demonstrated compliance in all areas of the standard except for the following: there is no process documented on how staff are kept up to date on members' preference and needs, or how members can make them known. Remediation efforts will be concluded by 9/30/2023 and include conducting morning meetings with members to obtain their feedback/suggestions and conduct daily staff meetings to ensure staff are kept up to date on the members needs and preferences.
Additional Requirements for Provider-Owned or Controlled Settings		
Compliant?	Federal Requirement	Summary
<b><i>Standards for Provider-Owned and Controlled Residential and Non-Residential Settings</i></b>		
<p><i>42 CFR 441.301(c)(4)(vi)(C)</i></p> <p>Partially Compliant</p>	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. The SADC has demonstrated compliance in all areas of the standard except for the following: There is no documentation that members have a right to have activities adapted to their abilities, or to have flexible mealtimes. Remediation efforts will be concluded by 9/30/2023 and include posting signs for mealtime flexibility and that activities can be adapted to their abilities. The PCSP template will also require adaptations to activities.
42 CFR 441.301(c)(4)(vi)(D) Not 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. The SADC has demonstrated compliance in all areas of the standard except for the following: the Visitor Policy and the posted Visitor sign have conflicting information about the allowance for visitors. Remediation efforts will be concluded by 9/30/2023 and include removing the COVID related restrictions from the Visitor Policy.
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.
42 CFR 441.301(c)(4)(vi)(F) Compliant	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.	The PCSP template has a place to document and justify these modifications, if the member had any to control their own schedules and activities, have access to food at any time, and to have visitors of their choosing at any time.
<b>Standards for Provider-Owned and Controlled Residential Settings Only</b>		
42 CFR 441.301(c)(4)(vi)(A) Not Applicable	The unit or dwelling is a specific physical place that is owned, rented, or occupied under a legally enforceable agreement	SADC sites are non-residential, and therefore this standard is not applicable.

	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.	
42 CFR 441.301(c)(4)(vi)(B) Not Applicable	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.	SADC sites are non-residential, and therefore this standard is not applicable.

## 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> 6/30/2023	<b>State Agency/Entity that Conducted the On-Site Visit:</b> NYS DOH & RiverSpring at Home / Tina Chan
<b>Description of the Setting:</b>	
<p>The SADC program is operated on the first floor of a six-story, senior residence building in an urban area in New York City. The day care is open Monday through Friday from 8:30-4:30 and accommodates 50 participants. The SADC is adjacent to a parking garage of the New York Presbyterian Columbia University Irving Medical Center. The program specializes in dementia and/or memory loss, and offers meals, beverages, and snacks all day, has an outdoor garden, and is located across the street from Riverside Park where they take weekly walks. The SADC also schedules community trips once or twice per month to the library, City Island, the zoo, and museums.</p>	

## Section Two

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

#### Individual (Recipient) Interviews

The MLTC plan contracted with the SADC site conducted a member experience survey to ascertain how members feel about the SADC. DOH utilized responses on the survey to identify any potential areas of possible non-compliance and investigated thoroughly during the virtual on-site review, to confirm validity of the responses. DOH's determination and observations are documented in the Provider Compliance Summary section.

Details received and investigated by DOH are as follows:

Are you able to be in private for this call or interview? – Yes

Did you (or your legal representative/guardian) choose this program for yourself to attend? – Yes

Are you able to leave the SADC for outside activities you wish or need to attend? If not, does the SADC coordinate someone to support you in doing so? (Ex. community activities, volunteer work) – Yes

Do you get the help you need while you are at the program, for example with using the restroom, grooming, feeding, setting up appointments, taking medications, etc.? – Yes

Do staff treat you and those around you with respect and care? – Yes

If you have a problem or concern, do you know who to go to? – Yes

If you have a problem or concern, and you speak to someone about it, does it get resolved and do you feel listened to? – Yes

Do you get to choose when and with whom you get to eat with, or can you eat alone if you want to? – Yes

Can you make private phone calls? – Yes

Are you allowed to have visitors while you are here? – Yes

Do you have a safe place store your personal belongings while you are here (coat, purse, etc.) – Yes

Do you get to choose which activities you will or will not participate in, and with whom? – Yes

Are you able to interact and talk with whoever you would like while here? – Yes

Are you allowed to move around the building alone? If not, are staff available when you choose to move around? – Yes

Is transportation and support to obtain transportation available to you, at your request, for outings of your choosing? (Ex. community activities, volunteer work) – Yes

#### Employee Interviews

## Section Three

### Additional Evidence

**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.**

Activity Calendar.pdf

Alternative Menu.PNG

Community Activities Sign Up.PNG

Front of building.PNG

HCBS Policy and Procedure.pdf

Member Experience Survey\_1.xlsx

Member Files.pdf

Member Rights.pdf

Menu.pdf  
 Policy and Procedures.pdf  
 Private Space with Snacks-Drinks.pdf  
 Private Space with Table.pdf  
 Prong #2\_Google Maps Verification.pdf  
 Remediation Plan\_s0207.xlsx  
 SADC HCBS Virtual On-Site Verification\_s0207.pdf  
 SADC PCSP Template.pdf  
 SADC PCSP\_1.pdf  
 Staff Training Packet.pdf  
 Transportation Flyer.pdf  
 Volunteer and Employment Postings.PNG

## Section Four

### Public Comments Summary

<b>Public Comment Period</b>	
<b>From:</b> Click or tap to enter a date.	<b>To:</b> Click or tap to enter a date.
<b>Summary of Public Comments Received for the Setting</b>	
Click or tap here to enter text.	
<b>Summary of the State's Response to the Public Comment Received</b>	
Click or tap here to enter text.	