

New York City Department for the Aging
Social Adult Day Care Ombuds City Council Report

December 29, 2020

In compliance with Local Law 9 of 2015, the following is the annual report of the legislated Social Adult Day Care (SADC) Ombuds Office.

- (i) The total number of social adult day cares and the name and address of each such social adult day care:

The Local Law 9 of 2015 Rules (Rules) were promulgated on February 8, 2020 requiring additional information to be included in the SADC registration form. The Rules require SADCs that registered with the New York City Department for the Aging (DFTA) prior to the promulgation of the Rules to register again and to include additional information. There is a one-time registration fee of \$900 for each SADC program. Each SADC program is required to keep their registration information current. The SADC program must submit any changes to their registration within 30 days of the effective date of such change. A fee of \$240 is charged for each such submission.

Total Number of SADCs that registered prior to February 8, 2020: 335

Total Number of SADCs that registered in accordance with the Rules and paid the \$900 registration fee: 269¹

Total Number of SADCs that reported closures to the SADC Ombuds Office: 9

See attached list of registered SADCs (in accordance with the Rules) with addresses, and with corresponding City Council and Community Districts.

This number reflects total registered active SADC programs as of 12/28/2020

¹ Due to COVID-19, the SADC Registration deadline has been extended until further notice (see Section VI for more details)

- (ii) Total number of complaints received by the SADC Ombuds Office:

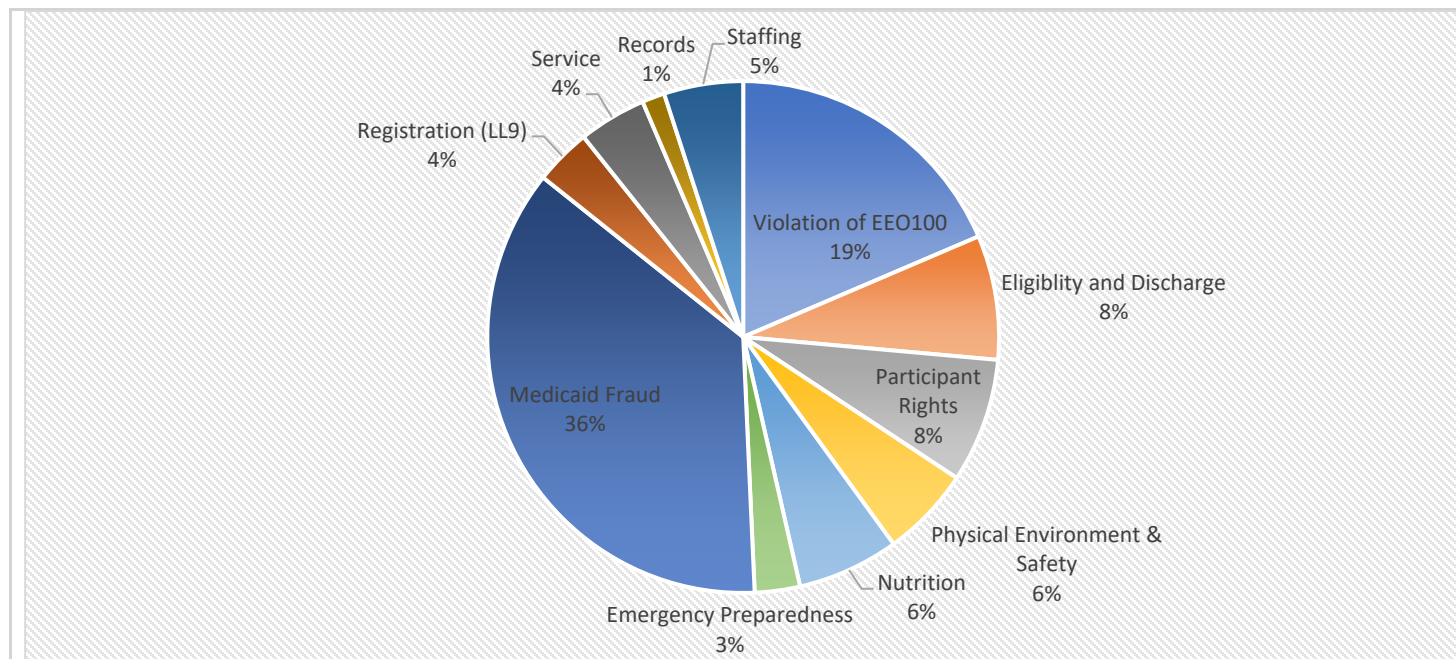
It is important to note that complaints reported to the SADC Ombuds Office contained multiple allegations. 50 SADCs were subjects of complaints, and all 50 SADCs received at least two or more allegations against them. As of December 29, 2020, there were 94 complaints received against 50 SADC programs. Two of the 94 complaints did not target a specific SADC program.

Per the Rules, where the SADC Ombuds Office accepts a complaint that includes a matter within the sole jurisdiction of another city or state agency, the office will refer the complaint to the other agency; Section IV of this report provides details of these referrals. Once complaints are referred, these city or state agencies are not required to provide the SADC Ombuds Office with the results of their investigations. However, the SADC Ombuds Office continues to work with sister agencies to increase collaboration with processing these complaints (see Section VII re: recommendations regarding operations of SADCs).

Source of Complaint	Anonymous Individual	Identified Individual	Grand Total
Total	28	66	94

(iii) A general description of the reason for each such complaint:

There were **140 distinct** allegations within the **94** complaints received as shown below. 36% of the allegations were related to potential Medicaid Fraud, such as: SADCs used cash and/or goods as incentive to enroll potential older adults into the program, and/or billing for services not rendered.



2020 Types of Allegations	
Eligibility and Discharge	Participants who reportedly do not qualify for SADC services are admitted into the program; participants attending SADC are discharged from program without due process.
Emergency Preparedness	The program does not have current or sufficient, written procedures for handling emergencies (such as a flood or fire or when a participant is choking or has fainted).
Nutrition	Quality of food and/or conditions of food service area does not comply with the New York State Office for the Aging (NYSOFA) Social Adult Daycare Services (SADS) Standards.
Participant Rights	SADC staff failed to enforce or protect the rights of participants in accordance with the NYSOFA SADS Standards.
Physical Environment & Safety	SADC facility does not have sufficient space to accommodate program services, does not maintain or operate buildings and equipment which may result in hazardous conditions or compromises personal safety of participants.
Possible Medicaid Fraud	Cash or goods are used as incentives to recruit seniors; possible falsification of attendance records or other documents related to billing.
Records	SADC records are not maintained in accordance to NYSOFA SADC standards.
Registration in accordance with Local Law 9	SADC is operating but has not registered with DFTA.

Service	SADC is not providing required services that are consistent with the needs of the participant. SADC is not providing the following services: Socialization; Supervision and monitoring; Personal care; and/or Nutrition.
Staffing	Staff are not adequately trained to provide services or work with SADC participants; SADC director failed to create policies and procedures or enforce NYSOFA SADS Standards.
Violation of New York City Mayoral Emergency Executive Order 100	SADC programs are providing in-person services during the current state of emergency.

(iv) The total number of investigations conducted by the SADC Ombuds Office, a general description of the reason for each such investigation, any findings that an SADC has violated Subdivision (a) of this section, and the outcome of each such investigation:

The SADC Ombuds Office conducted one investigation via telephone interviews and email communications. The allegation involved an SADC provider serving and delivering fast food meals to SADC participants during the pandemic. This allegation was in violation of NYCRR Title 9, Part 6654, Section 20. Social adult day care programs (1) Services standards (iv) Services (4) Nutrition. After investigation, the allegation was found to be unsubstantiated.

Currently there is another ongoing investigation from a complaint that the SADC Ombuds Office received in November 2020. No other information can be provided because the investigation is still in progress.

Additionally, 88 of the complaints were also referred to other City and oversight agencies based on their respective jurisdiction regarding the nature of the allegation. The remaining six complaints were either processed internally or there was not enough information to refer to other government agencies. See table below.

Agency Type	Agency Name	Total # of Referrals
CITY	NYC Dept of Health & Mental Hygiene - Office of Community Sanitation	8
CITY	NYC Police Department	1
STATE	NYS Dept of Health	79
STATE	NYS Office for the Aging	79
STATE	NYS Office of Inspector Medicaid General	79
	Total Intergovernmental Referrals	88

(v) The total number of notices of violation (NOVs) issued pursuant to subdivisions a and c of this section, disaggregated by the specific violation for which such notice was issued:

No violations were issued to date by DFTA’s SADC Ombuds Office. The Rules allow for SADC providers to submit corrective action plans, and if approved by the SADC Ombuds Office, there is no need to proceed with issuance of NOVs.

(vi) The total number of social adult day care programs that failed to register pursuant to subdivision b as of this date:

On March 16, 2020, Mayor de Blasio issued Emergency Executive Order 100, directing all older adult congregate centers operating within the City, whether publicly or privately owned or funded, closed and all in-person programs suspended for the duration of the state of emergency. On March 22, 2020, all non-essential businesses statewide closed when Governor Cuomo announced the "New York State on PAUSE" executive order, a 10-point policy to assure uniform safety for everyone. Due to these executive orders, normal operations of SADC programs were suspended, and non-essential business were closed. The SADC Ombuds Office has extended registration deadline for all SADC programs until further notice.

(vii) Any recommendations regarding the operation of SADCs:

- Continue to work with Department of Finance (DOF) to ensure that the process & systems for the collection of registration fees remains operable during the pandemic.
- Due to the pandemic, relationship building with the Office of Administrative Trials and Hearings (OATH) was placed on hold. Once businesses resume regular functioning then the SADC Ombuds Office will develop and steward a relationship with OATH to ensure enforcement and proper implementation of the SADC Rules.
- Continue to develop and strengthen professional relationships with City and State government agencies in order to foster a network of government specialists in areas related to SADS industry.
- Continue to work with NYS Office of Medicaid Inspector General (OMIG) to formalize our collaboration with a Memorandum of Understanding (MOU).
- Continue to develop and reinforce professional relationships with community partners and stakeholders such as Managed Long-Term Care (MLTC) plans and New York State Adult Day Services Association.
- On March 18, 2020, after the issuance of Mayoral Emergency Executive Order 100, all SADC providers were directed to close their programs for in-person services. On April 7, 2020, the NYS Department of Health allowed SADC providers to conduct telephonic services and deliver meals to their SADC participants, upon authorization from their contracted Managed Long-Term Care plan(s). The SADC Ombuds Office will continue to refer questions regarding telehealth services to NYSDOH.

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