New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**Dosberg Manor |
| **Location of Setting**2680 North Forest Road Amherst, NY 14068 **Note: for Prong 3 settings only include the name of the city and not the full address.** | **Type of Setting**Adult Home/Assisted Living Program | **Medicaid Home and Community-Based Services Being Provided at the Setting**Personal care and other HCBS are provided as needed.  |

**Heightened Scrutiny Prong**

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| [ ] **Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment.**[x] **Prong 2: Setting is in a building on the grounds of, or adjacent to, a public institution.**[ ] **Prong 3: Setting has the effect of isolating individuals from the broader community.**  |

**Qualification for Prong**

Describe briefly in the box below how the setting meets the prong indicated (what facility is it in or located on the grounds of, or adjacent to, etc.?)

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| Dosberg Manor is located on the Weinberg Campus which houses the Rosa Coplon Jewish Home and Infirmary, a skilled nursing facility.  |

**Provider Compliance Summary**

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| **Requirements for All HCBS Settings** |
| **Compliant?** | **Federal Requirement** | **Summary** |
| *42 CFR 441.301(c)(4)(i)*[x] Yes[ ] Partial[ ] No | Settings are integrated and support 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. | Dosberg Manor is situated on the Weinberg Campus proximal to other health care entities, financial organizations, and a community center. Residents have access to the greater community. Dosberg Manor is located in suburban Buffalo in Erie County. Residents can seek employment or volunteer opportunities if they choose. Residents have the opportunity, as they are interested and able, to participate in outings or run errands with their housemates/roommates, family, friends, or even independently. Resident Council provides input into the activity schedule. Schedules are tailored to individual goals, needs and desires. Residents have control of their personal resources (this is not a modifiable standard) unless they have a designated payee/ authorized the facility to manage their finances.Residents can choose their medical providers. Transportation within the Weinberg Campus for activities and services are provided by the facility. Community appointments or personal activities can be arranged through the case manager. The campus is on a public bus line for those residents able to use such transportation.  |
| *42 CFR 441.301(c)(4)(ii)*[x] Yes[ ] Partial[ ] No | Settings are 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. | Settings are selected by each resident. This is a voluntary participation, non-disability specific setting. Individuals receiving services in this assisted living program (ALP) are medically eligible for placement in a nursing home but based on an individuals’ score on a uniform assessment tool (i.e., UAS-NY), it has been determined the individuals’ specific needs can be met in the ALP with home care services, case management, and other supports. Residents are informed of their room options at pre-admission. Residents have an option for a private or semi-private room. Residents who share rooms have a choice of roommates based on availability and compatibility. Residents who are in a two-bedroom apartment have a choice of “apartment-mate”, based on availability and compatibility. Facility staff have deployed person-centered policies to ensure application of person-centered characteristics within the person-centered service plan. |
| *42 CFR 441.301(c)(4)(iii)*[x] Yes[ ] Partial[ ] No | Settings ensure an individual’s rights of privacy, dignity, respect, and freedom from coercion and restraint. | Dosberg Manor ensures that each resident’s rights are protected. It is each resident’s right to confidential treatment of personal and health records, to have privacy in caring for personal needs, and to receive courteous, fair and respectful care and treatment at all times, and to be free from coercion and restraint. Privacy is available in residents’ private room, as applicable, or in any of the sitting areas identified throughout. Resident rooms are equipped with locks with only the resident/s and appropriate staff having keys. Each resident has the option to procure in-room telephone, their needs and preferences are respected. Each resident is provided lockable storage in his or her room. Residents are provided a copy of their rights upon admission. Residents are orientated to the Grievance Form and its location and are free to express complaints without fear of reprisal. The facility does not use restraints |
| *42 CFR 441.301(c)(4)(iv)*[x] Yes[ ] Partial[ ] No | Settings optimize, but do 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. | Each resident controls his or her own schedule and activities. Residents may engage in community life, including activities outside of the facility at their discretion. Residents make their own decisions about daily activities to participate in and with whom they interact. Dosberg Manor offers indoor and outdoor gathering spaces for groups of all sizes. Dosberg Manor develops an activity schedule with tasks and activities appropriate to individual attributes. Residents may participate in facility-scheduled activities and events or use their time as they choose. Participation in activities is encouraged, but not required. Residents can come and go as they choose. Residents are able to make personal decisions regarding all aspects of their lives (i.e., daily schedule, who they spend time with, where they go, what they eat, etc) and staff are supportive of their decisions. |
| *42 CFR 441.301(c)(4)(v)*[x] Yes[ ] Partial[ ] No | Settings facilitate individual choice regarding services and supports, and who provides them.  | Dosberg Manor may only care for a person who voluntarily chooses to participate in the program after having been provided with sufficient information to make an informed choice. Upon interview, it was confirmed that residents are able to choose who provides services they voluntarily receive. Tours are encouraged prior to admission. The facility’s website allows an opportunity for prospective residents and their families to contact the facility with questions. Dosberg Manor ensures individuals are supported in developing care plans that support his/her needs and preferences.  |
| **Additional Requirements for Provider-Owned or Controlled Settings** |
| **Compliant?** | **Federal Requirement** | **Summary** |
| ***Standards for Provider-Owned and Controlled Residential and Non-Residential Settings*** |
| *42 CFR 441.301(c)(4)(vi)(C)*[x] Yes[ ] Partial[ ] No | Individuals have the freedom and support to control their schedules and activities; and have access to food any time. | Residents have the freedom and support to control their schedules and activities. Residents are able to eat meals when they wish, and in the resident’s preferred location. Dosberg Manor has four kitchenettes available to residents. Residents are assigned seats but can change their seats as requested/needed.Residents are able to use the kitchenettes to prepare meals and snacks throughout the day. Food is accessible 24 hours a day. Residents have access to food throughout the day and may also choose to keep food in their rooms. Residents may choose when to participate in activities and when to eat their meals. The facility has scheduled activities that residents may choose to participate in or not. Residents are able to determine how they spend their time (participate in planned activities or not). Residents have the freedom and support to control their daily schedules.  |
| *42 CFR 441.301(c)(4)(vi)(D)*[x] Yes[ ] Partial[ ] No | Individuals are able to have This is a non-modifiable standard. visitors of their choosing at any time. | Dosberg Manor welcomes visitors at any time. For safety purposes, visitors are required to sign in/out.Residents are able to meet their visitors in any number of available private spaces, including in their private apartments. Residents are able to have visitors at any time of their choosing and can decide who they would like to visit with.  |
| *42 CFR 441.301(c)(4)(vi)(E)*[x] Yes[ ] Partial[ ] No | The setting is physically accessible to the individual. (Not modifiable) | As observed, the facility is physically accessible; individuals have access to all common areas. The facility is free of inhibiting barriers. Assistive devices are available for those in need. Residents may come and go as they choose. Entry or egress is not inhibited from the facility.  |
| *42 CFR 441.301(c)(4)(vi)(F)*[ ] Yes[x] Partial[ ] No | 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. | Care plan changes are assessed, discussed, and documented accordingly. Remediation is in progress to procure an independent assessor/case management agency to determine the individual’s need for HCBS and develop a person-centered service plan. This is to ensure conflict-free case management. We expect remediation of this to be completed by July 1, 2024..  |
| ***Standards for Provider-Owned and Controlled Residential Settings Only*** |
| *42 CFR 441.301(c)(4)(vi)(A)*[x] Yes[ ] Partial[ ] No[ ]  Not Applicable | 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. | Upon admission, each resident is provided with, and signs, a written admission agreement. The admission agreement includes required elements to protect the resident’s rights and specifies the services the resident can expect of Dosberg Manor, as well as specifies conditions under which the admission agreement may be terminated, including right to pursue a challenge to termination in court.  |
| *42 CFR 441.301(c)(4)(vi)(B)*[x] Yes[ ] Partial[ ] No[ ]  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. | Residents have privacy in their sleeping units. Residents have keys to their rooms, and to the facility’s entrances, with only appropriate staff having keys to doors. All rooms and bathroom doors are lockable, to ensure privacy. If applicable, individuals sharing an apartment or a semi-private room have choice of “apartment-mate” or roommate based upon availability and compatibility. As observed, residents have the opportunity to furnish and decorate their rooms as they wish.  |

**Recommendation**

As required by 42 CFR 441.301(c)(5), the State of New York submits this request for heightened scrutiny review for the setting identified above. The State has compiled evidence that the setting is integrated in and supports full access of individuals to the greater community, is selected by the individual from among disability and non-disability specific settings, ensures individual rights, and promotes individual initiative, autonomy, choice, and independence.

**Instructions for Completing Sections One through Four**

**The following four (4) sections may be expanded in length to capture evidence of HCBS Final Rule compliance. However, a complete heightened scrutiny packet may be no longer than ten (10) pages in length. The ten (10) pages should include documentation that demonstrates support of the statements made here. Any additional supporting documentation should be kept by agencies/offices/units for the recommended amount of time.**

**Section One**

**On-Site Visit Observation**

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| **Date(s) Conducted****10/2/2019** | **State Agency/Entity that Conducted the On-Site Visit New York State Department of Health** |
| **Description of the Setting** Dosberg Manor is an Adult Home with an Assisted Living Program (ALP). As an Adult Home, the facility provides long-term residential care, room, board, housekeeping, personal care, and supervision to five or more adults. The ALP provides services to persons who are medically eligible for nursing home placement but in a less medically intensive, lower cost setting. The ALP provides personal care, room, board, housekeeping, supervision, personal emergency response services, nursing, physical therapy, occupational therapy, speech therapy, medical supplies and equipment, adult day health care, home health services, and the case management services of a registered professional nurse.The total bed capacity 96 adult home beds with 30 of these beds designated for ALP capacity. The facility is located in Erie County, in a community among other residence and commercial businesses. Dosberg Manor is located on the Weinberg Campus situated on a 70-acre, park-like retirement community. The Campus is located in Amherst, NY and offers independence as well as a full range of care options, offering bright, spacious [senior apartments](https://www.weinbergcampus.org/Senior-Apartments/Index.aspx), as well as all levels of [assisted living](https://www.weinbergcampus.org/Assisted-Living/Index.aspx), [memory care](https://www.weinbergcampus.org/Assisted-Living/Memory-Care.aspx) and [skilled nursing care](https://www.weinbergcampus.org/Skilled-Nursing-Rehab/Index.aspx). The Weinberg Camps also offers elderly care through [in-home services](https://www.weinbergcampus.org/In-Home-Services/Index.aspx), state-of-the-art [physical therapy](https://www.weinbergcampus.org/Skilled-Nursing-Rehab/Short-Stay-Rehab.aspx) and [respite care](https://www.weinbergcampus.org/Assisted-Living/Respite-Care.aspx). There are three adult care facilities located on the Weinberg Campus, Dosberg Manor being the only to offer the Assisted Living Program. The facility is free of barriers inhibiting access to or egress from the location. The facility is free from barriers inhibiting movement. The facility is physically accessible by all individuals. Residents have access to all common areas of the facility. Assistive devices, such as walkers and rollators, are available to residents as prescribed. Dosberg Manor provides onsite services consistent with its licensure as a licensed homecare services agency. Through a Licensed Home Care Agency, the facility may provide services such as home health aide, homemaker, housekeeper, nursing and personal care. The facility is free from barriers inhibiting movement. The facility offers spacious private, semi-private rooms or suites with accessible bathrooms to meet each resident’s personal and budget needs. The majority of the units are private units or suites with one person. In the case of a couple coming in and wanting a suite to be used as two semi-private rooms, each person is given their own key/room number and the couple can decide on how they want to arrange their room space. Room option and availability is discussed pre-admission. All rooms are fully furnished. Residents are encouraged bring personal items and decorate their room as they choose to help them feel at home. The facility provides three regularly scheduled meals per day with a nutritious evening snack. Dosberg Manor offers an “always available menu” should residents prefer these options over the daily menu option. Food is available to residents at all times. There are four kitchenettes available to residents, in which they are able to prepare meals and snacks throughout the day. Dosberg Manor provides a variety of social and therapeutic activities offered daily in Dosberg Manor, throughout the Campus and occasionally in the community. Residents are encouraged to attend activity programs in all areas of Weinberg Campus. Monthly activity calendars are distributed, as well as daily activity sheets. Residents are encouraged to check their mailboxes at the start of the month for a new calendar. Activity calendars for other parts of the Campus can be found at the Dosberg Manor front reception area. A variety of physical programs are offered daily. This includes an exercise group, utilizing the Wii Nintendo game system, walking club and active games. Dosberg residents are welcome to attend outings for lunch, shopping or special events. Residents should check the calendar for upcoming outings and be sure to sign up. Space is limited and personal funds will be required. In addition to facility planned outings and events, residents may access the community as they wish. Residents can come and go as they choose. Residents are welcome and encouraged to go into the community as they wish, with family, friends, peers from the facility or independently. Dosberg Manor has a variety of performers at least twice a week in the Deli, right around the corner from Dosberg. The visiting musicians range in styles and performances, from toe tappin’ classics to polka, and themed entertainment. One can also regularly find talented musicians sitting down at our beautiful Steinway piano located right in the lounge. There are plenty of opportunities to socialize with neighbors in Dosberg Manor as well as those who reside in other parts of Campus. From weekly snacks in the deli, open to the whole Campus, to quainter, small group coffee groups and visits on your unit with your neighbors, there are many chances to meet some new faces. The facility also provides many opportunities for personal and alone time. Resident Council meets once per month. This is a self-governing organization made up of residents with officers elected by the residents. The Case Manager and Activities Director act as staff advisors and assist as needed in the overall organization of the meetings. All residents are invited and encouraged to participate in the monthly scheduled meetings. Resident schedules are designed by the resident, and flexible according to the resident’s individual circumstances. Residents determine how much time they spend in their room, at activities or within the community. Residents have the choice to participate or have personal or alone time. Activities are adapted to individual needs and preferences of the residents. |

**Section Two**

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

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| **Individual Interviews**During the onsite visit, one resident was interviewed. The following was gathered regarding community integration:Individual A shared that she enjoys living at Dosberg Manor. She said there is always something to do. Individual A enjoys participating in in-house activities as well as go out into the community. She said she will join in community-based events if it’s something that interests her. She also will go into the community with family and friends. Individual A enjoys going out to eat and shopping. She said she can go when she chooses/ if she chooses.**Employee Interviews**During the onsite visit the administrator was interviewed. The following was gathered regarding community integration:Residents have the opportunity to access their community as much or as little as they choose. Residents can come and go as they please. Residents may access their community with family, friends or independently. Through the Resident Council residents share ideas and interests for community activities. With residents’ input the facility schedules community outings and events throughout each month. For the facility planned events and outings residents are required to sign up in order to ensure adequate staffing and transportation. Residents may go outside as they desire. They can visit others throughout the Weinburg Campus or off campus, in the greater community. One resident visits his wife in the nursing home every day and takes her to activities. Another resident visits her husband in the nursing home and has him sit with her at entertainment and events. One resident likes to go to The Meadows to eat lunch with a friend. One resident likes to take a daily walk around the campus. Residents’ schedules are flexible and personalized to meet their individual needs and wants. |

**Section Three**

**Additional Evidence**

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| **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.** Click or tap here to enter text.1. Outside Trips Policy2. Initial Evaluation Policy3. Excerpt from Handbook regarding Activities4. Excerpt from Handbook regarding Employment and Volunteering5. Room Arrangement 6. Opportunity for Personal and Alone Time7. Resident Rights8. Care Planning Process9. Google Maps10. Website: <https://www.weinbergcampus.org/assisted-living/dosberg-manor/>  |

**Section Four**

**Public Comments Summary**

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| **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** |
| **Summary of the State’s Response to the Public Comments Received**Click or tap here to enter text. |