New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**  Eger Harbor House, Inc. | | |
| **Location of Setting**  110 Meisner Avenue Staten Island, New York 10306 **Note: for Prong 3 settings only include the name of the city and not the full address.** | **Type of Setting**  Enriched Housing Program/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.**  **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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| The facility is on the same campus as Eger Health Care and Rehabilitation Center. |

**Provider Compliance Summary**

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| **Requirements for All HCBS Settings** | | |
| **Compliant?** | **Federal Requirement** | **Summary** |
| *42 CFR 441.301(c)(4)(i)*  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. | Eger Harbor House is located among other residences and commercial businesses in Staten Island. Residents have access to the greater community. 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. Individuals may access the community through events planned by facility staff or independent of the facility. Residents can come and go as they choose and are able. Activities and outings are discussed at the monthly Resident Council Meetings. Residents have the opportunity and control of their resources needed for outings. Residents have control of their personal resources unless they have a designated payee/ authorized the facility to manage their finances. Residents can choose their medical providers. There is a bus stop located at approximately a 4-minute walk from the facility. Additionally, the residents can utilize Access-A-Ride through New York City Transit, which provides door-to-door transportation to those eligible. |
| *42 CFR 441.301(c)(4)(ii)*  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 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 Eger harbor House with home care services, case management, and other supports. All rooms at Eger Harbor House are private rooms. 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)*  Yes  Partial  No | Settings ensure an individual’s rights of privacy, dignity, respect, and freedom from coercion and restraint. | Eger Harbor House 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, confidential treatment of personal and health records 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)*  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. Based on observation, Eger Harbor House does not have any barriers preventing movement of the residents. As observed, Eger Harbor House offers several indoor and outdoor spaces for the residents to utilize, as well as the resident’s private rooms. Eger Harbor House 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)*  Yes  Partial  No | Settings facilitate individual choice regarding services and supports, and who provides them. | Eger Harbor House 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 which staff provide his/her services they voluntarily receive. Tours are encouraged and welcomed. The facility 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)*  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. They can do what they want when they choose Residents are able to eat meals when they wish, and in the resident’s preferred location. There are two designated seating times for each meal. These times are determined upon admission. However, residents can eat when they would like. Residents are able to dine in the location of their choice. There are assigned seating which residents are able to change at their request. 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). |
| *42 CFR 441.301(c)(4)(vi)(D)*  Yes  Partial  No | Individuals are able to have visitors of their choosing at any time. | Eger Harbor House welcomes visitors at any time. Visitors are required to sign in and out. Visitors are welcome at any time though preferred visiting hours are 9:00am to 8:30pm. Visitors in the facility after 8:30pm are asked to be respectful of others. Besides each resident’s private apartment there are several areas throughout the facility that offer residents private meeting space. 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)*  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  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)*  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 at Eger Harbor House, 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)*  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 as all rooms are private. Residents have keys to their apartments and to the facility’s entrances, with only appropriate staff having keys to doors. All rooms and bathroom doors are lockable, to ensure privacy 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**  10/4/2019 | **State Agency/Entity that Conducted the On-Site Visit** New York State Department of Health |
| Description of the Setting  Eger Harbor House is an Enriched Housing Program and Assisted Living Program. The program provides long-term residential care to five or more adults, primarily people sixty-five years of age or older, in community-integrated settings resembling independent housing units. The program provides or arranges for room, board, housekeeping, personal care, and supervision. The facility 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, home health aides, 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 is 75, which are all Assisted Living Program beds. The facility is located in a community situated among residential and commercial businesses. There are a few Adult Care Facilities in the vicinity of Eger Harbor House. The closest is less than 2 miles away. The facility is free of barriers inhibiting access to or egress from the location. Eger Harbor House provides onsite services consistent with its licensure as a licensed homecare services agency. Through the homecare agency, Eger Harbor House may provide home health aide, nursing, personal care, occupational therapy, physical therapy, and speech language pathology. 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, are available to residents as prescribed. The facility also provides licensed home care services. The facility is made up of all individual apartments with a kitchenette, bedroom, and private bathroom. Each room is furnished with a single bed, bedside table, bedside chair, dresser, dinette table with two chairs, a microwave and a mini refrigerator. Bedrooms and bathrooms are both equipped with locks to provide privacy. Residents may decorate their apartments as they wish to make their space their own. Residents have access to food throughout the day. Vending machines are available for resident and guest use in the lobby. Snacks are also available to residents in the lobby. Residents may bring their own television, radio, VCR/DVD player. Cable is provided for residents free of charge. Residents’ rooms are equipped with a telephone jack and a phone can be installed, at the cost of the resident. Residents may also keep food and drink items in their rooms. Additionally, the facility has vending machines in the lobby for residents and visitors. Eger Harbor House places great value in recreation. Recreation activities at the facility include social events, daily exercise programs, massage therapy, yoga, and more. Residents may also participate in weekly excursions for shopping, to the boardwalk, movies, sporting events and even trips to Atlantic City. Outings are scheduled and encouraged, but the choice whether to participate rests with the residents. Residents are able to access their community through public transportation. There is a bus stop near the facility, approximately a 4-minute walk away. Residents may also utilize Access-A-Ride through New York City Transit, which provides door-to-door transportation to those eligible. The Community Agency for Senior Citizens Van go to Eger Harbor House every Friday and travels to the local shopping mall for the residents to shop. Residents may go on outings with anyone they wish to go with. Regularly planned outings including shopping, dining, casino, plays and sporting events are some of the favored activities of the residents. The facility holds a monthly Resident Council meeting in which residents are encouraged to attend and to make suggestions of outings and activities. As part of the Resident Council, there is a monthly Food Chat, to discuss Dining Services concerns and issues as well. Residents have the opportunity to speak with the Chef and dining team regarding the food and menu. The facility offers a semi-annual Family Council meeting in which families have the opportunity to meet with the Eger Harbor House staff. Resident schedules are designed by the resident, and flexible according to the resident’s individual circumstances. 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**  Two residents were interviewed during the onsite visit without observation by staff. The following information was gathered:  Individual A shared that she enjoys going into the community to do things she likes. She is able to run her own errands or will go with the activity director. She stated that she chooses when and where she would like to go; she is never told she must attend an outing. Individual A also enjoys participating in in-house activities for when she doesn’t feel like going out. She said she likes the opportunity to socialize with others. She also likes giving input on activities and outings. Individual A does go to Resident Council meetings but does not attend regularly.  Individual B shared that she often goes out in the community with family or friends. She does not have to go out if she doesn’t want to. Individual B is able to decide which activities she participates in, both inside and outside of the facility. She is able to choose which restaurants she goes to as well. Individual B is able to give input on in-house activities and outings through the Resident Council meetings that are offered each month.  **Employee Interviews**  The administrator was interviewed during the onsite visit. The following information was gathered: The residents are able to come and go as they please. All residents are asked to sign in and out so their whereabouts is known, in the event of an emergency. Residents are welcome to go out into the community independently, with peers from the facility, with family or friends—residents may go out with whomever they choose. The facility offers community events that residents may participate in. Residents are asked to sign up for these events because some have limited availability. These facility-planned events are not mandatory to attend, but residents are encouraged to participate. There is a monthly Resident Council meeting in which residents are able to voice their concerns and make suggestions for events and activities. The residents enjoy a variety of outings including trips to the Dollar Tree, Christmas Tree Shoppe, bowling, and out to eat. A variety of activities are offered throughout the day in-house. Some of these activities include word games, card games, exercise, etc. The residents are able to go outside and enjoy the several seating areas. There is a garden with flowers, fruits and vegetables that some residents enjoy tending to. We offer holiday parties and special events such as an Easter Egg Hunt, annual BBQ, and an end-of-summer Luau, to name a few. |

**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. Monthly Activities Schedule  2. Resident Rights  3. Visitor Policy  4. Standard of Practice for Individualized Honoring Choices  5. Resident Food Services  6. Excerpt from Resident Handbook  7. Photo of Individualized Bedrooms  8. Trip Sign Up Sheets  9. Google Maps  10. Website: <https://www.eger.org/harbor-house> |

**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. |