New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**  Elderwood Assisted Living at Cheektowaga | | |
| **Location of Setting**  229 Bennett Road, Cheektowaga, NY 14227 **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.**  **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 co-located with Elderwood at Cheektowaga Nursing Home. |

**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. | Elderwood Assisted Living at Cheektowaga is located in a community among other residences and commercial businesses. 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. Residents have access to planned events in the community. 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. 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. Residents use Metro Pal transit for going places on their own. The site also has a van to transport residents. There is a bus station at the corner. Residents may take part in the Metro Pal Pass as this service picks them out right in front of the residence. |
| *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 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 have both private and semi-private rooms. Residents have the option of a shared room or a semi-private room. This is discussed prior to admission. Residents who private pay have the option for private rooms. Residents are informed of their room options at pre-admission. 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. These are updated every 60 days and residents can request changes at any time. Staff hold regular in-service trainings and meetings where they discuss individual needs. Residents participate in planning meetings. |
| *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. | Elderwood Assisted Living at Cheektowaga ensures that each residents’ rights are protected. It is each resident’s right to have 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)*  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, Elderwood Assisted Living at Cheektowaga, does not have any barriers preventing individuals’ movement. As observed. As observed, Elderwood Assisted Living at Cheektowaga, develops a robust 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. | Elderwood Assisted Living at Cheektowaga 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 Residential Council provides input for events and activities onsite and in community. Upon interview, it was confirmed that residents are able to choose who provides the services they voluntarily receive. 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 own schedules. Though there are set time for meals (8:00 AM, Noon, and 5 PM), there is food available at any time as there are kitchenettes stocked with snacks/drinks available 24/7. Residents are able to eat meals when they wish, and in the resident’s preferred location. Per staff, dining room seating is open without assigned seating. 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)*  Yes  Partial  No | Individuals are able to have visitors of their choosing at any time. | Visitors of residents are encouraged to visit at any time and as frequently as possible. Residents are able to decide who they would like to visit with and when. Although visitation is 24 hours, for the safety of residents and staff, all entrance doors are secured during the evening/ night hours. During this time facility staff will admit visitors. All visitors are required to sign in and out. There are several private spaces where residents can meet visitors, including in their private rooms. |
| *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 of Elderwood Assisted Living at Cheektowaga, 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. Some units are private, some semi-private/ shared. All rooms and bathroom doors are lockable, to ensure privacy, with only appropriate staff having . If applicable, individuals in a semi-private room have choice of roommate based upon availability and compatibility. As observed, residents have the opportunity to furnish and decorate their rooms as they wish. NYDOH ACF program is issuing revised guidance and person-centered trainings to remediate this by March 17, 2023. |

**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**  **8/29/2017, 03/27/2018, 04/12/2018** | **State Agency/Entity that Conducted the On-Site Visit** New York State Department of Health |
| **Description of the Setting**  Elderwood Assisted Living at Cheektowaga is an Adult Home that offers Assisted Living Program (ALP) services. 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, 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 capacity is for 80 adult home residents, of which 66 may receive ALP services. The facility is located in Erie County, in a community among other residence and commercial businesses. Elderwood Assisted Living at Cheektowaga avails as much care and services as residents need. The campus setting, centrally located and just minutes from Buffalo, features a continuum of care, with a skilled nursing community and independent living patio homes nearby. There are three unrelated adult care facilities located within a five-mile radius. 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. Elderwood Assisted Living at Cheektowaga 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, nursing, personal care, physical therapy, occupational therapy and speech language pathology. The facility offers comfortable private, semi-private fully furnished rooms with accessible bathrooms to meet each resident’s personal needs. Room options and availability are discussed pre-admission. Residents are encouraged bring personal items and decorate their room to taste. The facility avails food to residents at all times and provides three regularly scheduled meals per day in a restaurant-style dining experience. The facility offers alternate meal options in addition to the main entre. There is a kitchenette on each floor with snacks available to residents.  Elderwood Assisted Living at Cheektowaga establishes and maintains an organized and diversified wellness program. Wellness programs are provided at various times of the day and evening, seven days a week. The Wellness Program is designed to accommodate the interests and the physical, mental and psychosocial needs and abilities of the facility population. Access to wellness programs are made available in the facility and in the community in order to sustain and promote the individual resident potential and sense of usefulness to self and others as well as continuing and strengthening family ties and friendships. The Wellness Manager plans a monthly schedule based on individual and group needs, interests and capabilities of residents. The calendar of events includes schedules for religious services and Resident Council Meetings. The types of programs planned include, but are not limited to: arts and crafts, parties/ socials, sing-alongs, current events programs, movies, exercise classes, card playing and other games, bingo, coffee hours, special entertainment, bowling, library services, trips into the community, reminiscence, outdoor programs, and guest speakers. The monthly schedule will be posted in the monthly newsletter which is distributed to the residents. Facility-planned community outings are planned and announced in advance at Resident Council Meetings. Reservations for the events are required and are made on a “first-come” basis or on a rotating basis depending on the number of interested residents. Community outings may include, but are not limited to: Senior Citizens meetings, rides, luncheons and dinners at local restaurants, shopping trips, picnics, theater presentations, movies, concerns, visits to historical and cultural sites. 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 choose, with family, friends, peers from the facility or independently. Resident Council meets once per month. All residents are invited and encouraged to participate in the monthly scheduled meetings to voice their opinions, concerns and share ideas. 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 without observation from staff. The following was gathered regarding community integration:  Individual A shared that she does not go into the community to do things. She said she likes to stay right here in the center. Individual A shared that she has mobility issues and does not like to go far anymore. If she wants to go out, even to run an errand, she can. Individual A said sometimes she goes out and sometimes I stay. She said she can get transportation from the facility. However, she has a son who comes with whatever it is she needs. She said the facility does plan outings for the residents. By choice she does not care to participate. She does choose to go out with her son once in a while out to eat. Individual A enjoys living at Elderwood Assisted Living at Cheektowaga because it is a calm and nice setting. Individual A prefers in-house activities rather than community-based events.    **Employee Interviews**  During the onsite visit the administrator was interviewed. The following was gathered regarding community integration:  Residents can leave the premises at any time. They are able to go out into the community to enjoy activities and outings, visit with friends and family and do as they choose. Residents are asked to sign in and out when leaving and returning at the front desk as a safety measure. Residents can access their community with family, friends, peers from the facility, independently and through facility-planned events. The Wellness Manager plans and schedules both facility-based and community activities. The Wellness Manager will inform residents of available neighborhood programs and events and will arrange for transportation for residents to participate. Community outings are included in the monthly calendar. The outings are announced in advance at the Resident Council Meetings in review of upcoming events. Residents are required to sign up for community events to ensure proper staffing and transportation. The residents enjoy a variety of outings including going out to eat, shopping trips, movies, concerts, local parks and museums. |

**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. Page from Resident Guide Regarding Leaving the Premises and Outings  2. Community Activities Policy  3. Resident Rights and Resident Protections  4. Visitation Guidelines  5. Wellness Services Activities and Outings  6. Activities Calendar (facility-planned outings highlighted)  7. Planning and Assessment Policy  8. Google Map  9. Website: <https://www.elderwood.com/locations/elderwood-assisted-living-at-cheektowaga> |

**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. |