New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**  Elm York Home for Adults | | |
| **Location of Setting**  100-30 Ditmars Boulevard, East Elmhurst, NY 11369  **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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| Elm York Home for Adults is co-located with Elmhurst Care Center, Inc. |

**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. | Elm York Home for Adults 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. 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.  Per staff, public transportation is available through Medicaid-funded transportation or New York City Transit via the Access-A-Ride service or a public bus stop within a 5-minute walk. |
| *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 Elm York Home for Adults, ALP with home care services, case management, and other supports. Residents are informed of their room options at pre-admission. 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. | Elm York Home for Adults 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)*  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. As observed, the Elm York Home for Adults does not have any barriers preventing individuals’ movement. As observed, facility offers several indoor and outdoor gathering spaces for the residents. Per staff, the Elm York Home for Adults 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. | Elm York Home for Adults 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 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 schedules and activities. Per staff, though there are designated mealtimes, residents have the flexibility to eat meals when they choose, and in the resident’s preferred location. Per staff, dining room seating is assigned, however residents can make changes if requested. 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. | Elm York Home for Adults welcomes visitors. Visitors are required to sign in and out. There are several private spaces where residents can meet visitors, 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)*  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 Elm York Home for Adults, 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. Residents have keys to their apartments and to the facility’s entrances, with only appropriate staff having keys. All rooms and bathroom doors are lockable, to ensure privacy. If applicable, individuals in semi-private rooms have choice of 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**  **8/30/2019, 11/14/2019, 07/22/2022** | **State Agency/Entity that Conducted the On-Site Visit** NYS Department of Health |
| **Description of the Setting**  Elm York Home for Adults is and Adult Home and Assisted Living Program (ALP). The facility provides long-term residential care, room, board, housekeeping, personal care, and supervision to five or more adults. 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 262 adult home residents, of which 200 may receive ALP services. The facility is located in a residential area convenient to transportation, shopping, parks, recreation, as well as cultural, educational and religions establishments. Elm York Home for Adults is the only setting of its type in the immediate area. There are six other adult care facilities 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 assessable to 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. The facility also provides licensed home care services. The facility has both private and semi-private rooms. Bedrooms and bathrooms are both equipped with locks to provide privacy. Residents may decorate the room as desired. Residents have access to food throughout the day.  Outings are scheduled and encouraged, but the choice whether to participate lies with the residents. Public transportation is available through Medicaid transportation or New York City Transit through Access-a-Ride service. These services are available to those who apply and meet qualifications. Alternately, there is a public bus stop within a 5-minute walk. Residents may go on outings with anyone they wish to go with. Regularly planned outings including shopping, dining, and plays, to name a few. The facility holds a monthly Resident Council meeting in which residents are encouraged to make suggestions of outings. 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 at the time of the onsite visit, without observation by staff. The following information was gathered:  Resident A stated she goes into the community to do things she likes to do and only goes when she chooses to. She does not like to go on errands, so she does go. She can give input on activities to do, but she does not like choosing the activities. She said that she chose to live at Elm York. She did try living in supportive apartments, but it didn’t work out. She requested to move back to Elm York and has been back ever since.  Resident B stated he goes into the community to do things he likes to do and can go when he wants to go. He is able to run errands, and likes to run errands, but often has someone do it for him. He said he will often go out with Isaac, a staff member. Resident B helps choose the activities and outings offered. He serves as the President of Resident Council. Resident B chose to live at this facility.  **Employee Interviews**  During the onsite visit, the administrator was interviewed. The following information was gathered:  The administrator stated that the individuals have the opportunity, as they are interested and able, to participate in outings with their housemates/roommates, independently, or with family or friends. The individuals may access the community through events planned by facility staff. All facility-planned activities and events are planned with input from the residents. The Resident Council meets monthly to discuss outings and activities. The individuals are welcome to come and go as they please. Many residents utilize public transportation to go where they would like to go. |

**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. Person-Centered Care Planning and Person Directed Services Policy  2. Case Management Services Policy  3. Resident Rights  4. Activity Services Policy  5. Visitation Policy  6. Photo of Recreation/ Birthday Celebration showing assistive devices  7. Photo Bedroom showing individualization  8. Services Provided from Website  9. Google Map  10. Website: <https://www.elmyork.com/> |

**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. |