New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**  Focus Senior Living at Utica | | |
| **Location of Setting**  1445 Kemble StreetUtica, NY 13501  **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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| This site is co-located with Oneida Center for Rehabilitation and Nursing. |

**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. | Focus Senior Living is located in a residential area of Utica. The facility is integrated in and supports full access to the greater community. 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. 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. Public transportation is available to/from the facility with a bus stop located directly outside the setting. |
| *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 individual from among setting options. 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 Focus Senior Living with home care services, case management, and other supports. Upon availability, the facility has options for private rooms, which residents are made aware of at pre-admission. For those residents in shared rooms, residents are able to choose their roommate subject to availability and agreement by both parties. 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. | Focus Senior Living ensures that each residents’ rights are protected. It is each resident’s right to confidential treatment of personal and health records and to receive courteous, fair and respectful care and treatment at all times, and be free from coercion and restraint. Privacy is available in residents’ private room, as applicable, or in any of the common areas identified throughout. If they prefer something more private they are able to use the administrative office space or conference room. Each resident is provided a lockable drawer in their bedroom. 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, Focus Senior Living has no barriers preventing individual movement. As observed, there are many spaces for the individuals to gather or have private time, including many common areas, the dining area, and outdoor space, and the resident’s private rooms.  Focus Senior Living develops an activity schedule 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. | Focus Senior Living 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. Through resident council individuals are able to assist in menu planning. Residents are able to eat meals when they wish, and in the resident’s preferred location. There are no assigned seating in the dining room. Resident are encouraged to sit and eat with whomever they choose. Residents have access to food throughout the day and may also choose to keep food in their rooms. Residents have access to food in their room, including access to a fridge. 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. | Focus Senior Living welcomes visitors at any time. Residents and guests are required to sign in and out at the front desk. 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, including ramps in hallways where there are stairs. 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 Focus Senior Living, 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 These are a non-modifiable standards. 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 apartment/ room 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 have choice of “apartment-mate” based upon availability and compatibility. As observed, residents have the opportunity to furnish and decorate their rooms as they wish. If applicable, individuals sharing an apartment have choice of “apartment-mate” 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**  **8/28/2017, 02/28/2018, 03/29/2022, 09/16/2022** | **State Agency/Entity that Conducted the On-Site Visit** New York State Department of Health |
| **Description of the Setting**  Focus Senior Living at Utica is an Enriched Housing Program and Assisted Living Program (ALP). The facility provides long-term residential care, room, board, housekeeping, personal care, and supervision to five or more adults. 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 of the Enriched Housing Program is 110 with 87 beds designated ALP.  Focus Senior Living at Utica is part of Centers Health Care, and is co-located with Oneida Center, providing a continuum of care should such become necessary. Oneida Center offers a skilled nursing facility as well as an adult day health care program. The facility is located in Oneida County located in a residential area, yet proximal to commercial businesses, restaurants, etc. There are no other settings of its type in the immediate area. The facility is free of barriers inhibiting access to or egress from the location. The facility does have a fence surrounding their outdoor space which maintains the privacy of the residents. Focus Senior Living at Utica provides onsite services consistent with its licensure as a licensed homecare services agency. The facility is free from barriers inhibiting movement. The facility is physically accessible by all individuals, including ramps and elevators for resident’s use. 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 is made up of apartments, with either one or two bedrooms. Rooms are equipped with locks to provide privacy. Residents may decorate their living space as they wish to make their own. Residents can enjoy three gourmet meals each day and a light evening snack in the dining room and have access to food throughout the day offered by the facility or as the residents keep within their apartments.  Focus Senior Living offers a full schedule of activities with exercise, games, parties, visiting entertainers, and trips. Activities and events are developed and scheduled from suggestions and recommendations from the residents. Resident Council is held monthly to give residents the opportunity to share information and ideas and to express issues or concerns. The facility schedules a monthly activities calendar with the upcoming events and local trip schedule. Residents are encouraged to sign up for trips of interest. 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**  During the onsite visit, one resident was interviewed, without observation from staff. The following information was gathered regarding community integration:  Individual A stated he has been living at the facility for 4 to 5 months. He has family around the area to go and do things with. Individual A goes to Wal-Mart when he needs something. He stated that he does not have to go out but goes out when he chooses to. He is able to provide input on outings and activities through Resident Council, but he doesn’t participate in many activities by choice. Individual A stated that he chose to live at Focus Senior Living at Utica, but he hopes he can live on his own soon. Currently, Individual A is residing alone. He was given a shared room but is alone now because his roommate passed away. He does want his own room because he doesn’t know who he would be placed with if he did get another roommate. He stated he has a key to his living space and bedroom and is able to lock it to maintain his privacy. Individual A has his own cell phone and is able to use it when he wants and to stay in contact with those important to him. Individual A also have family and friends that visit any time.  **Employee Interviews**  During the onsite visit, the interim administrator was interviewed. The following information was gathered:  The facility offers a very diverse activity program and is designed for the enjoyment of all residents. Outings and in-house entertainment are arranged and added to the activity calendar. The facility enjoys celebrating holidays and birthday. They offer many activities to encourage socialization and engagement, music and movement, including activities such as coffee social, games, and card league. Resident Council meetings are held once per month. These meetings are designed for the residents’ benefit. All residents are encouraged to participate in the meetings. Resident Council give residents a chance to discuss any issues or concerns and to also provide input on outings and activities. |

**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. Resident Services- Resident Rooms Policy  2. Resident Services- Resident Freedom within the Facility Policy  3. Resident Services- Integration into the Community Policy  4. Resident Services- Resident Rights Policy  5. Resident Services- Person-Centered Care Planning Process Policy  6. Resident Living- page from Welcome Packet  7. Activity Calendar  8. Google Maps  9. Website: <https://utica.centersalp.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. |