New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**  Foltsbrook Center for Senior Living | | |
| **Location of Setting**  104 North Washington St Herkimer, NY 13350  **Note: for Prong 3 settings only include the name of the city and not the full address.** | **Type of Setting**  Adult Home | **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 facility is co-located with Foltsbrook Center for Nursing and Rehabilitation. |

**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. | Foltsbrook Center for Senior Living is located among other commercial businesses. Residents have access to the greater community. Residents can seek employment or volunteer 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. Activities are planned with input from the residents via the Resident Council, 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 (is not a modifiable standard) unless they have a designated payee/ authorized the facility to manage their finances. Residents have the opportunity to participate in outings and activities as they wish; individuals choose when, where, and with who they go out with; individuals access the community through planned events. Public transportation is not available to/from the residence; however, Medicaid transportation is available for the residents. |
| *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 Foltsbrook Center for Senior Living with home care services, case management, and other supports. Accommodations include a spacious single private room or suite, all with private bathrooms. 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. | Foltsbrook Center for Senior Living ensures that each residents’ 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’ room as applicable, residents may utilize the administrator’s office for privacy, or in any of the sitting areas identified throughout. There are phones on each unit that the residents may use. Resident rooms are equipped with locks with only the resident/s and appropriate staff having keys. 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, Foltsbrook Center for Senior Living does not have any barriers preventing individuals’ movement. As observed, Foltsbrook Center for Senior Living offers many spaces throughout for the residents’ use, both indoors and outside, as well as the residents’ private rooms. Foltsbrook Center for Senior Living 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. | Foltsbrook Center for 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. 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. | Foltsbrook Center for Senior Living welcomes visitors at any time, with suggested visiting hours from 8am to 8pm. Visitors are asked 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. Residents may allow their guests to enter without staff assistance. |
| *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 Foltsbrook Center for 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 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. | All residents have private rooms. Residents have privacy in their sleeping units. Residents have keys to their rooms and to the facility’s entrances, with appropriate staff having keys to doors. All rooms and bathroom doors are lockable, to ensure privacy. 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**  **8/26/2021, 09/25/2019, 10/18/2019** | **State Agency/Entity that Conducted the On-Site Visit New York State Department of Health** |
| **Description of the Setting**  Foltsbrook Center for Senior Living is and Adult Home. The facility provides long-term residential care, room, board, housekeeping, personal care, and supervision to five or more adults.    The total bed capacity is 80 adult home beds. The facility is located in a suburban area situated among commercial businesses. The facility is a short walk to the shops and restaurants in historic downtown Herkimer. There are two other Adult Care Facilities within a 3-mile radius of the facility. 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. The facility offers both single private rooms and suites, all with private bathrooms. Bedrooms are equipped with locks to provide privacy. Residents are encouraged to decorate their rooms to their liking. Residents have access to food throughout the day. The facility also has a barber shop, beauty salon and a specialty gift shop for residents’ use.  Community outings are scheduled and encouraged, however, residence participate as they choose. Public transportation is not available at or near the facility. Medicaid transportation is available. Residents may go on outings with anyone they wish to go with. Regularly planned outings including shopping, out to eat, and out for ice cream are some of the favored activities of the residents. 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**  During the onsite visit, one resident was interviewed without observation by staff. The following information was gathered regarding community integration:  Individual A shared that she enjoys going out into the community to do things she enjoys. She is able to go out on errands and activities, either through the facility or separately. Individual A will often go out with her brother to go shopping or out to eat. She said she only goes out when she chooses to. She does not have to go if she doesn’t want to. Individual A chose to live at the facility and enjoys her time there. She likes that she has her own private room and can do what she wants.  **Employee Interviews**  During the onsite visit, the administrator was interviewed. The following information was gathered regarding community integration:  The facility offers a variety of social and activity programs each day. A monthly calendar is generate by the Activity Director. The facility plans both in-house and community-based activities. In-house activities may include socialization activities such as book club, card and board games, manicures, coffee and news discussions, arts and crafts, religious services, and exercise. A weekly outing is planned for residents, such as shopping trips to Walmart or the dollar store and restaurant trips. Residents are required to sign up for all community planned events. The facility hosts a monthly Resident Council meeting in which residents may gather to discuss any issues or concerns. They are also encouraged to propose ideas for upcoming outings and activities. These meetings are open to all residents and all are encouraged to attend. Residents may come and go at their own discretion, however, it is requested that they sign in and out for safety reasons. The facility is located in a walkable neighborhood near many restaurants and convenient stores. |

**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. Case Management Policy and Procedure  2. Policy and Procedure on Resident’s Job/ Volunteer Opportunities  3. Monthly Activity Calendar  4. Inservice on Resident Person- Centered Planning  5. Resident Rights  6. Policy on Restriction of Movement and Resident’s Rights  7. Accommodations and Services  8. Google Map  9. Website: <https://foltsbrook.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. |