New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name****Alice Hyde Assisted Living Program** |
| **Location of Setting**45 6th Street Malone, NY 12953 **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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| [x] **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 Alice Hyde Assisted Living Program is co-located with the Alice Center, a skilled nursing facility.  |

**Provider Compliance Summary**

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| **Requirements for All HCBS Settings** |
| **Compliant?** | **Federal Requirement** | **Summary** |
| *42 CFR 441.301(c)(4)(i)*[x] 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. | The facility is located among residences, medical care, and retail shopping centers in rural Franklin County. There are no barriers inhibiting entry to or egress from the facility, giving residents full access to their community. Residents go on outings with their housemates using the facility’s van. In fact, two residents were scheduled to go Christmas shopping on December 8, 2017, the date of the assessor’s telephone interview. Residents 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 can seek employment or volunteer opportunities if they choose. Residents have control of their personal resources (this is not a modifiable standard) unless they have a designated payee/ authorized the facility to manage their finances. Residents routinely go on outings with their families and friends, and are free to doso as frequently as desired. Residents are free to participate in activities, and visit friends and locations in the co-located skilled nursing facility wing, including the beauty and gift shops and chapel. Residents can choose their medical providers. Franklin County Public Transportation (FCPT) will deviate one mile off its fixed route to pick up individuals who cannot get to a fixed stop. The fixed route stop nearest the Alice Hyde Assisted Living Program is about 0.5 miles away on Park Street.  |
| *42 CFR 441.301(c)(4)(ii)*[x] 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 anindividuals’ score on a uniform assessment tool (i.e., UAS-NY), it has been determined the individuals’ specific needs can be met in the Alice Hyde Assisted Living Program with home care services, casemanagement, and other supports. All rooms are private, and residents are made aware of this upon admission. There is one adjoined room on each floor, which opens into one large room. The first flooradjoined room is currently being used by a couple who have chosen to share a room upon admission. The facility provides individuals flexibility in their schedule, per their preference, including but not limited to sleeping, bathing, eating and daily events. Freedom and support to control one’s own activities and schedule. 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)*[x] Yes[ ] Partial[ ] No | Settings ensure an individual’s rights of privacy, dignity, respect, and freedom from coercion and restraint. | Alice Hyde ALP 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. All resident information is kept behind locked doors with only specific staff having access. All resident rooms are private. 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 and there is one lockable closet area for larger items. The facility’s policy regarding residents’ rights and the grievance process, aswell as the Assisted Living Program Resident Rights statement is provided to each resident. Residents who freely express complaints do so without fear of reprisal. Inaddition, there is a suggestion box located on the second floor. Alice Hyde Assisted Living Program does not use any restraints.  |
| *42 CFR 441.301(c)(4)(iv)*[x] 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. | Alice Hyde Assisted Living Program is free of barriers. Each resident controls his or her own schedule and activities. Residents make their own decisions about daily activities to participate in and with whom they interact. Residents may engage in community life, including activities outside of the facility at their discretion. Residents are free to participate in activities and visit friends and locations throughout the facility including the co-located skilled nursing facility wing, including the beauty and gift shops and chapel. The dining policy has been updated to include residents choice and preference. Additionally, residents have the ability to leave the building at all times. |
| *42 CFR 441.301(c)(4)(v)*[x] Yes[ ] Partial[ ] No | Settings facilitate individual choice regarding services and supports, and who provides them.  | Alice Hyde ALP 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. Per staff, ongoing ALP participation is revisited at each review of the Individualized Service Plan. Residents are approached daily about the day’s scheduled activities to allow the residents to express choice to participate, and the resident’s documented activity preferences are updated as needed. Upon interview, it was confirmed that residents are able to choose who provides the services they voluntarily receive, and such preference is documented in the resident’s care plan and changes are made as needed. 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)*[x] 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 and activities. Residents are able to determine how they spend their time (participate in planned activities or not). The facility has scheduled activities that residents may choose to participate in if they choose. Residents are able to eat meals when they wish, and in the resident’s preferred location. Often, residents will order takeout and some shop for groceries to be stored in their in-room refrigerators. Each resident room is equipped with an in-room refrigerator, and a table with two chairs. This allows the resident to eat in his or her room when desired. Residents have access to snacks, and some residents shop for groceries to bestored in their in-room refrigerators. The dining plan has been updated to allow for residents’ choice in seating.  |
| *42 CFR 441.301(c)(4)(vi)(D)*[x] Yes[ ] Partial[ ] No | Individuals are able to have visitors of their choosing at any time. | Residents may have visitors at any time, visiting hours cannot be limited. Visitors sign in and out via the Visitors’ Register. All rooms are private, and many residents choose to visit there. Residents also use the semiprivate sitting areas, dining room, living/activity room, or the chapel in the co-located skilled nursing facility. On the date of the onsite visit, it was observed that a family was visiting their parents, both of whom are residents at Alice Hyde Assisted Living Program.  |
| *42 CFR 441.301(c)(4)(vi)(E)*[x] Yes[ ] Partial[ ] No | The setting is physically accessible to the individual. (Not modifiable) | As observed, the Alice Hyde ALP is physically accessible. Bathrooms are furnished with grab-bars and the facility is equipped with an elevator for access to the second floor dining room and living space. All common areas are accessible to the residents. The facility is free from barriers that prevent residents’ movement in and outside of the facility. Assistive devices are available for those in need. Each resident has his or her own assistive devices, but when needed, the Alice Hyde Assisted Living Program does have such devices available for use. Entry or egress is not inhibited from the facility.  |
| *42 CFR 441.301(c)(4)(vi)(F)*[ ] Yes[x] 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)*[x] 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 Alice Hyde ALP, 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)*[x] 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. All resident’s rooms are private. Residents have keys to their rooms with only appropriate staff having keys. Bathroom doors are lockable from the inside; therefore, residents may lock the doors if they so choose, to ensure privacy. Every resident has a right to lock door. All rooms are private therefore negating the necessity for a choice of roommate. All residents are able to decorate their living space to make it more comfortable and appealing, as they choose.  |

**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****12/20/2017, 01/18/2018, 01/10/2023** | **State Agency/Entity that Conducted the On-Site Visit NYS Department of Health** |
| **Description of the Setting** Alice Hyde Assisted Living Program is an Adult Home with an Assisted Living Program. 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.Alice Hyde Assisted Living Program is located among residences, medical care, and retail shopping in Franklin County, and is co-located with but has a separate entrance from the Alice Center, a skilled nursing facility. Alice Hyde ALP is the only assisted living program in the immediate area. The facility serves individuals who are medically eligible for placement in a nursing home, yet due to a stable medical condition, can be cared for in an environment which fosters greater independence. The facility is committed to provide the residence and their families a warm, supportive, home-like environment that respects each induvial and their need. Alice Hyde Assisted Living Program is committed to providing an environment that optimizes health and quality of life for each resident by providing individualized care and allowing residents to maintain independence. The facility is free of barriers inhibiting access to or egress from the location. Alice Hyde ALP provides onsite individualized services consistent with its licensure as a licensed homecare services agency, including audiology, home health aide, homemaker, housekeeper, Medical Social Services, Nursing, Nutritional, Personal Care, Occupational Therapy, Physical Therapy, Respiratory Therapy and Speech Language Pathology. The facility is free from barriers inhibiting movement and is physically accessible to all individuals. Entry and egress are not inhibiting, allowing for residents to come and go as they choose. 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 all single, private rooms with private bathrooms, small table and chairs, and kitchenettes. Bedrooms are equipped with locks to ensure privacy. Residents may decorate their rooms as they wish to individualize their space and make it to their liking. There is also a homelike kitchen and dining room, and a comfortable, stylish living room for residents to enjoy. Residents are served three meals per day. Residents may dine in the area of choice including the dining room or in their own rooms. Residents have access to food at any time. Many residents choose to purchase food and snacks to store in their rooms. Residents’ schedules are flexible and are driven by the resident. Residents control their own schedules and activities. Residents may engage in community life, including activities outside of the facility at their discretion. Residents make their own decisions about daily activities to participate in and with whom they interact. Residents can eat, participate in activities, visit with others, go into the community, etc., at their discretion. |

**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**One resident was interviewed during the onsite visit. The visit was conducted without staff present.Individual A expressed that there are no restrictions on movement within the facility, residents are free to participate in activities both inside and outside of the facility. Individual A stated while public transit is close to the home, the facility provides transportation to scheduled and other requested resident outings. Residents have as much freedom as they desire, and routinely visit with families and friends, both within and outside of the facility. Individual A said the facility develops an activity schedule every month with resident input. Residents can choose to participate or not, it’s really up to each person as to how they spend their time. Individual A said the staff are really good and they will participate in activities when they are interested. Individual A said that if there is anything that they (the residents) don’t like they tell them (staff and/or administrator). **Employee Interviews**The facility administrator and assistant administrator were interviewed onsite. Both expressed encouragement for residents to integrate to the level the resident desires, and support as needed to facilitate that integration. There are no barriers inhibiting entry to or egress from the facility. The facility’s front door locks at night, but after-hours visitors only need to be met at the door by residents or use the intercom to enter. Residents have the opportunity to go on outings with their housemates utilizing the facility’s van. Residents may run errands independently. Residents routinely go on outings with their family and friends and are free to do so as frequently has desired. Following DOH guidance the facility generates a monthly activities schedule for the residents allowing for residents to participate as they choose. These activities are not mandatory, but rather available to provide supported integration within the facility as desired by each individual resident. The facility also offers community outings throughout the month should residents wish to participate in these.  |

**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.** The facility’s policies regarding transportation, activities, photographs and Google Maps information.1. Residents Rights2. Services Provided and Amenities3. Activities Policy4. Monthly Calendar5. Dining Policy6. Person Centered Care Planning Policy7. Transportation Policy8. Photo of resident’s room9. Google Map10. website: <https://www.alicehyde.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 Comment Received**Click or tap here to enter text. |