New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

|  |  |  |
| --- | --- | --- |
| **Provider Name**  Harbor View Home for Adults | | |
| **Location of Setting**  3900 Shore Parkway  Brooklyn, New York 11235  **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**

|  |
| --- |
| **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.?)

|  |
| --- |
| The facility is across the street from Sheepshead Nursing and Rehabilitation Center. |

**Provider Compliance Summary**

|  |  |  |
| --- | --- | --- |
| **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. | Harbor View 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. Activities are planned with resident input collected through the Resident Council. 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 by the facility to manage their finances. Residents can choose their medical providers.  Transportation is available via local car services, Access-A-Ride or MTA (public transportation). |
| *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 Harbor View Home for Adults with home care services, case management, and other supports. The facility offers both one bedroom and two-bedroom apartments. Residents are informed of their room options at pre-admission. Residents who are in a semi-private room have a choice of roommate 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. |
| *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. | Harbor View Home for Adults 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’ 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, Harbor View Home for Adults does not have any barriers preventing individuals’ movement. As observed, Harbor View Home for Adults offers many spaces throughout for the residents’ use, both indoor and outdoor. arbor View 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. | Harbor View Home for Adults may only care for a person who voluntarily chooses to participate in the program after being 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, there are scheduled dining hours, however, 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. | Harbor View Home for Adults welcomes visitors at any time. Visitors are asked to sign in and sign out. There are several private spaces where residents can meet visitors, including in their private rooms, if applicable. 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 Harbor View 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 to doors. 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**

|  |  |
| --- | --- |
| **Date(s) Conducted**  **10/7/2019, 12/23/2019, 08/31/2022** | **State Agency/Entity that Conducted the On-Site Visit New York State Department of Health** |
| **Description of the Setting**  Harbor View Home for Adults is a 162-bed Adult Home that provides long-term residential care, room, board, housekeeping, personal care, and supervision to five or more adults.  The facility is located in Kings County, overlooking Sheepshead Bay in Brooklyn. The facility is in a community among other residences and commercial businesses. There are two other Adult Care Facilities within a one-mile radius, one of which is also an Adult Home. The facility is free of barriers inhibiting access to or egress from the location. The facility is free from barriers inhibiting movement within the facility. 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 has both private and shared rooms. Residents are informed of room availability and type prior to admission. For those who share bedrooms, choice of roommate is based on availability. Bedrooms and bathrooms are both equipped with locks to provide privacy. Residents may decorate the room as choose to help them feel at home. Residents have access to food throughout the day. There are also vending machines located throughout the facility for residents’ use. Residents may also keep a small refrigerator and food items in their room if they wish. The facility offers several areas for the residents to enjoy including both indoor and outdoor spaces, including a recreation room and a library with computers.  Harbor View Home for Adults offers a wide array of stimulating games and activities including music, arts and crafts, computer studies, religious services and live entertainment. The facility offers a variety of both in-house and community-based outings and activities. Outings are scheduled and encouraged, but the choice whether to participate rests with the residents. Public transportation is available to and from the facility including local car services, Access-A-Ride and MTA (Metropolitan Transportation Authority). There is a bus stop a 2-minute walk away. Residents may go on outings with anyone they wish to go with, including peers, family and friends, or independently. Regularly planned outings including shopping, dining, local parks 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 and inhouse activities. 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**

|  |
| --- |
| **Individual Interviews**  During the onsite visit, two residents were interviewed without observation by staff. The following was gathered regarding community integration:  Individual A choose to reside at Harbor View Home for Adults and enjoys looking at the ocean views. She said she does not go out into the community to run errands because she is in a wheelchair. She is offered the opportunity to go out but chooses not to, out of convenience for herself. Individual A chooses to participate in in-house activities that spark her interests. She also enjoys sitting outdoors and enjoying the ocean view.  Individual B choose to reside at Harbor View Home for Adults and did not want to look anywhere else. Individual B is new to using a walker and chooses not to go out into the community as she does not want to take a chance falling while out. She stated that others go out, but she chooses not to at this time. Maybe when she is more comfortable with her walker, she will join in community outings. She prefers to join in on inhouse activities and will sit on the patio for fresh air.    **Employee Interviews**  During the onsite the administrator was interviewed. The following was gathered regarding community integration:  Harbor View Home for Adults is located in an accessible neighborhood, within walking distance to a bodega/ deli, Dunkin Donuts and restaurants, for those interested and able. Also within walking distance is a bus stop for residence interested and able to journey through the community. The facility schedules both indoor activities and community activities for the residents to partake in. All activities and outings are at the discretion of the resident; they can choose to participate or not. Each month an activities calendar is generated which includes a variety of activities for the residents. Additionally, community activities are scheduled. Residents are encouraged to sign up for these activities as often, space is limited. The facility will provide transportation for all facility planned outings and event. |

**Section Three**

**Additional Evidence**

|  |
| --- |
| **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. Freedom of Movement Policy  3. Resident Rights  4. Visiting Hours  5. Photo of Recreation Area, including use of assistive devices  6. Semi-Private Bedroom (photo)  7. Private Bedroom (photo)  8. Google Map  9. Website: <https://harborviewhome.com> |

**Section Four**

**Public Comments Summary**

|  |
| --- |
| **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. |