New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

|  |  |  |
| --- | --- | --- |
| **Provider Name**  Argyle Center for Independent Living | | |
| **Location of Setting**  4573 State Route 40 Argyle, NY 12809 **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**

|  |
| --- |
| **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 Argyle Center for Independent Living is co-located with the Washington Center for Rehabilitation and Healthcare, a skilled nursing facility. |

**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. | Argyle Center for independent Living is located in a rural setting. 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 can seek employment or volunteer opportunities if they choose. Individuals can choose their medical providers. Individuals 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 are able to go out with family and/or friends. The facility has a variety of outings planned and residents are able to sign up for any outing they wish to participate in. These activities are planned with input from the residents via a weekly meeting and a suggestion box. Schedules are individualized based on the individuals’ needs and desires. Residents can come and go as they choose. Public transportation is not available. However, the facility has vehicles to transport 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 Argyle Center for Independent Living with home care services, case  management, and other supports. Private bedrooms are upon availability. This is discussed prior to admission. For those that share a room, residents can choose roommates based on availability. The administrator tries to match up individuals based on compatibility as well as availability. 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. | Argyle Center 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, the facility does not have any barriers preventing individuals’ movement. As observed there are several areas for gathering: the activity room, dining room, lobby sitting area, and the gazebo outside to name a few. Argyle Center 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. | Argyle Center 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**.** Staff support residents in their decisions. |
| **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 are able to eat meals when they wish, and in the resident’s preferred location. Mealtimes are set. However, if a resident does not come at mealtime, the meal is wrapped up and saved for when they are ready to dine. Per staff, dining room seating is open without assigned seating. All residents have access to food 24 hours a day. Snacks and coffee are available to the residents at all times and may also choose to keep food in their rooms. The facility has scheduled activities that Residents may choose when to participate in activities and when to eat their meals. 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. | Residents can have visitors at any time. There are several private spaces where residents can meet visitors, Residents may use the recreation room, dining room, lobby or administrator’s office for privacy. They may also have visitors in their room. If it is a shared room, the resident needs to get permission from their roommate to have a guest in. The front doors are only locked between 9pm and 4:30am. During this time there is a doorbell to ring in which staff will attend to residents' visitors. 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. The facility is single floor and barrier-free. All individuals have access to all common areas of the facility. The facility is free of inhibiting barriers. Assistive devices, such as walkers and wheelchairs, are available for those in need. 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 Argyle Center for Independent Living, 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. | Individuals have privacy in their sleeping units. Residents have keys to their apartments and to the facility’s entrances. All rooms and bathroom doors are lockable, to ensure privacy. Appropriate staff have keys for access during emergencies. If applicable, individuals sharing a room 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**  **6/3/2019, 08/01/2019, 02/20/2020** | **State Agency/Entity that Conducted the On-Site Visit NYS Department of Health** |
| **Description of the Setting**  Argyle Center for Independent Living is located in a rural setting. The facility is co-located with Washington Center for Rehabilitation and Health, a skilled nursing facility. There is a double door which separates the adult home from the nursing home. The facility is one level which is accessible to all and is free from locked doors, gates or other barriers.  Argyle Center for Independent Living is and Adult Home and Assisted Living Program. 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 facility also have an onsite beautician, and onsite library and free Wi-Fi services.  The total bed capacity is 35 adult home, of which all 35 are licensed ALP beds. The facility is located in a rural area. The nearest adult home is located approximately 11 miles away. 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, are available to residents as prescribed. The facility also provides licensed home care services. The facility has private rooms, shared double rooms and couple suites with kitchenettes. Bedrooms and bathrooms are both equipped with locks to provide privacy. Residents may decorate the room as desired including pictures, knick-knacks and other personal items that will help them feel at home. Residents have access to food throughout the day.  Outings are scheduled and encouraged, but the choice whether to participate rests with the residents. Residents are welcome to come and go as they please. The facility supports access to community life and community events and activities in the surrounding community and will assist residents in securing transportation when needed or by providing transportation as public transportation is not available. Residents may go on outings with anyone they wish to go with. The facility offers an activities program that includes outings and events within the surrounding community. Residents may choose to participate in these activities or not. Facility staff work with residents to ensure that they can partake in outings with friends and families without missing the delivery of needed services (i.e showering, medication, etc). The facility holds a weekly meeting in which residents can give input on activities and outings they wish to participate in. A suggestion box is also available. 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**  Two residents were interviewed during the onsite visit without observation by staff  :  Individual A expressed that a friend visits and they go out together, and there are facility-planned outings that Individual A will partake in if desired. Individual A confirmed an ability to go where, when and with whom desired. Individual A choose to reside at this facility based on its proximity to her parent, who is in the adjoining nursing home. As a result of the proximity, Individual A visits the nursing home frequently. Individual A is in a shared room and is happy with both the room and roommate; there is a mini refrigerator in the room where some snacks and soda are stored.  Individual B echoed Individual A as it relates to outings. She also shared that she has her own car and can come and go as she pleases. She choose this facility because her husband was in the nursing home, but he is now in the adult home. They do not share a room but she said this works out fine as she enjoys her single room.  On the date of the onsite visit, as observed, a gentleman was visiting his mother, as he does regularly. They were observed talking and enjoying a cup of coffee together.  **Employee Interviews**  The facility administrator and nurse were interviewed onsite. Both expressed encouragement for residents to integrate to the level the resident desires, and support as needed to facilitate that integration. The facility provides several opportunities for the residents to participate in outings within the community. Staff support residents in engaging in the surrounding community. They encourage but never force residents to engage and associate with others. The facilty schedules activities, events and planned transportation at various times throughout the day to enable residents to have flexibility in their schedules. |

**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.**  The facility’s policies regarding transportation, activities, photographs and Google Maps information.  1. The facility’s HCBS Policies  2. Monthly Activity Calendar  3. Remediation Complete Plan regarding locks  4. Social History and Profile sheet  5. Photo of the outside of the facility  6. Photo of the doors separating the Adult Home from the Nursing Home  7. Photo of a resident’s private mailbox outside of their room  8. Photo of a resident’s personalized room  9. Photo of a resident’s personalized room (different from above)  10. website: <https://argyle.centersalp.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 Comment Received**  Click or tap here to enter text. |