New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**  Palisade Gardens | | |
| **Location of Setting**  185 Palisade Avenue Yonkers, New York 10703 **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**  This is a non-disability specific setting providing long-term residential care, room, board, housekeeping, personal care, and supervision. |

**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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| Palisade Gardens is located next door to Regency Extended Care 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)*  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. | Palisades Gardens is located among other residences and commercial businesses in a walkable 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 with input from the residents, 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. Public transportation is nearby for residents’ use. There are several bus stops within a short walk of the facility. |
| *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 Palisade Gardens HFA with home care services, case management, and other supports. Residents have the option for a private room upon availability. Room availability is discussed pre-admission. Residents have a choice of roommate. All bedrooms are private. The facility offers both one bedroom or two-bedroom apartments. Residents are informed of their room options at pre-admission. Residents who are in a two-bedroom apartment have a choice of “apartment-mate”, 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. | Palisade Gardens 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. Each resident has the option to procure in-room telephone, their needs and preferences are respected, and each 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, Palisades Garden does not have any barriers preventing individuals’ movement. As observed, Palisade Gardens offers indoor and outdoor spaces for the residents to utilize. Palisade Gardens HFA 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. | Palisade Gardens 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 assigned, however, residents may request to be change seats. 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. | Palisade Gardens 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 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. 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 Palisade Gardens HFA, 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, those who share a room, residents have a choice of roommate, based on availability. Residents have the option for a private room upon availability. Room availability is discussed pre-admission. Residents are welcome to decorate their room 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**  **10/11/2019** | **State Agency/Entity that Conducted the On-Site Visit** New York State Department of Health |
| **Description of the Setting**  Palisade Gardens is a 106-bed Adult Home. The facility provides long-term residential care, room, board, housekeeping, personal care, and supervision to five or more adults.  The facility is located in Westchester County, in a community among other residences and commercial businesses. This is the only facility of its type in the immediate area. The closest adult care facility is approximately 2 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 and rollators, are available to residents as prescribed. The facility has both private and semi-private rooms. Residents are provided room options based upon availability. This is discussed pre-admission. For those with semi-private rooms, residents have choice of roommate, based upon availability. Residents may decorate the room as choose to help them feel at home. Food is available to residents at all times.  The facility offers a variety of inhouse and community-based outings and activities. Community outings are scheduled and encouraged, but the choice whether to participate rests with the residents. The facility plans several community outings each month. Residents are required to sign up for the outings. Residents may go on outings with anyone they wish to go with, including peers from the facility, family, friends, or independently. The facility is in an accessible community. Residents are able to walk or talk a bus to their destinations. There are several bus stops within a minute walk from the facility. Regularly planned outings including shopping and dining trips. Residents are able to discuss any outing and activities ideas with the director of recreation. 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 interview two residents were interviewed. The following information was gathered regarding community integration:  Individual A reported that he enjoys going out and does so nearly every day. He said that he goes out independently. Individual A shared that the facility schedules outings, but he doesn’t have to wait for something to be planned to go out. If he wants to go somewhere, he goes. He also said that he does not have to participate in a facility planned event. He will sign up for an outing that he is interested in such as field trips to buffet restaurants. Individual A said that he typically walks to where he needs to go or will take a bus. Individual A shared that sometimes he feels like being busy and sometimes he likes to relax. He said it is okay to do both; he makes his schedule and decides what to do.  Individual B shared that he enjoys going out into the community with friends and independently. He runs errands as he wants or needs to. He either walks to his destination or takes a bus. Individual B said he can come and go as he pleases. The facility plans outings, and he will sometimes participate in those. It depends what the outing is. He shared that if it’s a good restaurant he will sign up for the outing. Individual B said that he has lived at Palisade Gardens for 18 years and hasn’t had any problems. He is able to do what wants and goes where he wants, when he chooses.    **Employee Interviews**  During the onsite visit the administrator was interviewed. The following information was gathered regarding community integration:  The facility is located in a very accessible area. The community has sidewalks to help residents stay safe while out. Residents are able to walk to various destinations such as stores and restaurants. For those who like to venture a little further, there is a bus stop at the end of the street. Residents go out independently, with family and/or friends, and with friends from the facility. The facility plans outings and event for the residents, with their input through the Resident Council meetings. Activity levels vary from resident to resident. There are some very active residents who enjoy participating in several in-house activities and some residents who need encouragement to participate. The same goes for community integration. Several residents are always out and about. Residents are able to come and go as they choose. |

**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. Monthly Calendar  2. Adult Life Information Questionnaire  3. The Rights of Residents of Adult Care Homes  4. Photo: Bedroom I  5. Photo: Bedroom 2  6. Photo: Exterior of Facility  7. Google Map  8. Website: <https://www.palisadegardenhfa.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. |