New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**Pineview Commons H.F.A. |
| **Location of Setting**201 South Melcher St. Johnstown, NY 12095  **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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| [ ] **Prong 1: Setting is in a publicly or privately operated facility that provides inpatient institutional treatment.**[x] **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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| Pineview Commons is located adjacent to the Wells Nursing Home, 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. | Pineview Commons Home for Adults is located among individual 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. 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 are asked to let staff know when they are going to be out of the facility. 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. The facility has two vehicles used for outings including medical appointments. Public transportation is also available with a stop within a few feet of the facility.  |
| *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 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 Pineview Commons Home for Adults with home care services, casemanagement, and other supports. Private bedrooms are available but for those residents who share a room, residents have the choice of roommates, as applicable. 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. | Pineview Commons HFA 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. 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)*[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. | Each resident controls his or her own schedule and activities. Based on observation, Pineview Commons HFA does not have any barriers preventing individuals’ movement. The facility offers indoor and outdoor gathering spaces, activities spaces, private spaces, and areas for both calming and stimulating activities. Pineview Commons 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)*[x] Yes[ ] Partial[ ] No | Settings facilitate individual choice regarding services and supports, and who provides them.  | Pineview Commons HFA 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)*[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 schedules and activities. Residents are able to eat meals when they wish, and in the resident’s preferred location. Per staff, while residents are able to dine in their preferred location without additional charges, they do need to let staff know for regulatorily required supervision services. Residents are assigned seats to allow for required supervision but understand they may request a change. Residents have access to food throughout the day and may also choose to keep food in their rooms. Residents have access to food through in-room refrigerators where applicable. 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)*[x] Yes[ ] Partial[ ] No | Individuals are able to have visitors of their choosing at any time. | Pineview Commons HFA welcomes visitors at any time. Visitors are asked to sign in and out. Residents are free to have visitors at any time of their choosing. The front door is only locked after-hours, but there is a doorbell system in place to allow for access during this timeframe.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)*[x] 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. There is an elevator available to navigate between floors 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. Assistive devices are available to those who require them.  |
| *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 Pineview Commons 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)*[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. Residents have keys to their rooms. The facility’s door is only locked after-hours and there is a mechanism for after-hours entry. Therefore, residents do not have a key to the facility. 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**

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| **Date(s) Conducted****2/2/2018****02/21/2018, 03/29/2022, 04/15/2022** | **State Agency/Entity that Conducted the On-Site Visit NYS Department of Health** |
| **Description of the Setting** Click or tap here to enter text.Established in 1992, Pineview Commons H.F.A. provides congenial living arrangements for seniors who require supervised care in a home-like atmosphere. The family-operated facility offers highly trained staff available to assist residents with daily living activities such as bathing, dressing, and medication/case management services, as well as housekeeping and laundry. Case management and medication management services are supervised by two full time nurses. Staff accompanied transportation services to and from all medical appointments are available. Onsite nursing services, physical and/or occupational therapists, and counseling are available. Residents have the option to establish with the facility’s physician and/or podiatrist, but personal preference is respected regarding medical provider selection. Pineview Commons H.F.A. has a full range of social and recreational activities both on and off-premises. The total bed capacity is 94 adult home, of which 52 are assisted living program (ALP) beds. The facility is located near individual residences and commercial businesses. While another adult care facility is located about less than one mile from Pineview Commons, and a skilled nursing facility is adjacently located, Pineview Commons is the only ALP in the immediate area. 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 accessibly 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. Residents have a choice of selecting a suite, private or semi-private room. Tasteful furnishings are provided, although residents are encouraged to bring personal belongings with them which will enhance their sense of security and comfort. Residents have access to food throughout the day.  |

**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 at the time of the on-site visit without observation. The following information was gathered regarding community integration:**Individual A provided the following information:She goes out into the community to do things she likes. She is able to run errands alone, but will typically go with her brother (he does not reside at this facility). She can stay at home if she wishes, she does not have to go out when others in the home do. She makes suggestions about what activities she does. She stated that she has resided at Pineview Commons for ten years and likes it there. She has a private room with a key and can lock it if/ when she chooses. During the interview, the resident stated she had recently been avoiding activities because of comments made by some of her housemates during an activity. The administrator acknowledged this and told her to try to attend an upcoming activity and if someone is unkind, to make staff aware so that the issue can be addressed. Individual A also shared that she is able to eat what she wants to eat, at the times she wants to eat, and wherever she wants to eat. She stated she is able to have visitors when she wants.**Employee Interviews**Interview with the administrator confirmed that residents often go out with family, friends and others. Residents are asked to let staff know when they are going to be out of the facility for safety purposes. The facility has two vehicles used for outings; there is a public transit stop within feet of the facility. The facility has a Resident Council that meets regularly, which presents a forum where activity suggestions are made. Pineview Commons bases schedules and opportunities on individualized preferences and needs. Residents are not restricted any way unless their care plan, developed in conjunction with the resident and his/her family or others important to them, establishes those parameters. The facility offers and schedules activities for both inside and outside of the home, all of which are age appropriate.  |

**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. Transportation Policy2. Resident Rights and Protections3. Dining Room Seating Policy4. Visitor Policy5. Social Practices6. Resident Activities Program7. Photo of Assistive Devices8. Google Map9. Website: <https://pineviewcommons.org/>  |

**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. |