New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**  **The Pavilion at Vestal** | | |
| **Location of Setting**  105 West Sheedy Road, Vestal, NY 13850 **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.**  **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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| This facility is co-located with the Vestal Park Rehabilitation and Nursing Center. |

**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. | The Pavilion at Vestal is located in Broome County, and is situated in a residential community proximal to  commercial businesses and a cultural center. 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, 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 available/not available; however, The Pavilion at Vestal will assist in arranging for transportation as needed. |
| *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 Pavilion at Vestal with home care services, case  management, and other supports. The facility offers spacious single rooms, deluxe suites and double suites with a home-like atmosphere. Residents are informed of their room options at pre-admission. 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. | The Pavilion at Vestal 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. The Pavilion at Vestal provides sufficient spaces for activities to be conducted in private if so desired. 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 Pavilion at Vestal does not have any barriers preventing individuals’ movements. As observed, The Pavilion at Vestal provides sufficient spaces for activities of all kinds, both indoor and outdoor. The Pavilion at Vestal 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. | The Pavilion at Vestal 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 supports to control their schedules and activities. Residents are able to eat meals when they wish, and in the resident’s preferred location. There are multiple refrigerators throughout the facility where food items can be stored and accessed independently. Per policy, residents may change their dining room seating at any time. 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. | The Pavilion at Vestal 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. 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 The Pavilion at Vestal, 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 room, with only appropriate staff having keys to doors. All rooms and bathroom doors are lockable, to ensure privacy. When applicable, individuals sharing a suite 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**  4/18/2018, 05/08/2018, 06/07/2018 | **State Agency/Entity that Conducted the On-Site Visit** NYS Department of Health |
| **Description of the Setting**  Click or tap here to enter text.  The Pavilion at Vestal is an Adult Home and Assisted Living Program (ALP). 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 total bed capacity is 40 ALP beds. The Pavilion at Vestal is located in a residential community near commercial businesses, a convenience store and a cultural center. There are three other assisted living programs within 10 minutes from The Pavilion at Vestal. 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 hearing aids, are available to residents who need them. The facility also provides licensed home care services. The facility offers private rooms and double suites. Bedrooms and bathrooms are both equipped with locks to provide privacy for the residents. Though rooms are provided fully furnished, residents are able and encouraged to bring furniture from home. Food items are available to all residents between meals. There are many refrigerators through the facility where food items can be stored and accessed by 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**  Click or tap here to enter text.  One individual was interviewed at the time of the onsite visit without observation by staff.  Residents were observed participating in activities and socializing with one another.  Individual A was interviewed and reported that he is able to go into the community to do things he likes, but he is currently unsteady with his newly acquired wheelchair. He stated that he is able to run errands if he chooses to do so. Individual A stated that he does not have to go out on errands, he only goes if he chooses to. Individual A reported that he is able to suggest outings and activities. Individual A shared that he experienced a severe physical illness requiring rehabilitation and additional supports. He expressed that he was happy to have found The Pavilion at Vestal to support him in his recuperation. Individual A shared that he has a private room, as desired. He has a key to his room but often chooses not to use it (he leaves his door unlocked). He also stated that he has a locked area in his room to keep valuables (that he does keep locked). Individual A reported that he is able to eat what he wants, when he wants and with whom he wants. He goes to bed when he chooses and wakes up when he wants, there are no set bed/ awake times. Individual A is able to have visitors any time he wants. He is able to let them in.  **Employee Interviews**  Click or tap here to enter text.  During the onsite visit, the administrator shared the following information:  The residents are able to participate in outings with their housemates as they are interested. Residents may also run errands independently if they so choose. Residents are able to come and go as they choose. They are able to go out independently, with housemates, or with family or friends. The facility does schedule some outings and events for the residents to participate in. Residents may choose to participate or not; they are encouraged, but not forced to participate. The activity director completes a through assessment with each resident upon admission and regularly thereafter to assess likes and interests. |

**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.  The facility’s policies regarding transportation, activities, photographs and Google Maps information  1. Dining Room Seating Policy  2. Resident Services  3. Care Planning Process  4. Patient Complaints  5. Patient Bill of Rights  6. Monthly Activity Schedule  7. Activities Policies  8. Dining Area with available food and drink  9. Google Maps, showing the area of the facility.  10. Website: <https://vestalparkrehab.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. |