New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Provider Name**  Brookdale Hospital Medical Center ALP | | |
| **Location of Setting**  558-578 Rockaway Parkway Brooklyn, New York 11212    **Note: for Prong 3 settings only include the name of the city and not the full address.** | **Type of Setting**  Enriched Housing Program/ Assisted Living Program | **Medicaid Home and Community-Based Services Being Provided at the Setting**  The facility provides onsite medical, behavioral, or therapeutic services as their licenses allow. |

**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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| Brookdale Hospital Medical Center is located across the street from the 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. | Brookdale Center ALP is located in a community among other residences and businesses. Residents have access to the greater community. Residents have opportunity to participate in outings and run errands as they are interested and able, with family and friends or independently, with or without  their housemates. Residents can seek employment or volunteer opportunities if they choose. 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 (is not a modifiable standard) unless they have a designated payee/ authorized the facility to manage their finances.  Residents can go outside as they choose. Residents can choose their medical providers. The facility offers activities and outings that are comparable to those of people of a similar age. There are multiple 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 Brookdale Hospital Medical Center ALP with home care services, case management, and other individualized supports. Residents have the option for a private room, as all rooms are private. Room selection is discussed 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. | Brookdale Hospital Medical Center ALP ensures each resident’s right to confidential treatment of personal and health records; to have privacy in caring for personal needs; to confidential treatment of personal and health records; to 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. The individuals have private space to speak on the phone, open and read mail, and visit with others. Resident’s needs and preferences are respected. The facility ensures response to each Residents’ needs and preferences as defined in their care plans and the facility ensures that one resident’s behavior does not impede the rights of others. Residents are provided lockable storage for personal effects. Residents are provided a copy of their rights upon admission. The facility residents are free to express complaints without fear of reprisal. The facility does not utilize any restraints and does not allow for the confinement of its residents. |
| *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. Residents may engage in community life, including activities outside of the facility at their discretion. Residents make their own decisions about daily activities to participate in and with whom they interact. Based on observation, Brookdale Hospital Medical Center ALP does not have any barriers preventing individuals’ movement. As observed, Brookdale Hospital Medical Center ALP offers spacious gathering locations including the resident’s private rooms. Brookdale Hospital Medical Center ALP 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. | Brookdale Hospital Medical Center ALP 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. Residents can choose which staff provide his/her services they voluntarily receive. Pre-admission tours are encouraged and welcomed. Resident schedules are individualized and updated regularly by the individual based on their own circumstances. The facility ensures individuals are supported in developing care plans that support their own 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. 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. | Brookdale Hospital Medical Center ALP welcomes visitors at any time. For safety purposes, visitors are required to sign in and out. There are several areas throughout the facility that offer residents a private place to meet with their 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 Brookdale Hospital Medical Center ALP 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. All rooms and bathroom doors are lockable, to ensure privacy. If applicable, individuals sharing an apartment have choice of “apartment-mate” 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**  **10/4/2019** | **State Agency/Entity that Conducted the On-Site Visit New York State Department of Health** |
| **Description of the Setting**  Brookdale Hospital Medical Center Assisted Living Program (ALP) is a 43-bed Enriched Housing Program based ALP. The facility provides long-term residential care to five or more adults, primarily those 65 years of age or older, in community-integrated settings resembling independent housing apartments. Brookdale Hospital Medical Center ALP provides or arranges for room, board, housekeeping, personal care, and supervision, and, as an ALP, 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.  Brookdale Hospital Medical Center ALP is located in Brooklyn (Kings County) and is situated among other residences and commercial businesses. The ALP is across the street from Brookdale Hospital Medical Center.  There are several adult care facilities in the area, including two ALPs, located within a 3-mile radius. The facility is free of barriers inhibiting access to or egress from the location and free of barriers inhibiting movement within. Brookdale Hospital Medical Center ALP provides onsite services consistent with its licensure as a licensed homecare services agency. Through the Licensed Home Care Agency, Brookdale Hospital Medical Center ALP may provide services such as audiology, home health aide, homemaker, housekeeper, Medical Social Services, Nursing, Nutritional, Personal Care, Occupational Therapy, Physical Therapy, Respiratory Therapy and Speech Language Pathology. 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 consists of all full one-bedroom apartments, including kitchens, dining/living areas, and bathrooms. Bedrooms are equipped with locks to provide privacy. Residents may decorate their apartments as desired to make their space their own. Residents are serviced three meals per day the dining room and have access to food throughout the day.  Brookdale Hospital Medical Center ALP places great importance in recreation and activity. The facility offers a variety of daily in-house activities, including, but not limited to, exercise, games, book club, religious services, and arts and crafts. In addition, there are planned community outings throughout each month which may include shopping, dining and other activities of interest, to which the facility arranges for transportation. The facility distributes a monthly activities calendars that contain in-house activities and scheduled outings for residents to voluntarily sign up. The Resident Council meets monthly to elicit input from residents about activities and available food including recommended meals and food items. 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. Residents may access the community as they wish. They do not have to wait for a facility sponsored event. | |

**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.  At the time of the onsite visit, two residents were interviewed without observation by staff. The following information was gathered regarding community integration:  Individual A shared that she enjoys going into the community to do things she likes. She is able to come and go as she wants. She chooses when she goes out, where she goes and what she does. Individual A stated that sometimes she goes out with others from the facility, sometimes independently, and sometimes with family. Individual A shared that she gives input on outings and activities that the facility schedules such as places to eat. She participates if and when she wants to.  Individual B shared that she enjoys going into the community and does so often. She often goes out independently to run errands and such. Individual B also shared that there is an “errand day” one day per week that staff will go and get things for you if needed and you don’t feel like going. Individual B participates in the Resident Council. She said she likes to give input on outings and activities.  **Employee Interviews**  During the onsite visit the administrator was interviewed. The following information was gathered regarding community inclusion:  Residents are able to access the community as much or as little as they would like. The facility is located in a community near restaurants and stores. There are multiple bus stops within a short walk of the facility. Many of the residents will access the community independently. There are many restaurants and shops within walking distance or a short bus ride away. The facility also plans outings each month for residents to participate in. Such outings may include shopping trips, out to a play or concert, to the aquarium, local parks, and more. The residents give suggestions of outings and activities they would like to participate in. The activities department then takes the residents suggestions and will implement them into the upcoming activities calendars. |

**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. Resident Rights  2. Case Management Services Policy  3. ALP Care Planning Policy  4. Photo: Always Available Snacks  5. Photo: Apartment Dining and Living Room Area  6. Resident Case Management Evaluation  7. Google Map  8. Website: <https://www.brookdalehospital.org/schlang-pavilion-senior-housing.html> |

**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. |