New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Providers Name**  **Fairview Adult Day Care Center** | | |
| **Location of Setting**  **1444 East 99 Street, Brooklyn, NY 11236** | **Type of Setting**  **Non-Residential - Adult Day Health Care Program** | **Medicaid Home and Community-Based Services Being Provided at the Setting**  **Adult Day Health Care** |

**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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| Program is located offsite. |

**Provider Compliance Summary**

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| **Requirements for All HCBS Settings** | | |
| **Compliant?** | **Federal Requirement** | **Summary** |
| *42 CFR 441.301©(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 setting is integrated and supports full access of individuals receiving Medicaid HCBS to the greater community to the same degree of access as individuals not receiving HCBS. |
| *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. | Satisfaction and setting options are discussed as part of individuals’ person-centered planning meetings and individuals have the opportunity to choose setting options, including non-disability specific settings. Individuals are satisfied with current services and chose the settings in which they receive services as verified by interviews and documented through the heightened scrutiny process. |
| *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. | Individuals are ensured privacy, dignity, respect, and freedom from coercion and restraint at the setting. |
| *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. | Individuals have autonomy and independence in their daily lives regarding their life choices, daily activities, and with whom they want to interact with. |
| *42 CFR 441.301(c)(4)(v)*  Yes  Partial  No | Settings facilitate individual choice regarding services and supports, and who provides them. | Each registrant has a Care Plan that meets requirements for person-centered planning. |
| **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)(©(C)*  Yes  Partial  No | Individuals have the freedom and support to control their schedules and activities; and have access to food any time. | Individuals are supported at the setting to have control over their schedules and activities; individuals also have access to food at any time. |
| *42 CFR 441.301(c)(4)(vi)(D)*  Yes  Partial  No | Individuals are able to have visitors of their choosing at any time. | Individuals are supported at the setting to receive visitors at any time. There is no schedule or designated visiting hours. |
| *42 CFR 441.301(c)(4)(vi)(E)*  Yes  Partial  No | The setting is physically accessible to the individual.  (Not modifiable) | When needed, all registrants have physical accessibility in the program. |
| *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. | Any modifications had written justifications in an individual’s person-centered plan and were supported by a specific identified need. |
| ***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. |  |
| *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. |  |

**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**  **2/9/2022** | **State Agency/Entity that Conducted the On-Site Visit NYS DOH** |
| **Description of the Setting**  Click or tap here to enter text.  This program is a non-residential, medical model Adult Day Health Care Program setting in Brooklyn, NY, with an overall site capacity of 100 registrants that can be served.  The services being provided to registrants are in a home environment where registrants have free access to the community. There are two bus stops close to the program with the L train two blocks away. The community information board is in a high traffic area of the program and has the bus schedule and alternative options for transportation. The staff assists registrants with scheduling transportation as needed.  The program policies reflect person centered care and experiences for the registrants. The admission procedure through routine updates to their care plans policy and procedure, focuses on individual registrant preference and participation in those activities. Registrants are always given a choice while in program including participation in activities, food choices and timing, visitation, services, and privacy.  Activities are planned with the input of registrants by use of the registrant council, keeping in mind their strengths and weaknesses. Community events are offered on the activity calendar, local attractions, and additional events are posted on the community information board. The program has two parks close by and is located close to a pier with benches and a shopping plaza. There is an urgent care, places of worship, a pharmacy all within walking distance to the program. The program allows registrants alternative options for group activities with a listing of alternative activities, individual care plan preferences, individual or small group choices, and quiet areas for rest or relaxation.  The program doesn’t restrict registrants on visitation during program hours. Registrants are free to move about the program and to come and go as they please. There is no restriction or requirement for work opportunities and the setting regularly assess each registrant’s needs, desires, and choice to work, assist with job searches and skill promotion. An assessment of interest in working will be completed during quarterly review meetings. The facility does not support registrants with money management. Registrants receiving services are responsible for their own personal money they bring to the adult day program, or they can securely lock up the money. Social workers may assist when needed for any concerns with money or planning.  All staff and registrants are educated and trained on those receiving services. These policies include the person’s right to be treated with dignity and respect, health and personal privacy and freedom from coercion and restraint. Staff and registrants have confirmed that people at the setting have the freedom and support to control their own schedules, coming and going to and from the setting, and eating when they would like. Staff and people at the setting stated that if they are hungry, they can let staff know, and staff accommodate their specific needs. | |

**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.  Who chose this program for you to attend? (HCBS)  Their friend who told them about the program, so they visited the program, liked it and had been there for 12 years now.  Tell me about the activities you do here? (How often, if do not participate find out why)  Loves the PT and social groups with the Social Worker. Because registrant is a DM and has HB and gets care and support and likes other activities as well. 3 days a week  How do staff assist you? (Bathing, drsg, grooming, feeding, appointments, meds, etc)  Staff assist with DM education, gives the registrant insulin injections when needed, social worker helps set up appointment in the community, if I need to go to the pharmacy, I tell a staff member who will assist me.  How do staff treat you? (Respect, caring, yelling, swearing, rough)  Staff members treat me nice and help me  We have very nice workers who always try to provide what I need and that is why I come here.  I live far away from here with other ADHCP close by but, I come here because I like the staff and how they treat me and help me.  How does staff treat the other registrants?  The staff treat everyone the same nice way. I am the council of the ship and everyone tells me if they have a problem and I report it to the staff. I have only had to report to staff members once or twice. I am always communicating with the other registrants.  If you have a problem or concern, who do you go to? (Is anything done, do they listen, is it resolved)  I always go to the program director.  Do you get to choose when and with whom you get to eat, or to eat alone? (HCBS)  Yes, definitely I can choose. We have long tables where I can sit where I want. I am a DM and I can eat whenever I want or need to. I also get to choose snacks when I need them.  If you want to make a private phone call, which phone can you use? (HCBS)  Yes, we have a room for phone calls if I need it. The room is very convenient.  Are you allowed to have visitors while you are here? How many at a time are you allowed? (HCBS)  Yes, we are aloud to have visitors. Any visitor has to go through a check point where their temp is checked. I have had one or two visitors at a time. Since the program has reopened, I have not needed to have any visitors.  Are you free to walk around in the building? (HCBS)  Yes, we also have a backyard that I can out in and breath the fresh air.  Where do you store your personal belongings while you are here (coat, purse, etc.)? (HCBS)  We have a coat room, and we have a special place that if I want to keep something in private I can but, I keep my bag by my side. I do have a private locker if I want to use it.  Do you get to choose which activities you will or will not participate in, and with whom? (HCBS)  Yes, of course.  What happens if you don’t want to participate in any given activity? (HCBS)  If I do not want to participate with the activity, I can watch TV, go in another room, participate in PT.  Do you get to interact with others as you like? Are there restrictions on who you can or cannot interact with? (HCBS)  I can participate with whoever I wish but, right now I have to maintain a distance and wear a mask.  Are you free to move about the building? What places are off limits? Does someone have to go with you, or can you go alone? If someone goes with you, what do you think is the reason for that? (HCBS)  Yes, I can definitely move about the building I can go wherever I want. There are no locked doors. But I want a staff member to come with me, I just ask, and they will.  **Employee Interviews**  Click or tap here to enter text.  Who chose this program for you to attend? (HCBS)  Registrants usually choose the program themselves through friends, Google, doctors, or case managers.  Tell me about the activities you do here? (How often, if do not participate find out why)  Chess, dominos and other games, right now with the pandemic there are no entertaining groups coming in however, they always had outside entertainment come in.  How do staff assist you? (Bathing, drsg, grooming, feeding, appointments, meds, etc)  We have a shower room for example if the registrant does not have hot water in their house, they can shower there. We have CNAs that can assist the registrants with dressing. Nursing assist registrants with health education, social work assist with setting up outside appointment. If it is a medical appointment that is needed, I setup those appointments.  How do staff treat you? (Respect, caring, yelling, swearing, rough)  I feel the staff treat all the registrant equally. I have been here since the program opened in 1999 and have never seen a staff member treat a registrant poorly.  How does staff treat the other registrants?  If you have a problem or concern, who do you go to? (Is anything done, do they listen, is it resolved)  A registrant with usually go to the program director if they have a problem or concern. If the program director is unable to resolve the problem or concern, the program director will assign a staff member to assist the registrant.  Do you get to choose when and with whom you get to eat, or to eat alone? (HCBS)  Yes, the registrant can always choose when they want to eat and what they want to eat.  Registrant meals are catered, and the staff will let the caterer know if a registrant wants something different than what is on the menu. Registrant can have a snack whenever they want.  If you want to make a private phone call, which phone can you use? (HCBS)  There are several rooms in which a registrant can make a private phone call.  Are you allowed to have visitors while you are here? How many at a time are you allowed? (HCBS)  Registrants can have visitors and usually will only have one or two visitors at a time. All visitors have to complete a COVID-19 check before entering the program.  Are you free to walk around in the building? (HCBS)  Yes, registrants can walk around the building and program freely.  Where do you store your personal belongings while you are here (coat, purse, etc)? (HCBS)  We have lockers with keys for registrants but, usually the registrants choose to keep their bags with them.  Do you get to choose which activities you will or will not participate in, and with whom? (HCBS)  Yes, registrants can choose whatever activity with wish to participate in. The program has a library in which a registrant can read if they would like. There is a backyard in which the registrant can use. The backyard is fenced in although it does a gate that is not locked during the day.  What happens if you don’t want to participate in any given activity? (HCBS)  If a registrant does not want to participate in any given activity, they can do whatever they choose such as watch TV, read a book, go into the backyard, etc.  Do you get to interact with others as you like? Are there restrictions on who you can or cannot interact with? (HCBS)  Yes, absolutely. While the registrant is at the program, they can choose to interact with whomever they choose.  Are you free to move about the building? What places are off limits? Does someone have to go with you, or can you go alone? If someone goes with you, what do you think is the reason for that? (HCBS)  The registrants if cognitively intact, they can go outside to the program when they choose. If a registrant is impaired cognitively and after being assessed for safety, will be assisted outside with a staff member. |

**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.  Exhibit 1 Registrant’s Rights Policy  Exhibit 2 HCBS Person Centered Care Policy and Procedure  Exhibit 3 Therapeutic Recreation Assessment Form  Exhibit 4 Activities and Preferences  Exhibit 5 Access to Food Policy  Exhibit 6 Menu (English & Russian)  Exhibit 7 Visitation Policy |

**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. |