New York State Medicaid Home and Community-Based Services

**Heightened Scrutiny Evidence Packet**

**Setting Information**

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| **Providers Name**  **Jewish Home Of Rochester - Daytimers** | | |
| **Location of Setting**  **2021 Winton Road South, Rochester, NY 14618** | **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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| The program in on the nursing home campus but, is not located in the nursing home. |

**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 with staff supervision. |
| *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 schedule 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 have access to food at any time also. |
| *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**  **2/18/2022** | **State Agency/Entity that Conducted the On-Site Visit NYSDOH** |
| **Description of the Setting**  This setting is a non-residential, medical model Adult Day Health Care Program located on 75-acres in the greater Rochester area of NY, with an overall site capacity of 84 registrants being served Monday-Friday 8:00AM-4:00PM. This setting is designed for individuals with functional impairments and disabilities. This Adult Day Health Care Center is connected to the nursing home by a long breeze way. The setting is accessible through their own entrance and allows for registrant’s movement in all registrant areas. The setting utilizes a secure care system to ensure the safety of elopement risk registrants, who are not assessed to be safe or competent to move outdoors without supervision. The setting does not have barriers but utilize a sound alert on exit doors for notification to staff that a door was opened. This does not prevent the registrant from access to move in and around the setting but provides staff an alert.  The services being provided to registrants are in a home environment where registrants have free access to the community without restriction. Registrants are provided with information regarding transportation options. There are a variety of transportation options used by the registrants’ receiving services. The adult day program has a contracted vendor for Transportation option which provides ambulette services and transporting registrants to and from the program and to provide access to community events/activities. Registrants have the choice to use their own methods on transportation. Transportation information is provided to every registrant and posted in the facility and easily accessible upon request.  The program plans activities with the community and in-house according to registrant desires and input received during care planning and Registrant Council meetings. Regularly they schedule community integrated activities. The in-house activities offered are diverse and inclusive of the individuals served. Person centered care plans in the program promote an all-inclusive perspective, by taking into consideration the individual’s desires, needs, strengths, and weaknesses.  Policy indicates that known interests and strengths of registrants receiving services are taken into consideration by the program director and staff when developing the monthly calendar and that each person may choose which activities to participate in or choose not to participate. Registrants are asked about interests and preferences regarding onsite and offsite activities (during care conference). During care conferences they review what they have done during the past 3 months and discuss with the registrant what they would like to continue to do or if there is anything new, they would like to try. Community activities are planned with the input of registrant receiving services. Activity calendars are developed monthly and posted in a common area and distributed to registrants. Activities are flexible, often with changes as registrants share their interests and preferences.  The setting encourages and accommodates registrant choices in participation in activities, participation with selected peers, voicing alternatives to scheduled activities, staff selection for care, meal and snacks options, timing for breaks, and allows them to have personal schedules. The program has multiple meal options, snacks available at all times.  The facility allows individuals to leave the program as desired and at any time. The facility does not restrict visitors of any registrant’s choosing at any time.  Staff and registrants 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.  The setting does not support people with money management. Registrants receiving services are responsible for their own personal money they bring to the adult day program.  Policies and procedures for the program are person-centered, focused on their rights of choice, autonomy, privacy, and accessibility to the community. Prospective individuals are welcome to participate in a free visit day, to tour, and test the program out for themselves prior to applying. The care planning process regularly gives registrants the options to add or amend services received and review alternatives. The program doesn’t restrict individuals on who or where they receive services and encourages their preferences and will update their care plans ongoing based on their expressed wishes.  The setting has service specific policies that meet HCBS requirements. All staff at the program receive new hire and ongoing training on specifically on the adult day programming, HCBS regulations including individuals’ rights of dignity and respect, health and personal privacy, and freedom from coercion and restraint. The program has quiet areas for privacy (for visitation or phone use) or decreased stimulation on request. Registrants are free to have visitors at any time; and move about the program freely during operating hours. The program has a large coat rack and secure locked area for personal storage. There is no restriction or requirement for work opportunities and the program 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 program has quality improvement measures in place to regularly review and amend policy and procedure based on effectiveness. | |

**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**  Who chose this program for you to attend? (HCBS)  I chose this program for myself. I have been coming here for 6 years now. I come 5 days a week and I like it here.  Tell me about the activities you do here? (How often, if do not participate find out why)  I do exercise, arts and crafts, games, bingo, and I do a lot of other activities.  I like this program; it gets me out of the house.  How do staff assist you? (Bathing, drsg, grooming, feeding, appointments, meds, etc)  The program helps me with physical therapy. They pick me up from my own place and bring me back home again.  How do staff treat you? (Respect, caring, yelling, swearing, rough)  The staff is good. The staff are respectful and treat me good.  How does staff treat the other registrants?  Real good! There are no problems here.  If you have a problem or concern, who do you go to? (Is anything done, do they listen, is it resolved)  I go to Amanda, and she helps me. But I have never had a problem.  Do you get to choose when and with whom you get to eat, or to eat alone? (HCBS)  Everybody has lunch at 11:30AM but, if we want to eat at a different time, we can. If someone has an afternoon appointment and they know they will miss lunch, they can eat sooner.  If you want to make a private phone call, which phone can you use? (HCBS)  There is a private area that I can use if I want to make a phone call. I have not used it because I have not needed to, but they are there.  Are you allowed to have visitors while you are here? How many at a time are you allowed? (HCBS)  I am allowed to have visitors whenever I want.  Are you free to walk around in the building? (HCBS)  Yes but, because of the pandemic, we can not go into the nursing home. We used to just go down the hall and we could be in the nursing home.  Where do you store your personal belongings while you are here (coat, purse, etc)? (HCBS)  I put my coat in the closet, but I always carry my bag with me.  Do you get to choose which activities you will or will not participate in, and with whom? (HCBS)  I get to choose my own activities. If there is an activity I do not want to do, I just choose something else.  What happens if you don’t want to participate in any given activity? (HCBS)  I can do whatever I want. I like doing activities and can do what I want.  Do you get to interact with others as you like? Are there restrictions on who you can or cannot interact with? (HCBS)  I get to sit and interact with anyone I want to. There are no restrictions with who I interact with or where I sit.  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)  I can go anywhere I want and do not need anyone with me. Because of the pandemic, I just say in the program. When the weather is nice, I can go outside whenever I want.  **Employee Interviews**  Who chose this program for you to attend? (HCBS)  Family member(s) and/or physicians. The program asks the registrant to come tour the program first to make sure the registrant likes the program before they apply to the program. Once enrolled, if the registrant discovers they do not like the program, the program will assist the registrant in finding another program they will like better.  Tell me about the activities you do here? (How often, if do not participate find out why)  The registrants can participate in women and men’s group, games, various religious groups, yoga, tabletop games, crafts as well as many other groups. Many times registrant activity interest are discovered through registrant council.  How do staff assist you? (Bathing, drsg, grooming, feeding, appointments, meds, etc)  We assist registrants with grooming should a registrant need assistance, for example, the program will assist registrants with a shower. The program also assists with outside appointments in the community, employment in the community, volunteering and any other registrant interests.  How do staff treat you? (Respect, caring, yelling, swearing, rough)  Registrants are treated very well. We have a large group of registrants with mental illnesses and staff members are trained to give the registrants support with their different behaviors. Staff will try different approaches with registrants when needed.  How does staff treat the other registrants?  All registrants are treated very well.  If you have a problem or concern, who do you go to? (Is anything done, do they listen, is it resolved)  If a registrant has a concern, they can go to any staff member. If it is discovered a registrant needs something medical, staff will contact the nurse, if the registrant need social work, the social worker is contacted.  Do you get to choose when and with whom you get to eat, or to eat alone? (HCBS)  Yes, the registrant will let the program staff know if they want to eat earlier due to an outside appointment. We have one man who was a farmer and likes to eat alone. We set his meal up in a private room or he likes to eat outside when the weather permits.  If you want to make a private phone call, which phone can you use? (HCBS)  There are many phones located within the program that registrants are able to use if they would like. There are no limits.  Are you allowed to have visitors while you are here? How many at a time are you allowed? (HCBS)  Visitors are welcome. There are private areas where registrants and visitors can sit for their visit.  Are you free to walk around in the building? (HCBS)  The registrants have full access to the program and the community.  Where do you store your personal belongings while you are here (coat, purse, etc)? (HCBS)  There is a locked closet if the registrant chooses to store their items there. Most registrants choose to carry their belongs with them.  Do you get to choose which activities you will or will not participate in, and with whom? (HCBS)  The registrants can choose whatever activity they are interested in.  What happens if you don’t want to participate in any given activity? (HCBS)  They do not have to participate. Registrants can choose to participate in whatever interests them. They can make their own choices.  Do you get to interact with others as you like? Are there restrictions on who you can or cannot interact with? (HCBS)  There is no assigned seating and registrant can interact with whomever they wish. Registrants have no barriers to who they interact with.  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)  Registrants can access the program as they desire. Registrants freely access the outdoor area of the program, and or the community. |

**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 Members Bill of Rights  Exhibit 2 Adult Day Health Care- Initial Screening  Exhibit 3 Community Integration  Exhibit 4 Safety Assessment  Exhibit 5 Activities Calendar  Exhibit 6 Meals and Snacks Policy  Exhibit 7 Outside Patio and with Table and Chairs & Bench for Sitting Outside |

**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. |