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APPEALS COURT DETERMINES THE STATE MUST PAY \$28.6 MILLION IN MEDICAID REIMBURSEMENT TO THE CITY OF NEW YORK

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New York, June 4, 2009 – In a unanimous decision, a state appeals court reversed a lower court's ruling and determined that the State owes New York City \$28.6 million in Medicaid reimbursement for home health care services. The Court declared that the State unlawfully "intercepted" the funds from the City and must now return those monies.

Since 1997, the State has been enacting laws to compel local social services districts to reduce the costs of home health care by creating annual "savings targets." Home health care is funded by local, state and federal Medicaid dollars. The state law applicable to 2003-2004 states that failure to meet these savings targets is grounds for the State to "intercept" home health care service payments and other payments to the locality sufficient to reimburse the state for the amount by which the local district exceeded the "savings target."

In this case, the New York State Department of Health claimed that the City failed to meet its 2003-2004 home health care savings target and "intercepted" the funds from the City. The City argued that the State unlawfully intercepted these funds because it did so after the statutory deadline for such interception had expired and that the State erroneously calculated the "intercept" amount.

"We are pleased the Court agreed with our position and found the statutory deadline to be mandatory, giving effect to the Legislature's intent," said Michael A. Cardozo, New York City Corporation Counsel.

"We are grateful to the court for ensuring that the State could not act in a way that contradicted the clear intent of the statute," said Human Resources Administration Commissioner Robert Doar.

In reversing the lower court's decision, the Appellate Division, First Department, agreed with the City's argument that the statutory language is so clear and unambiguous as to belie any interpretation other than "an unmistakable limitation on [DOH's] authority to act once the time period has closed." Moreover, the Court noted that "the time limit is essential to the ability of any affected district, like the City of New York, to manage its own budget in a timely manner" and to prevent "any deleterious effect from any unexpected budgetary changes."

The case was briefed and argued before the Appellate Division by Marta Ross, Assistant Corporation Counsel, with assistance from Senior Counsel Joshua Rubin, who handled the matter in the trial court, and Senior Appellate Litigator Edward Hart.

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