



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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For Immediate Release

**COURT ORDERS STATE TO PAY CITY AND HHC
ALMOST \$16 MILLION PLUS INTEREST
FOR CARE OF MENTALLY RETARDED AND DEVELOPMENTALLY DISABLED
FOSTER CARE CHILDREN**

***STATE'S FAILURE TO PLACE CHILDREN IN APPROPRIATE FACILITIES VIOLATED EXISTING LEGAL
STIPULATION; CITY'S SUIT SUCCESSFULLY OBTAINS DAMAGES FOR STATE'S BREACH***

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New York, March 15, 2004 – The New York State Court of Claims awarded the City, its Administration for Children's Services (ACS) and the New York City Health and Hospitals Corporation (HHC) almost \$16 million in damages – plus substantial interest dating to 1992 – due to the failure of the New York State Office of Mental Retardation and Developmental Disabilities (OMRDD) to honor a 1991 agreement and court order to place at least 200 mentally retarded or developmentally disabled children in state-operated or licensed facilities for each year from 1992 through 1995. The agreement provided that OMRDD would provide these placements to children who were in foster care or who were patients in HHC facilities.

The agreement, commonly known as the "Webb Stipulation," arose in settlement of a lawsuit the City and HHC brought against the State of New York in 1985 to compel OMRDD to expeditiously find appropriate placements for mentally retarded and developmentally disabled children who were awaiting such placements while residing in foster care and HHC facilities. The Webb Stipulation required the State to place into OMRDD facilities 200 individuals out of a list of 250 "priority" referrals from the City and HHC for each State fiscal year from 1992 through 1995, a commitment the State failed to meet. As Judge Alan C. Marin of the Court of Claims observed in his decision, the Appellate Division, First Department "twice upheld findings that the State of New York violated" the Webb Stipulation. The Court's award of damages due to the State's breach of the Webb Stipulation follows a four-day trial held in the Court of claims in July 2003. The Court filed its decision last week, although the decision became public today.

The Court awarded the City \$15,257,147 – plus interest – beginning April 1, 1993, for the cost of providing foster care services to mentally retarded and developmentally disabled children whose placements were improperly delayed under the Webb Stipulation. Administration for Children's Services Commissioner William C. Bell said: "For two decades, the State has failed to find placements for mentally retarded and developmentally disabled children, which can offer the specialized services that only the State is authorized to provide. ACS is committed to pursuing every avenue possible to ensure that the children temporarily residing in foster care move into appropriate and stable placements as quickly as possible. This is one more step towards that goal."

Corporation Counsel Michael A. Cardozo of the New York City Law Department said, "When necessary, the City must seek redress in the courts to further the legal rights of the City and its residents. In this decision, the Court of Claims recognized that the State had not lived up to its obligations to the mentally retarded and developmentally disabled." Cardozo added, "We also have a tandem lawsuit pending in

Supreme Court seeking to enforce the same statutory claims to ensure that the State provides placements and services for mentally retarded and developmentally disabled children. We hope that the State will now act to eliminate the years-long delays that exist for retarded and developmentally disabled children currently residing temporarily in City foster care."

The decision is a victory for HHC as well. The Court awarded \$428,465 – plus interest – to compensate HHC's cost of housing mentally retarded individuals in its acute care psychiatric facilities due to delays in obtaining OMRDD placements after acute hospital care was no longer needed. "HHC's mission is to provide acute medical and psychiatric care to New Yorkers. Mentally retarded and developmentally disabled children should not be forced to wait in acute care settings for a long-term placement. We are gratified that the Court recognized this by requiring the State to pay for the costs of acute care beds when they are diverted to temporarily provide for mentally retarded children who no longer belonged in acute care," said Dr. Benjamin Chu, President of HHC.

With the court award today of \$15.2 million for ACS and \$428,465 for HHC, the total amount comes to \$15.7 million for the City. In addition, the Court awarded interest, which the City estimates could total approximately \$13 million more.

Alan H. Kleinman and Joshua P. Rubin, Senior Counsel in the Law Department's Affirmative Litigation Division, led the City's legal team.

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