



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

Web: nyc.gov/html/law/home.html

For Immediate Release

**NEW YORK SUPREME COURT VOIDS STATE'S DISALLOWANCE
OF \$23 MILLION FROM CITY FOR MEDICAID EXPENSES**

COURT FINDS DISALLOWANCE OF REIMBURSEMENT IS "SHOCKING TO ONE'S SENSE OF FAIRNESS"

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, kahlers@law.nyc.gov

New York, July 2, 2003 – The New York State Supreme Court has invalidated an audit by the New York State Department of Health in which the City of New York was denied \$23 million in the City's share of Medicaid expenses for former residents of state institutions. Despite the clear statutory mandate that local social services districts, such as the City of New York, be spared the expense of Medicaid services for covered individuals, the State disallowed \$23 million. The court found that decision to be "so disproportionate . . . as in the light of all the circumstances as to be shocking to one's sense of fairness."

Michael A. Cardozo, the City's Corporation Counsel, said: "We are very pleased with the decision, because it provides for a substantial recovery and requires the State Department of Health to act in a more reasonable manner in reviewing the City's claims."

Human Resources Administration Commissioner Verna Eggleston noted: "This ruling is extremely important and will allow us to move forward in providing critical services to this vulnerable population. We also look forward to continuing our collaborative work with our partners at the State Department of Health."

In 1974, in the wake of New York State's mass deinstitutionalization of mentally disabled patients from State facilities, the State enacted legislation mandating state reimbursement to local governments for the local share of Medicaid expenses for patients released from state institutions. In August of 1999, the State Department of Health informed the City that it was conducting a review of the City's reimbursement claims for these Medicaid expenses for the period 1986 through 1998. Despite the fact that the State's audit demonstrated that a substantial number of the City's claims were proper, the State disallowed the full \$23 million amount of the City's claims for the entire period.

In response to the City's challenge to the disallowance, New York Supreme Court Justice Nicholas Figueroa ruled that the State Department of Health is statutorily obligated to reimburse the City for these valid Medicaid expenses. Justice Figueroa held that "[f]rom a statistical view point, SDOH's decision to recover its reimbursement, so far as it depends on its review, must be deemed arbitrary on several grounds. For instance, no statistically valid extrapolation from a valid statistical sample was attempted in arriving at its decision to recover all reimbursements. In failing to do so, the time-tested method for computing a final recoupment claim in New York and all Federal courts was disregarded." He further held that "[t]hese procedural defects, including SDOH's recovery of the City's valid claims, makes manifest the conclusion that SDOH lacks a rational basis for its determination."

The case, *City of New York v. Antonia C. Novello*, was handled by James A. Aldag, an Assistant Corporation Counsel in the Affirmative Litigation Division of the New York City Law Department, and Gail

Rubin, Chief of the Affirmative Litigation Division. Aldag said, "This decision affirms that the State Department of Health must treat the City fairly in considering the City's Medicaid claims."

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 100,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov/html/law/home.html or via direct link at www.nyc.gov/html/law/home.html.

###