SERVICES PROVIDED TO A DISABLED MAN BY THE NYS OFFICE OF PEOPLE WITH DEVELOPMENTAL DISABILITIES COULD NOT BE CURTAILED BECAUSE OF A LACK OF FUNDS (THIRD DEPT).

The Third Department determined the NYS Office for People with Developmental Disabilities (OPWDD) was properly prohibited from curtailing services to and disabled man, M,D., because of a lack of funds:

> Even if the catch-all of "any other relevant considerations advanced by the parties" (OPWDD Policy and Procedures, Topic No. CP-10 [Rev (Feb. 1995)], at 4, ¶ 10) includes a provider agency's financial difficulties connected to the provision of services to an individual, the Hearing Officer noted that petitioner "may well have valid fiscal concerns," but concluded that it would not be proper or in M.D.'s best interest to discharge him on the basis of a lack of funding. We acknowledge the conundrum raised by petitioner — that providers face a difficulty in providing excellent services to a population with special needs but with no avenue of relief to help them financially when those services are more expensive than expected or than the maximum allowed under the HCBS [Home Community Based Services] waiver program. While we applaud providers such as petitioner for striving to provide excellent services to an underserved population, and are cognizant of their frustration when they deem the funding available for such services to be inadequate, the remedy must be for the service providers to apply to or lobby the relevant agencies, the Legislature or the Governor to provide more funding; the answer cannot be that administrative agencies or courts should allow service providers to simply discharge individuals with developmental disabilities from their services whenever the providers deem them too expensive. Based on consideration of the relevant factors, substantial evidence supports the Commissioner's determination that it was not reasonable to allow petitioner to discharge M.D. from its program. Matter of Community, Work, & Independence, Inc. v New York State Off. for People with Dev. Disabilities, 2020 NY Slip Op 02301, Third Dept 4-16-20

NO PRIVATE RIGHT OF ACTION FOR A DEVELOPMENTALLY DISABLED CHILD HOUSED FOR MORE THAN FIVE WEEKS IN A HOSPITAL EMERGENCY ROOM BECAUSE NO APPROPRIATE RESIDENTIAL FACILITY WAS AVAILABLE (THIRD DEPT).

The Third Department, in a full-fledged opinion by Justice Garry, considering the appeal under an exception to the mootness doctrine, determined a 16-year-old developmentally disabled child (Olivia) did not have a private right of action against Champlain Valley Physicians Hospital (CVPH), the Office for People with Developmental Disabilities (OPWDD) or the Department of Health (DOH) for housing her in the CVPH emergency room when no appropriate residential facility was available. The opinion is too comprehensive and covers too many substantive issues to be fairly summarized here:

> In 2018, Olivia CC. (hereinafter the child), a minor with complex developmental disabilities, was stranded in the emergency room of respondent Champlain Valley Physicians Hospital (hereinafter CVPH) for more than five weeks while she waited for a residential school placement. The child was not in need of medical or psychiatric care. However, neither her family nor the Office for People with Developmental Disabilities (hereinafter OPWDD) — the agency legislatively charged with protecting the welfare of persons with developmental disabilities — could provide her with safe interim housing. CVPH thus retained the child in the emergency room, where she could not attend school, participate in community activities or go outdoors, and CVPH was forced to use scarce medical resources to provide for her nonmedical needs. Unfortunately, the child is not the first minor with special needs to be marooned for weeks or months in an emergency room, as hospitals find themselves serving as the last resort for providing shelter to children in crisis … . The difficult legal issues presented here call into question the extent of the responsibilities of the legislative and administrative functions of government to some of our society's most vulnerable members, and the limitations on the power of courts to protect them. * * *
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> Our conclusion that the amended petition/complaint provides this Court with no grounds to intervene in respondents' operations should not be misunderstood as condonation of the child's prolonged and unnecessary hospitalization or of respondents' failure to provide her with appropriate assistance. Nevertheless, this record does not permit a determination of the propriety of constitutional or equitable relief, and relief grounded in the statutory provisions relied upon here must come from the Legislature or from respondents' policy choices. Thus, we will not disturb Supreme Court's judgment. Matter of Mental Hygiene Legal Serv. v Delaney, 2019 NY Slip Op 06119, Third Dept 8-8-19

THE NYC DEPARTMENT OF SOCIAL SERVICES DOES NOT HAVE THE AUTHORITY TO RECOVER MEDICAID OVERPAYMENTS FROM PERSONAL CARE SERVICE PROVIDERS (FIRST DEPT).

The First Department, in a full-fledged opinion by Justice Kahn. over a two-justice dissent, determined that The City of New York Human Resources Administration Department of Social Services (HRA) does not have the authority to audit and recover overpayments of funds provided pursuant to the Health Care Reform Act (HCRA) from personal care service providers such as petitioner People Care Incorporated d/b/a Assisted Care:

> The determinative issue on this appeal is not whether the HCRA funds were denominated as "Medicaid rates of payment" or "Medicaid rate adjustments" in the statute and the MOU [memorandum of understanding]. Rather, the issue presented here is whether, under the terms of the 2001 contract, Public Health Law § 2807-v(1)(bb)(i) and the MOU superseded the provisions of that contract as to the auditing and recoupment of HCRA funds. * * *
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> ... [N]either Public Health Law § 2807-v(1)(bb), as the governing statute, nor the MOU between DOH [NYS Department of Health] and HRA, entered into pursuant to that statute, contains any language delegating DOH's auditing and recoupment authority to HRA or any other agency. Matter of People Care Inc. v City of New York Human Resources Admin., 2019 NY Slip Op 05756, First Dep 7-23-19

MATTER REMITTED TO THE COMMISSIONER OF HEALTH TO DETERMINE WHETHER BONE SURGERY TO REPAIR CANCER-RELATED DAMAGE TO PETITIONER'S JAW IS COVERED UNDER MEDICAID, IF THERE IS A CONFLICT BETWEEN THE DSS REGULATIONS AND THE DEPARTMENT OF HEALTH'S GUIDELINES, THE REGULATIONS CONTROL (THIRD DEPT).

The Third Department, annulling the Commissioner of Health's determination, in a full-fledged opinion by Justice McCarthy, sent the matter back with instruction to consider whether there was a conflict between the Medicaid (Department of Social Services, DSS) regulations and the Department of Heath's (DOH's) guidelines. If there is a conflict, the regulations prevail. Petitioner's request for osseous surgery to reconstruct her jaw after damage caused by cancer treatments was denied. The Commissioner had determined the surgery was not covered:

> Medicaid does not cover every medically necessary procedure; "medical necessity and coverage are distinct concepts" ... . A "medical necessity" analysis is only required and relevant when the requested procedure is covered in the first place. Thus, the initial question is whether osseous surgery is covered by New York's Medicaid program. * * *
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> The Commissioner committed an error of law when he determined, based on the Medicaid dental manual and without recognizing a potential conflict between the manual and the regulations, that osseous surgery cannot be a covered service under Medicaid. Due to this error, respondents did not reach other issues. Specifically, there was no determination as to whether petitioner established that her request for prior approval of that surgery should be granted pursuant to the regulation as a "dental service[] required for . . . the relief of pain" (18 NYCRR 506.2 [b] [1]). If she did not meet her burden, there is no conflict between the regulation and guidelines, so the Medicaid dental manual would prevent approval of the surgery. If petitioner did establish that the surgery is required to relieve her pain (which would, perforce, mean that the surgery was medically necessary), the regulations would prevail and the Commissioner must approve the surgery as covered by Medicaid. Because this issue requires factual findings and falls within DOH's expertise, it should be decided by the agency in the first instance ... . Matter of Rovinsky v Zucker, 2018 NY Slip Op 07026, Third Dept 10-18-18

MEDICAID (MATTER REMITTED TO THE COMMISSIONER OF HEALTH TO DETERMINE WHETHER BONE SURGERY TO REPAIR CANCER-RELATED DAMAGE TO PETITIONER'S JAW IS COVERED UNDER MEDICAID, IF THERE IS A CONFLICT BETWEEN THE DSS REGULATIONS AND THE DEPARTMENT OF HEALTH'S GUIDELINES, THE REGULATIONS CONTROL (THIRD DEPT))/ADMINISTRATIVE LAW (MEDICAID COVERAGE, MATTER REMITTED TO THE COMMISSIONER OF HEALTH TO DETERMINE WHETHER BONE SURGERY TO REPAIR CANCER-RELATED DAMAGE TO PETITIONER'S JAW IS COVERED UNDER MEDICAID, IF THERE IS A CONFLICT BETWEEN THE DSS REGULATIONS AND THE DEPARTMENT OF HEALTH'S GUIDELINES, THE REGULATIONS CONTROL (THIRD DEPT))

PETITION SEEKING MEDICAL ASSISTANCE SHOULD NOT HAVE BEEN DENIED BASED UPON THE INABILITY TO DETERMINE THE FINANCIAL RESOURCES AVAILABLE TO THE NURSING HOME RESIDENT'S ESTRANGED WIFE, COURT MAY NOT CONSIDER THEORY NOT RAISED BEFORE THE AGENCY (FOURTH DEPT).

The Fourth Department, annulling the determination of the Erie County Department of Social Services, held that petitioner's application for medical assistance should not have been denied on the ground that the financial resources available to the nursing home resident's estranged wife could not be determined. The court noted that it may not consider any theories argued on appeal that were not raised before the agency

> [18 NYCRR] Section 360-2.3 (a) (2) provides that a medical assistance "applicant/recipient will not have eligibility denied or discontinued solely because he/she does not possess and cannot obtain information about the income or resources of a nonapplying legally responsible relative who is not living with him/her." Although denial of an application may nonetheless be appropriate under section 360-2.3 (a) (3) if an applicant/recipient refuses to grant permission for the examination of non-public records, here the parties do not dispute that petitioner and the resident cooperated with all efforts to obtain information from the resident's estranged wife.
>
> We reject respondent's contention that the determination should be confirmed because, in the absence of a showing that denial would subject the resident to undue hardship, denial of petitioner's application was permissible pursuant to 18 NYCRR 360-4.10. Regardless of the merits of that contention, we note that " [i]t is the settled rule that judicial review of an administrative determination is limited to the grounds invoked by the agency' " Matter of Waterfront Ctr. for Rehabilitation & Healthcare v New York State Dept. of Health, 2018 NY Slip Op 04881, Fourth Dept 6-29-18

MEDICAID (PETITION SEEKING MEDICAL ASSISTANCE SHOULD NOT HAVE BEEN DENIED BASED UPON THE INABILITY TO DETERMINED THE FINANCIAL RESOURCES AVAILABLE TO THE NURSING HOME RESIDENT'S ESTRANGED WIFE (FOURTH DEPT))/ADMINISTRATIVE LAW (MEDICAID, PETITION SEEKING MEDICAL ASSISTANCE SHOULD NOT HAVE BEEN DENIED BASED UPON THE INABILITY TO DETERMINED THE FINANCIAL RESOURCES AVAILABLE TO THE NURSING HOME RESIDENT'S ESTRANGED WIFE (FOURTH DEPT))/APPEALS (ADMINISTRATIVE LAW, MEDICAID, PETITION SEEKING MEDICAL ASSISTANCE SHOULD NOT HAVE BEEN DENIED BASED UPON THE INABILITY TO DETERMINED THE FINANCIAL RESOURCES AVAILABLE TO THE NURSING HOME RESIDENT'S ESTRANGED WIFE, COURT MAY NOT CONSIDER THEORY NOT RAISED BEFORE THE AGENCY (FOURTH DEPT))

OFFICE OF THE MEDICAID INSPECTOR GENERAL (OMIG) WAS ENTITLED TO THE FULL AMOUNT OF OVERPAYMENT MADE BY MEDICAID TO A METHADONE CLINIC, DESPITE THE INCLUSION OF A LOWER SETTLEMENT AMOUNT IN TWO NOTICES (CT APP).

The Court of Appeals, in a full-fledged opinion by Judge Feinman, reversing the Appellate Division, determined that the Office of the Medicaid Inspector General (OMIG) had properly notified the operator of a methadone clinic of the amount of overpayment by Medicaid that the OMIG was seeking. The OMIG had notified the clinic it was seeking about 1.8 million but was willing to settle for about 1.4 million. The clinic did not take any of the administrative steps or appeals that were available to it and did not agree to settle. The clinic argued that because two notices included only the 1.4 million settlement amount, the lower amount was owed. The Court of Appeals rejected that argument:

> The pertinent regulations provide that, if an audit report is challenged, "[a]n extrapolation based upon an audit utilizing a statistical sampling method certified as valid will be presumed, in the absence of expert testimony and evidence to the contrary, to be an accurate determination of the total overpayments made or the penalty to be imposed" … . By contrast, the $1,460,914 figure, as explained in … the cover letter, merely represented, with 95% accuracy, a lower bound on the true amount overpaid. The [final audit report] and cover letter sufficiently notified [the clinic] … of OMIG's $1,857,401 overpayment assessment which OMIG would be entitled to withhold … . West Midtown Mgt. Group, Inc. v State of New York, 2018 NY Slip Op 04666, CtApp 6-26-18

MEDICAID (OFFICE OF THE MEDICAID INSPECTOR GENERAL (OMIG) WAS ENTITLED TO THE FULL AMOUNT OF OVERPAYMENT MADE BY MEDICAID TO A METHADONE CLINIC, DESPITE THE INCLUSION OF A LOWER SETTLEMENT AMOUNT IN TWO NOTICES (CT APP))/ADMINISTRATIVE LAW (MEDICAID, OFFICE OF THE MEDICAID INSPECTOR GENERAL (OMIG) WAS ENTITLED TO THE FULL AMOUNT OF OVERPAYMENT MADE BY MEDICAID TO A METHADONE CLINIC, DESPITE THE INCLUSION OF A LOWER SETTLEMENT AMOUNT IN TWO NOTICES (CT APP))

PETITIONER DEMONSTRATED AN INTELLECTUAL DISABILITY QUALIFYING HER FOR MEDICAID-REIMBURSED HOME AND COMMUNITY BASED SERVICES, CONTRARY FINDING BY THE NYS OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES ANNULLED (FIRST DEPT).

The First Department, annulling the determination of the NYS Office for People with Developmental Disabilities, held that the petitioner demonstrated an intellectual disability qualifying her for Medicaid-reimbursed home and community based services:

> In order to obtain Medicaid-reimbursed home and community based services, an applicant must demonstrate that he or she suffers from a "developmental disability." An "intellectual disability" that originated before age 22, is expected to continue indefinitely, and constitutes a "substantial handicap" to the person's ability to function normally in society, is a qualifying condition (Mental Hygiene Law § 1.03[22] [a][1], [b], [c] and [d]). The American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders (5th ed 2013) (Manual) defines "intellectual disability" as a disorder characterized by, inter alia, (1) general deficits in areas such as reasoning, problem solving and abstract thinking and (2) deficits in adaptive functioning, such as how well the person meets community standards of personal independence and social responsibility as compared to others of similar age and social responsibility. The term "intellectual disability" replaced the term "mental retardation."
>
> Here, respondent's determination is not supported by substantial evidence … . Rather, the record demonstrates that petitioner met the qualifications as all of the evaluations that were performed before petitioner was 22 years old demonstrated an I.Q. below 70, which was the rough cut off for normal intellectual function. Deficits in her adaptive functioning were also noted repeatedly over the years. Moreover, it was entirely speculative to opine that petitioner's I.Q. would have been higher but for co-occurring conditions. Matter of Spencer-Cedeno v Zucker, 2018 NY Slip Op 03488, First Dept 5-15-18

MEDICAID (INTELLECTUAL DISABILITY, PETITIONER DEMONSTRATED AN INTELLECTUAL DISABILITY QUALIFYING HER FOR MEDICAID REIMBURSED HOME AND COMMUNITY BASED SERVICES, CONTRARY FINDING BY THE NYS OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES ANNULLED (FIRST DEPT))/MENTAL HYGIENE LAW (INTELLECTUAL DISABILITY, PETITIONER DEMONSTRATED AN INTELLECTUAL DISABILITY QUALIFYING HER FOR MEDICAID REIMBURSED HOME AND COMMUNITY BASED SERVICES, CONTRARY FINDING BY THE NYS OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES ANNULLED (FIRST DEPT))/INTELLECTUAL DISABILITY (MEDICAID, PETITIONER DEMONSTRATED AN INTELLECTUAL DISABILITY QUALIFYING HER FOR MEDICAID REIMBURSED HOME AND COMMUNITY BASED SERVICES, CONTRARY FINDING BY THE NYS OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES ANNULLED (FIRST DEPT))/DEVELOPMENTAL DISABILITY, MEDICAID, PETITIONER DEMONSTRATED AN INTELLECTUAL DISABILITY QUALIFYING HER FOR MEDICAID REIMBURSED HOME AND COMMUNITY BASED SERVICES, CONTRARY FINDING BY THE NYS OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES ANNULLED (FIRST DEPT))

SUBSTANTIAL EVIDENCE SUPPORTED THE DEPARTMENT OF HEALTH'S DETERMINATION THAT LOANS, NOTES AND MORTGAGES WERE PROHIBITED TRANSFERS UNDER THE MEDICAID LAW, TRIGGERING A PENALTY PERIOD BEFORE ELIGIBILITY FOR MEDICAID NURSING HOME BENEFITS (THIRD DEPT).

The Third Department determined substantial evidence supported the Department of Health's (DOH's) determination that loans, notes and mortgages were transfers for less than market value in an attempt to qualify for Medicaid payments for nursing home care. Therefore a penalty period of ineligibility was properly imposed:

> Assets conveyed through a note or a mortgage during the look-back period are considered to be transfers for full market value when the underlying loan is actuarially sound based upon the lender's life expectancy, provides for equal payments throughout the life of the loan — with no deferrals or balloon payments — and includes a provision prohibiting cancellation upon the lender's death … . Here, the mortgage was not actuarially sound, as its 30-year repayment term significantly exceeded the anticipated life expectancy of the spouse, who was 76 years old at the time of the transfer. After the rejection of petitioner's Medicaid application, the spouse executed an amended mortgage that reduced the repayment term to five years. However, this amended mortgage provided for the same monthly payment as had the original document, with a balloon payment at the end of the five-year term; it thus did not comply with the separate requirement for equal payments throughout the life of the loan. Moreover, neither the original nor the amended version of the mortgage included the required provision prohibiting cancellation upon the spouse's death; the 2010 note likewise included no such provision. Accordingly, substantial evidence supports DOH's determination that neither transaction was made for fair market value … . Matter of Wellner v Jablonka, 2018 NY Slip Op 02701, Third Dept 4-19-18

MEDICAID (SUBSTANTIAL EVIDENCE SUPPORTED THE DEPARTMENT OF HEALTH'S DETERMINATION THAT LOANS, NOTES AND MORTGAGES WERE PROHIBITED TRANSFERS UNDER THE MEDICAID LAW, TRIGGERING A PENALTY PERIOD BEFORE ELIGIBILITY FOR MEDICAID NURSING HOME BENEFITS (THIRD DEPT))/MORTGAGES (MEDICAID, SUBSTANTIAL EVIDENCE SUPPORTED THE DEPARTMENT OF HEALTH'S DETERMINATION THAT LOANS, NOTES AND MORTGAGES WERE PROHIBITED TRANSFERS UNDER THE MEDICAID LAW, TRIGGERING A PENALTY PERIOD BEFORE ELIGIBILITY FOR MEDICAID NURSING HOME BENEFITS (THIRD

DEPT))/NURSING HOMES (MEDICAID, SUBSTANTIAL EVIDENCE SUPPORTED THE DEPARTMENT OF HEALTH'S DETERMINATION THAT LOANS, NOTES AND MORTGAGES WERE PROHIBITED TRANSFERS UNDER THE MEDICAID LAW, TRIGGERING A PENALTY PERIOD BEFORE ELIGIBILITY FOR MEDICAID NURSING HOME BENEFITS (THIRD DEPT))

CAP ON STATE MEDICAID FUNDS USED FOR ADMINISTRATIVE COSTS AND EXECUTIVE PAY PROPERLY PROMULGATED BY DEPARTMENT OF HEALTH, CAP ON EXECUTIVE PAY FROM ALL SOURCES EXCEEDED DOH'S REGULATORY AUTHORITY.

The Third Department, in a full-fledged opinion by Justice Peters, over a partial concurrence/dissent, determined the Department of Health's (DOH's) regulations placing caps on expenditure of state Medicaid funds for administrative costs and executive pay were properly promulgated. However, placing a cap on executive pay from all sources (called the "soft cap") was deemed to exceed the Department of Health's authority (disagreeing with the 2nd Department):

> On balance, the Boreali factors weigh heavily in favor of DOH. Accordingly, we conclude that the subject regulations, to the extent that they place a limit on administrative costs and executive compensation paid for by state funds and state-authorized payments, do not violate the separation of powers doctrine... .
>
> We reach a different conclusion, however, with regard to the soft cap provision ... . The soft cap provision ... restricts executive compensation paid from all sources except under certain circumstances. Absent a waiver, covered providers may not pay covered executives more than $199,000 from "any" sources of funding without incurring penalties unless (1) the amount of compensation is less than "the 75th percentile of that compensation provided to comparable executives in other providers of the same size and within the same program service sector and the same or comparable geographic area" based on a compensation survey recognized by the Division of the Budget, and (2) the amount has been reviewed and approved by the covered provider's board of directors or equivalent governing body, and such review "include[d] an assessment of appropriate comparability data" ... .
>
> Applying the Boreali analysis, we part company with the [2nd] Department and find that ... DOH exceeded its authority in adopting the soft cap portion of 10 NYCRR part 1002. First, by attempting to regulate executive compensation from all sources, DOH was acting on its own ideas of sound public policy. Relatedly, inasmuch as the soft cap provision ventures outside DOH's legislative mandate to manage the efficient and effective use of taxpayer money for health care and related services, DOH was not engaged in mere interstitial rulemaking ... . Finally, DOH has no special expertise in administering regulations governing the overall executive compensation or competence in regulating corporate governance as such. Matter of Leadingage N.Y., Inc. v Shah, 2017 NY Slip Op 05136, 3rd Dept 6-22-17

MEDICAID (CAP ON STATE MEDICAID FUNDS USED FOR ADMINISTRATIVE COSTS AND EXECUTIVE PAY PROPERLY PROMULGATED BY DEPARTMENT OF HEALTH, CAP ON EXECUTIVE PAY FROM ALL SOURCES EXCEEDED DOH'S REGULATORY AUTHORITY)/ADMINISTRATIVE LAW (MEDICAID, DEPARTMENT OF HEALTH, CAP ON STATE MEDICAID FUNDS USED FOR ADMINISTRATIVE COSTS AND EXECUTIVE PAY PROPERLY PROMULGATED BY DEPARTMENT OF HEALTH, CAP ON EXECUTIVE PAY FROM ALL SOURCES EXCEEDED DOH'S REGULATORY AUTHORITY)/DEPARTMENT OF HEALTH (MEDICAID, CAP ON STATE MEDICAID FUNDS USED FOR ADMINISTRATIVE COSTS AND EXECUTIVE PAY PROPERLY PROMULGATED BY DEPARTMENT OF HEALTH, CAP ON EXECUTIVE PAY FROM ALL SOURCES EXCEEDED DOH'S REGULATORY AUTHORITY)/EXECUTIVE COMPENSATION (MEDICAID, CAP ON STATE MEDICAID FUNDS USED FOR ADMINISTRATIVE COSTS AND EXECUTIVE PAY PROPERLY PROMULGATED BY DEPARTMENT OF HEALTH, CAP ON EXECUTIVE PAY FROM ALL SOURCES EXCEEDED DOH'S REGULATORY AUTHORITY)

COUNTY'S INTERPRETATION OF REGULATION WAS RATIONAL AND COULD NOT, THEREFORE, BE DISTURBED BY THE COURT; TIME LIMITS APPLICABLE TO ADMINISTRATIVE DECISIONS ARE DISCRETIONARY.

The Fourth Department determined Supreme Court properly determined the respondent county had timely notified petitioner of the denial of petitioner's request for Medicaid overburden expenditures. If the denial had been deemed untimely, petitioner argued, the county would be required to pay. The court noted that the county's interpretation of the relevant time limits was rational and therefore could not be disturbed by a court. The court further noted that, even if the time limits had been exceeded, denial of the claim would still have been proper because the time limits are discretionary in this context:

> It is well settled that "the interpretation given to a regulation by the agency which promulgated it and is responsible for its

administration is entitled to deference if that interpretation is not irrational or unreasonable" … . * * *

… [I]t is well settled that, "[a]bsent an express limitation upon the power of a particular agency to act after the expiration of the relevant statutory period, the time limits within which an administrative agency must act generally are construed as discretionary" … . As the Court of Appeals noted, " [a] rule that rendered every administrative decision void unless it was determined in strict literal compliance with statutory [or regulatory] procedure would not only be impractical but would also fail to recognize the degree to which broader public concerns, not merely the interests of the parties, are affected by administrative proceedings' " … . Matter of County of Oneida v Zucker, 2017 NY Slip Op 00785, 4th Dept 2-3-16

MEDICAID (OVERBURDEN EXPENDITURES, COUNTY'S INTERPRETATION OF REGULATION WAS RATIONAL AND COULD NOT BE DISTURBED BY THE COURT, TIME LIMITS APPLICABLE TO ADMINISTRATIVE DECISIONS ARE DISCRETIONARY)/ADMINISTRATIVE LAW (COUNTY'S INTERPRETATION OF REGULATION WAS RATIONAL AND COULD NOT BE DISTURBED BY THE COURT, TIME LIMITS APPLICABLE TO ADMINISTRATIVE DECISIONS ARE DISCRETIONARY)