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**DIVISION:** Office of Medicaid Management

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**TO:** LDSS Commissioners, Medicaid Directors, Resource Staff

**FROM:** Donna B. Farlow, Deputy Director  
Office of Medicaid Management

**SUBJECT:** Calvanese v. Calvanese (Personal Injury Settlements)

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** County Liaison in the Bureau of Local District Support

This is to advise you of a favorable decision by the New York State Court of Appeals in the case of Calvanese v. Calvanese. In this case, a local department of social services (LDSS) asserted a lien against the settlement proceeds of a Medicaid recipient's personal injury action pursuant to Section 104-b of the Social Services Law (SSL) and objected to the plaintiff's application to establish a supplemental needs trust (SNT) with the proceeds before satisfying the lien. The plaintiff contended that she was not required to satisfy the Medicaid lien before transferring the settlement into the SNT because the entire amount of the settlement proceeds were intended and designated to compensate her for her pain and suffering, without any allocation made for incurred medical costs.

The Court of Appeals held that nothing in the state and federal statutes limits the social services district's recovery to settlement proceeds allocated to past medical expenses. The Court found inapplicable (but did not overrule), its prior holding in Baker v. Sterling, 39 NY2d 397(1976), which restricts a social services district's right of recovery against the settlement of a recipient under twenty-one (21) years of age to the portion of the settlement intended to compensate for medical expenses.

Should you have any questions concerning this, please contact your liaison in the Bureau of Local District Support.