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DIVISION: Office of Medicaid Management

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PAGE 1

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TO: Local District Commissioners, Medicaid Directors

FROM: Betty Rice, Director
Division of Consumer and Local District Relations

SUBJECT: New York City Department of Social Services v. Spellman -
Court of Appeals Decision, 672 N.Y.S.2d 298; 1998

EFFECTIVE DATE: Immediately

CONTACT PERSON: Dennis Boucher, 518-473-6111

This is to inform you of a favorable Court of Appeals decision in the matter of New York City Department of Social Services v. Spellman.

The Appellate Division, First Department, has rejected an argument that the implied contract provisions of Social Services Law Section 366(3)(a) do not apply to community spouses under Section 366-c. Therefore, Section 366(3)(a) recoveries can be made against community spouses who refuse to make available the amounts of excess income and resources required to be contributed under the spousal impoverishment budgeting rules. In addition, the court held that it is not necessary to first commence a proceeding in Family Court in order to enforce the support obligations of legally responsible relatives pursuant to Social Services Law Section 101. The decision reflects current Department policy concerning pursuing recoveries from community spouses who refuse to support.

If you would like further details concerning this decision, please contact Dennis Boucher at 518-473-6111.