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*****FOR IMMEDIATE RELEASE*****

***Legal Aid Calls on NYS Legislature to Pass Critical
Legislation to Stop Unethical Medicaid Collection Practices***

***Legislation would also Codify Due Process Protections for
New Yorkers in Medicaid Overpayment Cases***

***Thousands of Vulnerable Medicaid Recipients Face
Overpayment Investigations Each Year, which can Result in
Life-Crushing Debt for Many***

(NEW YORK, NY) – The Legal Aid Society today called on Senate Majority Leader Andrew Stewart-Cousins, Assembly Speaker Carl Heastie, and Albany lawmakers to pass (S4540/[A5613](#)), legislation that would stop unethical collection practices in Medicaid overpayment investigations and lawsuits — which can often result in New Yorkers facing

life-crushing debt — and codify critical due process and consumer protections for Medicaid recipients.

In addition to addressing several of the most egregious aspects of the investigation and collections process in New York State, the bill would implement measures specifically tailored to address the impact of COVID-19 on Medicaid eligibility and measures that acknowledge the severe financial hardship New Yorkers are and will be facing due to this unprecedented emergency.

The Medicaid investigation and collections process in New York is deeply flawed and rife with due process violations. In many cases, beneficiaries were eligible for Medicaid for all or part of the period of the investigation, yet they are pressured and even intimidated into signing settlement agreements they cannot afford, plunging them into oppressive debt just when they have started to get back on their feet. Moreover, investigators sometimes discourage recipients from finding a lawyer or using interpretation services, improperly threaten negative immigration consequences for failing to sign an agreement, or threaten criminal consequences in circumstances in which criminal prosecution would not be warranted. Those impacted are often immigrants, those with limited English proficiency, and the working poor.

"Medicaid is supposed to help uplift New Yorkers out of poverty by providing healthcare when they cannot afford it, not wrongfully saddle them with unwarranted debt. This bill will reform our State's Medicaid overpayment process to ensure protections are in place to prevent New Yorkers from being railroaded into debt for benefits they were eligible for or because they were not afforded the opportunity to counter the claims," said **State Senator Gustavo Rivera, Chair of the NYS Senate Health Committee**. "I look forward to working with Assemblymember Gottfried and The Legal Aid Society in passing this bill and putting an end to inappropriate Medicaid overpayment recovery practices in our state."

"People shouldn't have to fear lawsuits and face economic bullying for accessing health care," said **Assembly Health Committee Chair Richard Gottfried**. "The Medicaid collections process too often involves improper claims against enrollees, excessive and inappropriate charges, and violations of New Yorkers' due process rights. This bill will take important steps to ensure that all New Yorkers can access the care they are entitled to without fear of inappropriate and unethical collections practices pushing them into debt."

Erika Hanson, Staff Attorney in the Health Law Unit at The Legal Aid Society, said: "We have represented hundreds of New Yorkers facing Medicaid overpayment investigations and lawsuits, and have seen firsthand how their lives are upended by the egregious aspects of the process. Our clients and all New Yorkers should not be criminalized for accessing the public

benefits they need and are eligible for, especially during a pandemic that has already caused extreme financial hardships. We thank Senator Rivera and Assemblymember Gottfried for introducing this crucial legislation, and urge the Legislature to quickly pass this bill.”

A Medicaid overpayment investigation is commenced when a county’s Local Department of Social Services (LDSS)—which is responsible for investigating and recovering alleged overpayments for those whose Medicaid case is administered by the county—has reason to believe an individual or family may have received Medicaid benefits when they were ineligible. In New York City, the Human Resources Administration (HRA) handles overpayment investigations for those whose cases are administered by HRA and also for New York City residents who receive Medicaid through the New York State of Health Marketplace.

The LDSS is allowed to collect against a current or former Medicaid recipient even when, through no fault of their own, the LDSS erred in approving the recipient for benefits. Recipients are not entitled to fair hearing rights in these investigations, unlike in some Public Assistance and SNAP overpayment investigations. The investigation process is fairly unstructured and rampant with due process concerns.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. www.legalaidnyc.org