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

Legal Aid, Willkie and Freshfields Secure Historic Settlement Requiring New York State to Provide Expanded Dental Coverage to Low-Income Residents

Settlement Will Impact Roughly Five Million New Yorkers with Medicaid Coverage Statewide

(NEW YORK, NY) - The Legal Aid Society, Willkie Farr & Gallagher LLP, and Freshfields Bruckhaus Deringer LLP today announced a [historic settlement](#) in [Ciaramella et. al. v. Bassett – a federal class action lawsuit](#) brought against the New York State Department of Health (DOH) in 2018 on behalf of Medicaid recipients in New York who were denied coverage for medically necessary dental care by New York State. The settlement will result in landmark changes to law mandating expanded dental coverage to New Yorkers who use Medicaid, including both new dental coverage benefits and a significant broadening of existing benefits, impacting approximately five million New Yorkers statewide.

Most significantly, the settlement terminates the strict limit denying coverage for crowns and root canals to individuals with more than four pairs of teeth, an archaic policy not aligned with modern United States dental practice. Coverage for those procedures will now be approved for Medicaid recipients when deemed medically necessary, including for balance and function.

The changes to the Medicaid dental benefit program focus on added coverage for routine dental care and procedures to help Medicaid patients preventatively maintain better oral and overall health. These changes are expected to result in long-term cost savings for New York State and its taxpayers by allowing Medicaid recipients to immediately address dental needs before they worsen and significantly impact overall health, requiring additional dental and/or medical attention.

“With this settlement, millions of New Yorkers on Medicaid across the state will now have access to insurance covering a range of dental issues central to maintaining one’s overall health,” said **Belkys Garcia, Staff Attorney with the Civil Law Reform Unit at The Legal Aid Society**. “We brought this lawsuit to end New York’s longstanding practice of denying our clients medically necessary care and will continue to do so as long as these injustices remain on the books. The Legal Aid Society lauds our Plaintiffs for their bravery and work on behalf of millions of New Yorkers to elevate this issue.”

“Frank Ciaramella and thousands of other Medicaid recipients across New York were denied medically necessary treatments by NYS for years, and suffered poor dental treatment and overall health, as a result of the DOH Medicaid program’s categorical ban on dental implants and limits on replacement dentures,” said **Wesley Powell, Partner at Willkie Farr & Gallagher LLP**. “We are pleased many of these outdated practices are now eliminated or updated in accordance with current dental practices, so that all New Yorkers have access to appropriate care.”

“Anyone can appreciate that inadequate dental care leads to unemployability, social isolation and medical complications. We are pleased that the New York Medicaid program’s unlawful barriers to medically necessary dental care are finally coming to an end, and that low-income New Yorkers can now get the care so many take for granted,” said **Mary Eaton, Partner, Co-Head of Securities & Shareholder Litigation at Freshfields Bruckhaus Deringer US LLP.**

Under the terms of the settlement, the DOH is required to adopt and implement the following changes to the Medicaid dental benefit program:

- **Crown and root canal coverage** – DOH will terminate the antiquated and strict rule which denied coverage for root canals and crowns if a person had at least eight back teeth (four pairs) touching. Crowns and root canals will now be covered when medically necessary, including for balance and function. DOH guidance will explain medical necessity and will include crown and root canal coverage when: a medical condition prevents extraction; when the tooth is needed to secure an existing or proposed prosthesis, such as a removable denture; when the molar tooth is needed to maintain a balanced and functional bite; and when a person has eight or more natural or prosthetic back teeth in contact.
- **Crown lengthening** – The categorical ban on crown lengthening is eliminated, and this procedure will be covered as needed with a crown or root canal.
- **Replacement dentures** – These will be covered as medically necessary, without a physician having to show that the replacements will “alleviate” the Medicaid recipient’s serious health condition.
- **Dental implants and related services** – The categorical ban on coverage of dental implants and related services is eliminated. These will be covered as medically necessary, without a physician having to show that the replacements will “alleviate” the Medicaid recipient’s medical condition.

Background:

In August 2018, Plaintiffs Frank Ciaramella and Richard Palazzolo brought this litigation on behalf of tens of thousands of Medicaid-eligible New Yorkers whose expenses associated with medically necessary dental services were not covered by New York’s Medicaid Program because of the Program’s ban on dental implants and strict limits on replacement dentures. DOH responded by amending the Medicaid rules to allow coverage of these services in narrow circumstances, notably requiring people to get seriously ill before they could even qualify for treatment.

In [August 2018](#) and [November 2019](#), Plaintiffs filed amended complaints with nine additional Plaintiffs – Lillian Velazquez, AnneMarie Walker, Antonio Martin, Christopher Russo, Matthew Adinolfi, Jody Virtuoso, Yvonne Hawkins, Blanca Coreas, and Brenda Perry – challenging the old and new rules on dental implants and replacement dentures, and adding challenges to the strict limits on coverage of root canals and crowns. Under DOH’s strict coverage rules, Medicaid would not provide this dental care until a person had lost over half of their back teeth. Rather, DOH’s rules required a person in need of a root canal or crown to have their teeth pulled instead of treated if they had eight back teeth (four pairs) touching.

The suit argued that the rigid rules in the New York State Medicaid Program restrict coverage for services that are necessary for Medicaid recipients to maintain their overall health. The rules also ignored the close connection between poor oral health and other health problems suffered by the Medicaid-eligible population, including periodontal disease, gum disease, diabetes and related health complications.

This suit was the latest example of DOH using archaic rules to deny medically necessary care to Medicaid-eligible recipients. In 2016, DOH was found to have violated the Medicaid Act by banning medically necessary care to transgender Medicaid recipients in *Cruz v. Zucker*. Legal Aid and Willkie Farr & Gallagher LLP achieved this

historic victory which led to a repeal of the ban and amended regulation, requiring Medicaid coverage for transgender New Yorkers seeking medically necessary gender affirming treatment.

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