

# State of New York Court of Appeals

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## MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 13  
In the Matter of People Care  
Incorporated, &c.,  
Respondent,  
v.  
City of New York Human Resources  
Administration, et al.,  
Appellants.

Eric Lee, for appellants.  
Thomas J. Fleming, for respondent.  
New York State Department of Health, amicus curiae.

### MEMORANDUM:

The order of the Appellate Division should be reversed, with costs, and the matter remitted to the Appellate Division for consideration of issues raised but not determined on the appeal to that Court.

For the reasons stated in the dissenting opinion below (*Matter of People Care Inc. v City of New York*, 175 AD3d 134, 147-152 [1st Dept 2020] [Richter, J.P., dissenting]), we conclude that the funds for personal care services paid to petitioner People Care, Inc. under the Health Care Reform Act (Public Health Law §§ 2807-v [1] [bb] [i], [iii]) are Medicaid funds subject to the audit and recoupment authority of the City of New York Human Resources Administration (HRA) in accordance with the parties' 2001 contract. In light of our holding, we do not address HRA's contentions regarding whether petitioner must follow the contractual dispute resolution procedures or the merits of HRA's recoupment demand, issues that were not decided by the Appellate Division.

Order reversed, with costs, and matter remitted to the Appellate Division, First Department, for consideration of issues raised but not determined on the appeal to that Court, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur.

Decided March 25, 2021