



September 30, 2022

**Via E-Mail and Regular Mail**

Hon. Adrienne E. Adams, Speaker  
New York City Council  
City Hall  
New York, NY 10007

Hon. Carmen De La Rosa, Chair  
Committee on Civil Service and Labor  
New York City Council  
250 Broadway, Suite 1880  
New York, NY 10007

**Re: Health Benefits Matters**

Dear Speaker Adams and Chair De La Rosa:

I write in response to the inquiry of the City Council Civil Service and Labor Committee directed to me as Chair of the Tripartite Health Insurance Policy Committee (“Tripartite Committee”) with respect to the proposed amendment to the Administrative Code.

The Tripartite Committee, representing members of the NYC Municipal Labor Committee (the “MLC”), the City of New York (the “City”) and myself as Chair, was formed in 2018 to address the delivery of healthcare, focusing on preserving the quality of healthcare of active employees, retirees, and their dependents, while stemming the rising costs of its delivery. This work encompasses a reimagining of how healthcare is structured for City employees and retirees, including redesign of the Stabilization Fund construct. The implementation of a Medicare Advantage construct is but one part of that process, though an important one. A primary directive of the Tripartite Committee has been—and remains—the achievement of these goals without the imposition of contribution to premiums or other significant shifts of costs to the active or retiree communities. This will encompass a long-term rethinking of how healthcare is delivered.

Coming on the heels of an earlier MLC/City healthcare agreement facilitated by me that garnered some \$3.4 billion in recurring savings (the “2014 Agreement”), a second healthcare agreement was crafted with specific agenda items to be considered (the “2018 Agreement”). The 2014 Agreement was accomplished in material part by adjusting co-pays (some up/some down) for active employees to incentivize more appropriate utilization of services (e.g., not using an emergency room where an office procedure is appropriate). No changes were made to the retiree plan at that time.

For the 2018 Agreement, the required savings figure was set at a total of \$1.1 billion. Among the items to be considered in reaching this sum was the adoption of a Medicare Advantage benchmark plan for retirees. See 2018 Agreement, ¶ 5b (annexed hereto). The benefit of a

Medicare Advantage plan is that the federal government provides a sizeable subsidy for having a private insurer administer the program rather than the government. I was kept abreast of the negotiations in arriving at the finalists and in making the award. As part of the process, I was made aware that the bids of both finalists—an alliance of Empire Blue Cross/Emblem Health and Aetna—satisfied the requests that their benefits at least mirror that of the GHI Senior Care Plan, the most popular choice of the retiree community. Indeed, both bids provided benefits beyond what Senior Care afforded. Each of these plans were determined to save the City \$600 million in annual savings for each of the five years of the contract.

As set forth in ¶ 7 of the 2018 Agreement, the dispute resolution clause of the 2014 Agreement, empowering me with jurisdiction to determine an appropriate remedy should savings figures not be met, continued into this Agreement. Here, though the parties in good faith sought to reach the savings goals, the Stabilization Fund, which was to receive the \$600 million in annual savings, does not have the funds to provide the City with the payments needed to realize the required savings. Accordingly, absent a path to those funds, the issue before me in a resulting arbitration would be to fashion a remedy to comply with the 2018 Agreement.

In this regard, the dispute is substantial. As a backdrop to contemplated action, the Medicare Advantage construct is utilized now by almost half of the country's retirees. The proposed Medicare Advantage plan at hand is not a narrow plan of providers but a broad PPO open to any provider that accepts Medicare. It would serve as an appropriate, premium-free benchmark plan for the Medicare-eligible retirees. The MLC Unions very much strove to retain the Senior Care plan as an option for their retirees and negotiated with the insurers and the City to keep it. Recognizing that savings dollars are realized only if retirees move to Medicare Advantage, it was worked out that retirees could remain in Senior Care if they "paid up" for it, with the figure for that set at \$191/month. This sum, it was thought, would preserve optionality while ensuring that significant savings would be realized since most would be expected to be part of the Medicare Advantage benefit-equivalent, premium-free plan.

Judge Frank's recent decision effectively upends the negotiated option. While the Court took the view that the City could not charge retirees for Senior Care (even though retirees for decades have paid up for non-Senior Care plans), it plainly did not require the City to continue to offer Senior Care as an option. The Court acknowledged that the City's obligation is simply to offer an appropriate, premium-free plan—and that would be satisfied by the Medicare Advantage plan. The City does not have to offer multiple plans. Thus, absent the proposed amendment to the Administrative Code that would redress what the Court found missing in current Code § 12-126, I would determine the City and MLC shall eliminate Senior Care as an option. That would, of course, prejudice those who were willing to "pay up" to retain it, but that would in fact drive monies to the Stabilization Fund so that the City could realize savings.

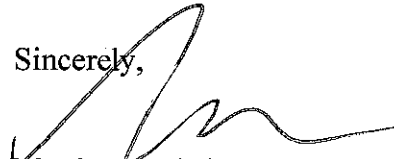
Frankly, the sole available alternative to eliminating Senior Care would be to impose the obligation to contribute premiums. The amount estimated annually is between \$1,250 and \$1,750 to ensure the same level of savings. This premium shifting is something the parties and I collectively have worked years to avoid, as City workers have come to live in a world where their wages are not reduced by having to pay a portion of their healthcare premiums. Doing so will have a devastating impact on those enrolled in the City's health plan including potentially retirees,

and particularly on lower-paid workers and, some of whom would be unable to pay such contributions. Thus, in my view, amending the Administrative Code, supported by the City and the MLC, is in the best interests of the in-service and retiree communities.

I will make myself available to speak with you if you would like to do so.

Thank you.

Sincerely,



Martin F. Scheinman, Esq.  
Arbitrator  
Chair of the Tripartite Health Insurance  
Policy Committee

MFS/sk

City.MLC.Health Benefits Matters.ltr

cc: Harry Nespoli, Chair, NYC Municipal Labor Committee  
Renee Campion, Commissioner, NYC Office of Labor Relations