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Retired NYC workers sue to block Mayor Adams' latest Medicare Advantage Plan: (Exclusive)

Story by Chris Sommerfeldt, New York Daily News • 5h ago



Passengers deplane at Jackson Hole Airport in Grand Teton National Park, Wyoming, on June 13, 2019. © DANIEL SLIM/AFP via Getty Images

A group of retired city workers are suing Mayor Adams in a bid to block his administration's latest attempt to shift them into a privatized version of Medicare — the second time in as many years that municipal retirees have gone to court over the hot-button issue.

The new lawsuit, filed in Manhattan Supreme Court on Wednesday, comes after retirees concerned about their health benefits being wrecked [took legal action last year to prevent Adams](#) from implementing the first version of his administration's cost-cutting Medicare Advantage Plan.

That version, which Adams pursued on the auspice that it'd generate \$600 million in annual health care savings, was blocked by judges who found a provision unlawful that would've levied [a \\$191 monthly penalty](#) on any retiree who opted out of Advantage in order to stay on traditional Medicare.

To get around that ruling, Adams' team this year devised a new plan that eliminates traditional Medicare as an option altogether and makes Advantage the only health insurance available to the city's roughly 250,000 municipal retirees. Since there's no longer a penalty in the picture, Adams has argued that plan structure complies with the court decisions and [signed a contract in March with private health insurance giant Aetna](#) to enroll retirees in it, effective Sept. 1.



Mayor Eric Adams is pictured during briefing at the Javits Federal Building in Manhattan on April 17, 2023. © Luiz C. Ribeiro/New York Daily News/TNS

But Wednesday's lawsuit — brought by nine retired municipal workers and the NYC Organization of Public Service Retirees, which has resisted the city's attempted Medicare shakeup for years — alleges the court should derail the new plan, too, because it's "an unjust bait and switch" that violates various local laws.

"This is fundamentally worse. This is more deceptive and dirty even than the first plan," Marianne Pizzitola, a retired FDNY EMS who serves as president of the retiree organization, told the Daily News in an exclusive interview before filing the suit. "Before they said, 'You can keep your plans, even if that means you have to pay for them,' which we weren't going to do because that would be illegal. But this time it's like, 'Screw you, there is no choice.'"

In addition to Adams, the suit names his labor relations commissioner, Renee Campion, and other top city officials as defendants.

The traditional insurance structure favored by Pizzitola's group features a city-subsidized "Medigap" supplement on top of the universal Medicare program. Under the administration's plan, retirees who'd want that would have to seek it out in the marketplace and pay for it on their own. Everyone else would get automatically enrolled in Advantage.

Unlike traditional Medicare, Advantage plans are administered by private health insurance companies and subsidized by the federal government at a higher rate.

Adams has said the savings the city could net from those subsidies are critical at a time when his administration is [staring down multi-billion dollar budget deficits in coming years](#). The mayor and most of [the city's public sector union leaders](#) have also argued Advantage would continue to provide retirees with adequate coverage.

Thousands of retired teachers, cops, firefighters and other city workers organized by Pizzitola's group believe otherwise.

They've pointed to [studies from the U.S. Department of Health and Human Services inspector general](#) showing Advantage plan holders can be denied "medically necessary care," in part because of private providers' preauthorization requirements for various procedures. Many retirees have also alleged their doctors are telling them they cannot accept Advantage.

"The stress caused by this for me and my fellow retirees is unconscionable," Karen Engel, a retired city public school teacher and one of the nine plaintiffs, said in an affidavit appended to the lawsuit.

An Adams spokesman said the administration will review the suit and reiterated the mayor's arguments for Advantage.

"Our customized Medicare Advantage plan is in the best interests of our city's retirees and taxpayers, and improves upon retirees' current plans, including offering a lower deductible, a cap on out-of-pocket expenses, and new benefits, like transportation, fitness programs, and wellness incentives," the spokesman, Jonah Allon, said.

The suit, which seeks class action status to represent all retired municipal workers, comes as [Adams' administration is moving ahead with the new Advantage plan](#), having set a June 30 deadline for retirees to opt out of it.

The retirees are asking a judge to immediately issue a temporary restraining order putting the Advantage rollout on ice. In the long-run, they want a judge to rule that traditional Medicare coverage must be available to them free of charge.

According to the suit, the new Advantage plan violates the same administrative law that the first one did, because it does not allow for a proper coverage

“choice.” The law, known as [Section 12-126](#), requires the city to provide its retired workforce with premium-free health insurance for life.

The suit claims Adams’ new plan violates a bevy of other statutes, too, including the state and city Human Rights Laws, which prohibit discrimination against disabled people, and the Administrative Procedure Act, which mandates that the municipal government go through certain transparency steps when developing new policies.

Jake Gardener, a lawyer for the retirees, said the new lawsuit’s longer list of alleged violations is “a reflection of how much more extreme the city’s conduct is in this case.”

In addition to alleged law-breaking, the suit’s nine named plaintiffs wrote in affidavits that Adams’ Advantage push flies in the face of a promise they were given upon joining public service about being guaranteed free, comprehensive health care for life.

“I have relied on this promise throughout my life for important employment, healthcare, and saving decisions,” wrote John Mihovics, a retired NYCHA carpenter who alleged his wife would no longer be able to receive care from a doctor she relies on for a spleen condition if they end up on Advantage. “I do not have the ability to pay for more expensive coverage ... Had I known that I might be faced with the choice of either enrolling in the city’s Medicare Advantage plan or paying for my own Medicare supplemental insurance, I would have taken higher-paying employment in the private sector.”

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