



## Retirees save \$ 200 a month in court case | Queenswide

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Justice Lyle Frank of state Supreme Court in Manhattan ruled last week that the city could not charge retired city workers who do not want the new Medicare Advantage Plan \$ 191 a month for opting to keep their current Medicare plans.

Based on the court's reading of city Administrative Code section 12-126, "as long as the respondent is giving retirees the option of staying in their current program, they may not do so by charging them the \$ 191," said Frank. "The city will pay the entire cost of health insurance coverage for city employees, city

retirees and their dependents, not to exceed one hundred percent of the full cost of HIP-HMO.”

City Corporation Counsel Sylvia O. Hinds-Radix said the city filed a notice of appeal on March 4. “The city ... is seeking a stay at the court’s decision while that appeal is considered,” Hinds-Radix said via email. “As the city considers its options, the Medicare Advantage Plus Plan will not be implemented on April 1.”

The plan, which was negotiated by former Mayor Bill de Blasio and representatives of the city’s unions, was initially set to take effect in January but was stalled until April 1, due to legal action.

Approximately 250,000 city retirees will be impacted and a group of them – the NYC Organization of Public Service Retirees – sued to block the change, which would see private companies contract with the federal government to offer the Medicare Advantage benefits that some say could increase their out-of-pocket costs because it would not cover supplemental insurance use.

“The city has been paying for those health insurance plans, but they were going to stop as of April 1, but the court held that you can not discontinue paying for them,” said Jacob Gardener, the attorney representing the retirees. “Anyone who opted out of the plan was going to have to pay a \$ 191 a month premium and no longer has to.”

The plan had a limited provider network and a prior authorization requirement, said the attorney.

“In order for them to get certain services that they need the insurance company has to approve it,” said Gardener. “It creates procedural hoops that could be denied and prior authorization has been associated with all sorts of health risks. The insurance company gets to decide whether the patient gets the services that the doctor orders. ”

A retired 30-year veteran teacher of the city Department of Education who lives in Forest Hills, who wishes to remain anonymous, says he read about at least one retiree dying while waiting for a test to be approved.

"He was waiting for a test and it took so long that he died before the approval came through," said the source. "That was absolutely horrendous."

Approximately 50,000 retirees opted out of the plan before the ruling, he said: "Ninety-nine percent of the remaining 200,000 are probably going to opt out. I am delighted by the judge's ruling. While it was ongoing, I was in a constant state of anxiety. "

Many retirees did not know about the switch to the plan, according to the anonymous source.

To save taxpayers \$ 500 million, the Blasio started the process of transferring city retirees and their dependents to the Medicare Advantage plan, but they were sent incorrect enrollment information, which was another reason for the lawsuit and an injunction from the judge last year.

"The implementation of the plan was irrational," said Frank.

However, since the city's Office of Labor Relations has worked on fixing that error the judge also ruled that the "preliminary injunction is now vacated, and the underlying petition is ripe for resolution."

The source only learned about the change to the plan because a friend asked if the teacher was a part of the retiree organization and if he had been following the conversations online about the switch.

"This is among teachers, the Fire Department – all New York City retirees – many of whom are now in their 80s and 90s and do not go online," the teacher said.

"We would have been put into this new plan automatically," said the source. "This was inexcusable."

Marianne Pizzitola, president of the NYC Organization of Public Service Retirees, agrees.

"Traditional Medicare is run by the federal government," said Pizzitola. "You pay into it your whole life and when you are either disabled or 65, that insurance is

there and it covers the first 80 to 85 percent of your medical bills. The last 20 percent of your bill is usually paid by the Medigap plan. That pays that last gap of coverage ... that plan is from our employer. "

The Administrative Code also says that as long as the cost of insurance sits under the HIP-HMO cap, which is currently \$ 776 a month per person, the city will pay for one's health insurance, said Pizzitola.

"If it was over that you would end up picking up the difference," she added. "The city decided it was going to save money and they decided to do that by implementing this Medicare Advantage program. This Medicare Advantage program goes to a for-profit company. "

The government is paying a private insurance company a subsidy to run that plan, said Pizzitola.

"They actually pay more to the private company than they do themselves to run the same thing," said Pizzitola. "The city in its infinite wisdom realized ... we are paying for all these city retirees. The only way to save money is to put all these into this Medicare Advantage plan ... the federal government will pick up the tab for any Medicare Advantage plan. "

Over the course of 11 years, it will cost \$ 34 billion to run the supplemental program, according to the Public Service Retirees group.

If the city saves money on the premiums, it will give that money as savings to the unions, according to the retiree president.

"By opting out ... you were going to pay a penalty premium of almost \$ 200 a month per person," said Pizzitola, a retired FDNY emergency medical technician. "We are retired and are on a fixed income. Some of us have been on our current insurance program for 40 to 50 years. "

Unions decided to impose co-pays to cut more expenses out of their pocket, according to Pizzitola.

"We would also be paying \$ 15 a visit to a doctor for the most vulnerable population who sees the doctors the most," she said. "My union no longer represents me because I am retired ... I do not have wages, hours or working conditions."

The judge did not touch the argument about the co-pays, according to Pizzitola.

Frank ruled that the Office of Labor Relations "was well within its rights to work with the Municipal Labor Council to change how retirees get their health insurance."

The MLC, which is made up of 300 unions and represents 1.3 million people in the five boroughs, has the right to enter into the agreement with the city under collective bargaining agreements and may also amend those agreements.

Dan Murray, of Floral Park, is a retired anti-crime unit NYPD officer. He retired in 1983 after suffering an injury on the job that resulted in him getting a plate in his neck.

"The head of the [United Federation of Teachers] was very strong on taking this advantage plan," said Murray on March 3." Today he changed his mind. He was pushing this thing and now he is withdrawing his support ... People coming into the advantage plan should push it back and take a second look at what is going on. The parent company is under investigation by the Justice Department. "

UFT President Michael Mulgrew initially supported the program because retirees would keep their own doctors; it had premium-free coverage; there would be a cap on catastrophic costs; they would be covered outside the United States; there would be an expansion on free services such as the Silver Sneakers program; and it would have allowed the city to tap into federal subsidies for Medicare, according to his spokeswoman Alison Gender.

After the ruling, the UFT has changed its tune and withdrawn its support from the plan. It now urges the MLC to suspend efforts to implement the plan until all legal issues are resolved.

"We believe in the NYC Medicare Advantage Plus plan and the excellent range of benefits it would have provided to our retirees," said Mulgrew. "However, the judge's recent decision will effectively eliminate the savings the plan would have produced and that would have been re-invested in health benefits for our members. While the NYC Medicare Advantage Plus plan is sound, the program has suffered from serious implementation problems and poor legal arguments, particularly on the part of the city. "

Anthem, which was selected to run the Medicare Advantage Plan in New York, is under investigation by the Department of Justice for fraud and there is an ongoing investigation into the retirement health plans, according to Fierce Healthcare, a health business online magazine. Approximately \$ 215 million brought in from the Medicare Advantage plans are under review. The health insurer argued that the DOJ's probe is outside its scope and its questions are violating attorney-client privilege.

The case, in which the health insurer is being sued for overcharging Medicare for millions, is still pending, according to a Feb. 13 article by the New York Post.

"They have not gone to trial yet," Murray said. "They made fraudulent claims, they are aware of that and they are supposed to pay back Medicare."

The retired officer was baffled by the city's choice in health insurers.

The rival insurer, Aetna, claimed that the bid was fixed in favor of Alliance, the parent company of Anthem / Blue Cross Blue Shield and Emblem Health, because of its strong ties to union leaders, according to the Post.

Mike Stein, who was raised in Jackson Heights and worked as a paramedic for NYC Health + Hospitals / Elmhurst would have to pay nearly \$ 5,000 annually for both him and his wife.

"We are both Medicare age," said Stein, whose wife needs knee replacement surgery. "It just seems like a really unnecessary middle man in between ourselves and our health insurance coverage."

Before, the Steins, both 71, were able to go to a doctor, get a recommended test, have it approved and go forward with getting the examinations or procedures they needed to maintain their health and well-being.

"With this plan ... there is somewhere in the neighborhood of 87 tests that if the doctor ordered it, it would not go forward until you contact the Medicare Advantage plan and their people reviewed it to approve it."

The other issue is that doctors do not want to deal with the bureaucracy and get paid less once a procedure does get approved, according to Stein. "I have a friend who is a podiatrist," he said. "He never dealt with the Medicare Advantage Plans for these reasons."

It's important to teach people about this, said Pizzitola. "History repeats itself."