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January 21, 2022

VIA EMAIL AND NYSCEF

Justice Lyle E. Frank
Supreme Court of the State of New York
New York, NY 10007
email: lfrank@nycourts.gov

Re: *NYC Organization of Public Service Retirees, Inc. et al v. Renee Campion et al*, Index No. 158815/2021

Dear Justice Frank:

We represent Petitioners in the above-captioned matter.

The Petitioners were reticent to send yet another letter to Your Honor so soon after pointing out the gross inadequacies of the City's and Alliance's educational campaign surrounding the Medicare Advantage Plan (MAP). But new evidence has come into Petitioners' hands in the last week that is so significant, that it cannot wait and cannot go unaddressed.

As Your Honor knows, the City and the Alliance have been touting the participation of all New York City hospitals – and particularly Memorial Sloan Kettering (MSK) – in the MAP.¹ This is simply not true, and we pointed out in our letter of January 18th that New York Presbyterian is not participating. This past week, retirees who are currently patients at MSK have been receiving bills from MSK. As you can see from the attached exhibits, MSK is telling patients: “IT IS IMPORTANT TO KNOW THAT MSKCC'S HOSPITAL AND DOCTORS ARE NOT PROVIDERS IN ANY MEDICARE ADVANTAGE PLAN NETWORKS.” (Emphasis in the original.)

Further, MSK is saying to patients, “EXISTING MEDICARE ADVANTAGE PLAN HOLDERS MAY ALSO SWITCH BACK TO TRADITIONAL MEDICARE DURING THE MEDICARE ADVANTAGE DISENROLLMENT PERIOD OF

¹ See, among other documents: Affirmation of Assistant Corporation Counsel Rachel DiBenedetto [NYSCEF dkt. no. 148](#); testimony by OLR Commissioner Renee Campion before the City Council on October 28, 2021; Harry Nespoli's letter to Municipal Labor Committee, October 18, 2021; Affidavit of Claire Levitt, [NYSCEF dkt. no. 118](#), November 12, 2021; Renee Campion's letter to retirees, December 17, 2021; Affidavit of Mark Pohl, [NYSCEF dkt. no. 88](#), October 18, 2021.

JANUARY 1, 2022 THROUGH FEBRUARY 14, 2022.” And “IF YOU SWITCH TO AN ADVANTAGE PLAN THAT IS A PPO, YOU MIGHT PAY SUBSTANTIALLY MORE FOR SERVICES.”

Either the City and Alliance have misrepresented MSK’s participation in the MAP; or MSK hasn’t gotten the message and is misleading patients. The former would be outrageous; the latter would be surprising and would require immediate correction. Needless to say, cancer-stricken retirees who depend on MSK’s world-class treatments are now totally confused and terrified. Many first responders developed life-threatening illnesses after serving at Ground Zero, and they are being treated at MSK. To subject them to this SNAFU is not just unfortunate but appalling.

We ask the Court to hold an evidentiary hearing to find out the truth.

In the meantime, we ask the Court to stop the clock on the MAP implementation schedule until this material problem can be corrected.

Thank you for Your Honor’s attention and consideration.

Sincerely,
/s/ Steve Cohen
Steve Cohen

cc (via email): Rachel DiBenedetto, Esq.
William Fraenkel, Esq.
Michael DeLarco, Esq.