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April 1, 2015

Oversight: Examining Health Care Savings Under Recent Collective Bargaining Agreements

I. Summary

Today, the Committee on Finance and the Committee on Civil Service and Labor will meet to consider the May 2014 agreement ("the agreement" or "the savings plan") between the Administration of Mayor Bill de Blasio ("Administration") and the Municipal Labor Committee ("MLC") to reduce City health care costs. On May 1, 2014, the Administration and the MLC, the coalition representing the City's various unions, announced a target of $3.4 billion in savings over four years, starting with $400 million to be saved in Fiscal 2015 and growing to $1.3 billion in Fiscal 2018.[1] Today's hearing will focus on identifying and discussing detailed progress regarding the savings plan.

II. History and Purpose

Mayor de Blasio and the City's biggest union, the United Federation of Teachers (UFT), announced a deal in May 2014 that established a pattern for collective bargaining agreements. This agreement set the stage for terms with the entire unionized municipal workforce, which, following a breakdown in negotiations between union leaders and former Mayor Michael Bloomberg, had been working under a set of expired contracts. At the same time, an agreement was reached between the City and the MLC concerning health insurance for City workers.

To help offset some of the $14 billion gross cost of settling labor contracts, the Mayor's Office of Labor Relations ("OLR") and union leaders simultaneously rolled out the savings plan, a four-year plan to reduce health care costs by $3.4 billion. The structural changes producing those savings, be they benefit reductions or improvements to efficiencies, would remain in place beyond the four-year plan. The two sides also announced a $1 billion transfer from the Health

[1] *See* Appendix A of this report for a copy of the agreement.

Insurance Premium Stabilization Fund, a special fund jointly controlled by the City and the MLC, to help cover the labor agreements' expected cost.[2]

Since that agreement, the Administration has settled contracts with unions representing approximately four-fifths of the municipal workforce; the largest union still without an agreement, the Patrolmen's Benevolent Association, will soon have terms settled by an independent arbitrator. The City's budget is thus realizing the expected four-year $14 billion cost of settling labor contracts.

The agreement outlining the health care savings plan is two pages long, excluding the parties' signatures. The first page outlines a special contribution to help fund wage increases for the municipal workforce. The second page sets parameters for the savings plan, including minimum savings requirements:

- $400 million in savings for the first year (Fiscal 2015);
- $700 million in the second year (Fiscal 2016);
- $1 billion in the third year (Fiscal 2017); and,
- $1.3 billion in the fourth year (Fiscal 2018).

The Administration and the MLC will be looking to meet those targets in a world of shifting health care costs. The country's annual spending on health care held below 4 percent between 2009 and 2012, the last actual data used by the U.S. Department of Health and Human Services' Centers for Medicare and Medicaid Services for forecasting. This level of spending is

[2] The City and its unions set up the Health Insurance Premium Stabilization Fund three decades ago. The City agreed to make $30 million annual deposits — using tax levy dollars — each year, starting with its creation in 1984. Those deposits eventually grew larger. The purpose was to use the fund to pay one of the City's two major health insurers when their respective costs diverged; subsequent transfers have kept City workers from paying any premiums themselves. The fund grew faster than the underlying purpose demanded. As that happened, the City and union leaders — which must agree to any spending from the fund — periodically considered using it to solve shorter term, labor force-specific budget challenges. In 2009, they tapped the fund to help pay for vision, dental and prescription drug coverage managed by the unions (through separate "union welfare funds"). Then, when the City agreed to terms with unions last May, they transferred $1 billion to help cover the cost of new labor contracts for the City's entire unionized labor force.

far lower than the rapid health care cost increases experienced from the mid-1960s through the early-1990s, when annual growth rates in health care spending routinely hit double digits. The City's last financial plan before the agreement with the MLC, issued in February 2014, projected that City health insurance costs would grow by 7.7 percent annually over the financial plan. This outpaces the most recent forecast, specific to local and state employers, calculated by the federal government (5.2 percent). The national slowdown in the growth of health care costs has been the subject of considerable debate in the economics and health policy literature. The question everyone wants answered is "how long will it last?"[3]

The agreement also states that an independent arbitrator would be charged with resolving any disagreement between the Administration and the MLC regarding metrics and success. It identifies that arbitrator, Martin Scheinman, who is familiar with the labor landscape at the City level, having helped broker the deal between the Administration and the teachers' union last spring.[4]

III. Progress and Reporting

Formal, identifiable details of the health care savings plan and its progress have been limited to the agreement itself, a progress report expected today, a three-page December administrative update from the OLR to the Mayor, and opinions published by the Administration in the press. Outside of those documents and reports, the Administration has said it believes the City has lagged behind other employers, be they from government or the private sector, as they refined and rationalized its health insurance strategies to adapt to escalations in health care costs

[3] Amitabh Chandra, Jonathan Holmes, and Jonathan Skinner, "Is This Time Different? The Slowdown in Healthcare Spending", NBER Working Paper No. 19700, December 2013.

[4] *See* http://www1.nyc.gov/office-of-the-mayor/news/196-14/transcript-mayor-de-blasio-uft-reach-preliminary-agreement-9-year-contract-ushering-key-new#/0.

experienced over the past quarter-century.[5] The health care savings plan would thus represent a chance to reduce the cost of insurance through steps already taken by employers elsewhere. This would have been difficult in the past, as collective bargaining rules in New York City necessitate that most changes in health care benefits must be agreed to by the Administration and City unions before they are formalized with the municipal workforce's insurance providers.

The Administration's December update identified some of the different types of steps the Administration and the MLC could take to save money on health insurance costs, such as:

- More efficient access to delivery;
- Audits of the City's health care beneficiary rolls; and
- Negotiations with providers over premium rates.

The Administration said in announcing the savings plan that it wants to meet the four-year, $3.4 billion savings goal while protecting coverage for employees and retirees.[6] The Administration indicates it is working closely with the MLC and representatives from its two largest unions, the UFT and District Council 37 ("DC 37"), on options. The OLR expects to release its next progress report today, cataloguing the savings plan's major steps to date and estimating savings associated with each major step.

The Fiscal 2015 Adopted Budget incorporated an expectation of the savings plan's targeted $3.4 billion in savings, starting with $400 million this year, in its bottom line. The Administration, beginning with its November financial plan, began to identify explicit steps taken to reach that goal. It began with $55 million recognized in Fiscal 2015, a change the Administration attributes to lower premium rates and lower Senior Care plan costs negotiated

[5] Levitt, C. Interview. 3.23.2015.

[6] *See* The City of New York, Office of the Mayor. (May 1, 2014). Mayor de Blasio, UFT Reach Preliminary Agreement on 9-year Contract Ushering in Key New Reforms and Savings [Press release]. Retrieved from http://www1.nyc.gov/office-of-the-mayor/news/195-14/mayor-de-blasio-uft-reach-preliminary-agreement-9-year-contract-ushering-key-new-reforms-and#/0.

with state regulators and a key provider. Those savings would grow to $377 million in Fiscal 2016 and would carry forward.

The two largest providers of health insurance to public employees at the City are EmblemHealth, which owns Group Health Incorporated ("GHI") and HIP Health Plan of New York ("HIP"), and Empire BlueCross BlueShield. Any changes the Administration and the MLC agree to can then be formalized between the City and those providers. The agreement states that if the Administration and the MLC find four-year savings beyond $3.4 billion, the unions get to keep the proceeds as lump sum bonuses; if they find much more savings, the unions and the City would share the proceeds.[7]

The Administration and the MLC had planned to jointly contract with a third-party actuary specializing in health care, and to jointly hire "additional outside expertise" as needed, to "develop an accounting system to measure and calculate savings."[8] The Administration and the MLC instead contracted with separate actuaries; the City hired Milliman and the MLC works with Segal Consulting.

IV. Outstanding questions

The Administration and the MLC have positioned themselves to work with their contracted actuaries in identifying and cataloging savings. The question remains as to how they distinguish changes in year-to-year health care costs due to exogenous forces, such as general inflation or deflation in the market for health care, from changes caused explicitly by the health

[7] *See* Appendix A, at page 2. "In the event that the MLC has generated more than $3.4 billion in cumulative healthcare savings during the four-year period, as determined by the jointly selected healthcare actuary, up to the first $365 million of such additional savings shall be credited proportionately to each union as a one-time lump sum pensionable bonus payment for its members. … Any additional savings generated for the four-year prior beyond the first $365 million will be shared equally with the City and the MLC … . Additional savings beyond $1.3 billion in FY 2018 that carry over into FY 2019 shall be subject to negotiations between the parties."

[8] *See id.*.

care savings plan. The details of the actuary's or actuaries' eventual accounting system are thus critical information as stakeholders from inside and outside the City evaluate progress.

At a June 6, 2014 Finance Committee hearing on the Fiscal 2015 Executive Budget, Council members asked the Administration for "clarity" regarding the health care savings plan, including a better understanding of the potential ramifications of a failed effort. Representatives from the Administration noted that either they or the MLC could send the agreement to a professional arbitrator if savings were not fully realized. OLR Commissioner Robert Linn testified the plan was "not a prescriptive approach" and would let the Administration and the MLC remain nimble when their collaboration unearths innovative opportunities to save money. He further testified that his office would update the City Council on progress through regular communications. The Administration also confirmed that annual savings of $1.3 billion annually would, once reached in Fiscal 2018, continue beyond the four years identified explicitly in the agreement.[9]

Some have challenged the Administration to better explain the savings plan and to account for progress in a clearer manner.[10] The Administration framed the health care savings plan last spring as an offset to a $14 billion package of labor agreements. Any shortfall of real savings would thus represent upward pressure on the net cost of those agreements. As such, good government groups, namely the Citizens Budget Commission, have offered critical assessments of the health care savings plan's scope and recommended the City identify a logical and interpretable baseline from which to measure savings. An identifiable formula would provide the Administration, the City Council and outside groups a common baseline from which to evaluate

[9] World Wide Dictation. (June 21, 2014). Transcript of hearing on *Overview: Financial Plan, Economy, Revenue, Capital and Debt Service*, June 6, 2014. Pages 22, 38-29.

[10] *See e.g.*, Citizens Budget Commission. (December 29, 2014). Giving Credit Where It's Due? New York City's $1.3 Billion in Health Insurance Savings [blog post]. Retrieved from http://www.cbcny.org/cbc-blogs/blogs/giving-credit-where-it%E2%80%99s-due-new-york-city%E2%80%99s-13-billion-health-insurance-savings.

the program, whether or not the plan requires the help of an arbitrator; it would also aid the arbitrator if his help is needed.

The Administration's explanation of that baseline has been unclear. As noted earlier, the agreement called for a jointly-hired independent actuary to develop an accounting system to let stakeholders measure savings. Then, in February 2015, Commissioner Linn and City Budget Director Dean Fuleihan said the "agreement called for calculating the savings against the *actual budget projections* — a logical and quantifiable way to capture the savings."[11] (*emphasis added*) It is unclear how Commissioner Linn and Director Fuleihan could interpret the agreement's "accounting system" as dictated by "actual budget projections" if the Administration and the MLC have yet to agree on a joint actuary to fill the role, explicitly identified by the agreement, of developing a measurement system.

In June 2014, New York City Comptroller Scott Stringer raised questions about the health care savings plan in his budget evaluation.[12] The City's Fiscal 2015 Adopted Budget included an expectation that health care costs would continue to grow significantly through Fiscal 2018. Stringer suggested the expectation could be too high and worried that the City's accounting system may inappropriately attribute uncontrollable changes in health care costs to the health care savings plan.[13] He suggested this could lead the Administration to mistakenly attribute $700-plus million over three years to the health care savings plan.

[11] Linn, R., & Fuleihan, D. (2015, February 19). NYC's health-care savings are real: This is money the city can count on. *New York Daily News*. http://www.nydailynews.com/opinion/linn-fuleihan-nyc-health-care-savings-real-article-1.2120584.

[12] *See* New York City Comptroller Scott M. Stringer. (Dec. 15, 2014). The state of the City's economy and finances. Retrieved from http://comptroller.nyc.gov/wp-content/uploads/documents/State_of_Citys_Finances2014.pdf.

[13] *See* Meriwether, K. (June 5, 2014). Stringer Looks at Health Care Cost Projections Differently**.** *Gotham Gazette.* Retrieved from http://www.gothamgazette.com/index.php/government/5089-comptroller-stringer-looks-health-care-cost-projections-differently-than-de-blasio.

V. April 1, 2015 Hearing

The purpose of this hearing is to collect and discuss facts regarding the Administration's and the MLC's effort to secure health care savings. The target of $1 billion-plus in annual savings, on its own, would fall well short of covering the cost of the collective bargaining agreements reached between labor groups and the Administration in recent months. It is large enough to merit a clear, public explanation regarding the objectivity of the parties' effort to measure and secure the savings as promised. Representatives from the Administration, the MLC, and the Office of the New York City Comptroller and members of the public have been invited to testify.

THE CITY OF NEW YORK
OFFICE OF LABOR RELATIONS
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ROBERT W. LINN
Commissioner

May 5, 2014

Harry Nespoli
Chair, Municipal Labor Committee
125 Barclay Street
New York, NY 10007

Dear Mr. Nespoli:

This is to confirm the parties' mutual understanding concerning the following issues:

1. Unless otherwise agreed to by the parties, the Welfare Fund contribution will remain constant for the length of the successor unit agreements, including the $65 funded from the Stabilization Fund pursuant to the 2005 Health Benefits Agreement between the City of New York and the Municipal Labor Committee.

2. Effective July 1, 2014, the Stabilization Fund shall convey $1 Billion to the City of New York to be used to support wage increases and other economic items for the current round of collective bargaining (for the period up to and including fiscal year 2018). Up to an additional total amount of $150 million will be available over the four year period from the Stabilization Fund for the welfare funds, the allocation of which shall be determined by the parties. Thereafter, $ 60 million per year will be available from the Stabilization Fund for the welfare funds, the allocation of which shall be determined by the parties.

3. If the parties decide to engage in a centralized purchase of Prescription Drugs, and savings and efficiencies are identified therefrom, there shall not be any reduction in welfare fund contributions.

4. There shall be a joint committee formed that will engage in a process to select an independent healthcare actuary, and any other mutually agreed upon additional outside expertise, to develop an accounting system to measure and calculate savings.

5. The MLC agrees to generate cumulative healthcare savings of $3.4 billion over the course of Fiscal Years 2015 through 2018, said savings to be exclusive of the monies referenced in Paragraph 2 above and generated in the individual fiscal years as follows: (i) $400 million in Fiscal Year 2015; (ii) $700 million in Fiscal Year 2016; (iii) $1 billion in Fiscal Year 2017; (iv) $1.3 billion in Fiscal Year 2018; and (v) for every fiscal year thereafter, the savings on a citywide basis in health care costs shall continue on a recurring basis. At the conclusion of Fiscal Year 2018, the parties shall calculate the savings realized during the prior four-year period. In the event that the MLC has generated more than $3.4 billion in cumulative healthcare savings during the four-year period, as determined by the jointly selected healthcare actuary, up to the first $365 million of such additional savings shall be credited proportionately to each union as a one-time lump sum pensionable bonus payment for its members. Should the union desire to use these funds for other purposes, the parties shall negotiate in good faith to attempt to agree on an appropriate alternative use. Any additional savings generated for the four-year period beyond the first $365 million will be shared equally with the City and the MLC for the same purposes and subject to the same procedure as the first $365 million. Additional savings beyond $1.3 billion in FY 2018 that carry over into FY 2019 shall be subject to negotiations between the parties.

6. The following initiatives are among those that the MLC and the City could consider in their joint efforts to meet the aforementioned annual and four-year cumulative savings figures: minimum premium, self-insurance, dependent eligibility verification audits, the capping of the HIP HMO rate, the capping of the Senior Care rate, the equalization formula, marketing plans, Medicare Advantage, and the more effective delivery of health care.

7. Dispute Resolution

a. In the event of any dispute under this agreement, the parties shall meet and confer in an attempt to resolve the dispute. If the parties cannot resolve the dispute, such dispute shall be referred to Arbitrator Martin F. Scheinman for resolution.
b. Such dispute shall be resolved within 90 days.
c. The arbitrator shall have the authority to impose interim relief that is consistent with the parties' intent.
d. The arbitrator shall have the authority to meet with the parties at such times as the arbitrator determines is appropriate to enforce the terms of this agreement.
e. If the parties are unable to agree on the independent health care actuary described above, the arbitrator shall select the impartial health care actuary to be retained by the parties.
f. The parties shall share the costs for the arbitrator and the actuary the arbitrator selects.

If the above accords with your understanding and agreement, kindly execute the signature line provided.

Sincerely,

Robert W. Linn
Commissioner

Agreed and Accepted on behalf of the Municipal Labor Committee

BY: _____
Harry Nespoli, Chair

OFFICE OF LABOR RELATIONS

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General Counsel
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Chief of Staff
GEORGETTE GESTELY
Director, Employee Benefits Program

December 19, 2014

To: Bill de Blasio
Mayor, City of New York

Anthony Shorris
First Deputy Mayor

From: Robert Linn, Claire Levitt

Re: **Report of Status of Healthcare Savings Q1/Q2 Fiscal 2015**

In May 2014, the Mayor's Office of Labor Relations (OLR) and the Municipal Labor Committee (MLC) reached an unprecedented agreement to work collaboratively to generate cumulative healthcare savings of $3.4 billion over the course of fiscal years 2015 through 2018, with targeted savings of $400 million for fiscal year 2015, $700 million for fiscal year 2016, $1 billion for fiscal year 2017 and $1.3 billion for fiscal year 2018. The objective of both labor and management is to provide quality and effective healthcare benefits while achieving these savings. Since July, the parties have met frequently to discuss and implement initiatives to begin to meet these goals. The Office of Labor Relations is pleased to report that at the end of the second quarter of fiscal 2015 it is projecting that these efforts are on track to meet the goal of $400 million in savings for fiscal year 2015. This anticipated success in attaining the first round of savings supports the OLR's confidence that the fiscal year 2016 goal and the four year $3.4 billion goal are attainable.

To support the identification and implementation of cost savings strategies, OLR hired a new Deputy Commissioner for Healthcare Cost Management to oversee this program. Claire Levitt offers over 30 years of experience in healthcare cost management programs in labor and the private sector, and has prior experience as both a Taft-Hartley Fund Administrator and as President of a care management company. She brings a commitment to achieving the goals in the context of the "Triple Aim" – improving the patient experience of care, improving the health of the population and reducing costs.

Data is being obtained from all of the City's health care vendors to benchmark the City's performance and identify the areas for improvement. Simultaneously, the OLR and the MLC have been moving ahead on many fronts to implement a multi-faceted approach of operational changes, program changes and vendor negotiations that are designed to produce the recurring

savings required to bend the health care cost curve for the City's health plans. The parties are exploring approaches that include promoting access to more effective delivery of health care, audits, rate negotiations, improved care coordination and other strategies.

The initial successes in reducing health care expenditures is coming from many different initiatives including:

- **Funding structure change in the City's GHI Plan** - The funding structure was changed from a fully insured plan to a minimum premium plan arrangement. This results in significantly lower risk charges, administrative fees and positive tax implications
- **Premiums on the City's GHI Senior Care Plan finalized at 2%** - An 8% increase was budgeted for Senior Care premium increases which were only 2%
- **Empire Blue Cross Blue Shield reduction of their 2015 administrative charges** – Empire Blue Cross offered a significant reduction in their administrative fees.
- **Specialty Drugs (PICA) Audit Follow Up** – An audit of the specialty drug program revealed provisions in the contract with Express Scripts which were renegotiated to provide substantial savings to the City.
- **Dependent Eligibility Verification Audit (DEVA)** - The DEVA audit established whether dependents listed for City employees and retirees were eligible, to ensure that health premiums reflected an accurate headcount. Coverage for ineligible dependents was terminated, and where that resulted in a change from "family" to "individual" health coverage, savings were realized from lower health premiums.
- **Changes to the Care Management program** – In early 2015 the current care management programs will be updated and expanded to include programs such as enhanced pre-authorization programs, complex case management, chronic disease management, maternity management and readmission management programs.
- **Strategies to reduce emergency room utilization** – Changes in the approach to copays will be evaluated to see if they can lead to more appropriate health care choices, for example, lowering utilization of emergency rooms for non-emergency healthcare. In addition, services such NurseLine, physician telephonic access and on line appointments will be explored to increase access to primary care.

Future efforts will focus on exploring the funding mechanism with the carriers to identify additional savings, identification of ACO and medical home options to provide access to the highest quality care, exploring alternative vendors for specialty care - e.g. dialysis, radiology and mental health, exploring changes in coordination of benefits, opt out and eligibility, exploring changes to the retiree and Medicare Advantage programs, possible network and plan design changes, incentives for employees with other coverage to opt out of the City's programs and a focus on obtaining the best healthcare services for the sickest members of our City's population.

As a vital part of its approach, the City has created a cross agency team to explore ways to improve the health of the entire workforce in the city. Typically, 75% of health care costs are related to chronic diseases, much of which can be prevented and controlled with better lifestyle choices. According to the CDC, four high risk lifestyle choices - tobacco use, insufficient physical activity, poor eating habits and excessive alcohol use, contribute significantly to the illness, disability and premature death from chronic diseases. A "Culture of Health" team has been created that currently has representatives from OLR, DOH, DCAS, OMB and the Parks Department. The team is looking at the methodologies of other municipalities and the private sector in order to design a health and wellness approach suited to the unique characteristics of New York City. Among other things, we will be exploring approaches using incentives for

participation. Our first wellness effort was the Citywide Flu shot program which provided free flu shots to all city employees and increased access by making the shots available at worksites and pharmacies as well as physician offices. Even this program will generate cost savings for the City, which spent millions of dollars on hospitalizations and other medical care related to the flu last year. Future programs will explore methods to achieve smoking cessation and promote exercise and nutrition among the City's workforce.