

NYC Council must not change 12-126. Leave municipal healthcare as is. NYC cannot solve its financial woes on the backs of retirees and municipal workers.

Sincerely,
Justin Klee

From: Wang Kaixuan <KWang4@schools.nyc.gov>
Sent: Tuesday, January 10, 2023 9:47 AM
To: NYC Council Hearings
Subject: NO TO AMENDING CODE 12-126

NO TO AMENDING CODE 12-126, I'm not agree.

Best,
Kaixuan

My name is Karen Bracco and I am a retired NYC teacher. I spent 27 years in the classroom working with children and living in the city my family has lived in since arriving from Italy in the late 1800s.

I currently live in Little Neck, Queens and I am a constituent of Council Member Vicki Paladino.

Growing up, I remember my family always saying how having a job for the city of NY was a great thing. You were part of something – the bravest, boldest, smartest, finest – the city had to offer. You had steady work, great benefits and could keep a roof over the head of yourself and your family.

That was the deal. There was never a promise to get rich, live in a mansion, summer in the Hamptons, take European vacations. Just live a decent life and when you retired, the city would provide for you with a pension and health benefits.

That's the bargain we made. When I was preparing to retire, in order to keep living in this city, I had to make sure I budgeted for my city taxes on my home – which are now comparable to Nassau and Suffolk – budget for my utilities and water bill and live within my means to stay in the home I've been in for the past 20 years. I am a New Yorker and my intention in retirement was not to run off to the south like so many of my friends, but to stay here.

What I didn't bargain on was that my union and my mayor would renege of the deal I upheld for nearly 30 years. I did not budget for, nor do I have the financial means to pay for, my and my husband's health care if the city goes to a Medicare Advantage plan. My husband has extensive medical issues, and thanks to the current health care we have, he can see the finest doctors in not only NYC, but in the country, probably the world. We've been told by several of their billing departments that they will not accept a Medicare Advantage plan, as those plans are for profit and repeatedly deny treatments and diagnostic tests to patients to continue to make a profit. One office told us they would have to hire a billing person who was dedicated to fighting for authorizations, and they didn't have the resources to do that.

If the Administrative Code is changed, this will put us at the mercy of a private plan that is only interested in profit. My husband is on social security, and with his income and mine combined we pay out more than half of our monthly income to necessary bills – property tax, water bill, car insurance, etc. If we are forced to pay for our insurance in order to keep the doctors that know and have cared for us through very specific illnesses, we will have to sell our home at the very least. By changing this code and our insurance you are asking us to choose our financial security or our health.

I implore you to find savings elsewhere, not on the backs of those who can not afford it. We kept our promise, please keep yours.

Thank you for your time.

Sincerely,

Karen Bracco

NYC DOE retiree 2021

27 years of service

From: drekje@aol.com
Sent: Tuesday, January 10, 2023 1:07 PM
To: NYC Council Hearings
Subject: [EXTERNAL] DO NOT AMEND ADMIN CODE 12-126

MEMBERS:

My husband David Evans and I are retired NYC school teachers with approximately 70 + years of service to NYC DOE between us. Suffice it to say with each passing year, we need and use our health care benefits a great deal more. We watched with attention the Council hearing on the proposal to amend 12-126. We were impressed with questions asked by the Council of those there to testify. We were even more satisfied that the truth of what happened to the Health Stabilization fund, established to protect health care benefits (was raided by the City and MLC and used for purposes other than what it was originally designed for) was revealed.

WE ARE ASKING YOU NOT TO AMEND Admin.Code 12-126.

It is the only protection we have of our current healthcare benefit....Traditional Medicare with GHI Senior Care Supplement (no premium) which was promised to us when we first became teachers so many years ago.

Many other TRUTHS came out at that Council hearing.

Mr. Scheinman's position letter is simply that....a recommended OPINION, nothing more, carries no weight and provides No Cover for the Council if you make a decision to amend 12-126. The City and MLC offering up this recommendation are simply trying to gain your complicity in their shenanigans throughout the years and use you collectively, by having you rubber stamp their unethical decisions and covering up their malfeasance and in the process have you be the INITIATORS of HARMFUL Change.

In addition, Many other TRUTHS about Medicare Advantage were spoken of during the hearing by experts and through personal testimonials. Excellent charts and comparisons of GHI Senior Health Care Supplement and the MLC's last failed NYC PLUS Medicare Advantage Plan (withdrawn) have been provided to you for your consideration.

The MLC's argument that people's health won't be swinging in the " wait times" for approval of procedure by their chain of appeals process by a for profit Medicare Advantage Corp. is pie in the sky.

Please don't fall for it.

Their end run to you is despicable.

Asking you to Change 50+ years protective health law is despicable.

Your chamber is not where this should be decided to take them off the hook.

Amending 12-126 offers no real solution or CHOICE at all , but you already have been made aware of what this decision would actually do, rob us of the current protection we have.

That's the reason they made this ENDRUN TO YOU.

Please DO NOT AMEND THE CODE.

Thank you,
Karen Engel NYC Retiree, DOE
David Evans NYC, Retiree DOE

Dear City Council Members:

On 10/27/22, oral arguments were heard by the Appellate Division, First Department, from an attorney advocating for the City's then current Medicare Advantage plan, and an attorney who advocated for the right of City retirees to keep traditional Medicare and premium-free secondary health care, which we have had since 1967 when Admin Code 12-126 was instituted by your predecessors.

In the course of an exchange, one of the Judges stated that a Medicare Advantage Plan would hurt retirees with cancer. That judge was speaking directly for me and, unfortunately, for many other City retirees, workers, and their families who may experience this disease at some point in their life. In September 2020, I was diagnosed with cancer and since then have undergone surgery, chemotherapy, and periodic monitoring that continues to this day. I have relied on traditional Medicare and Senior Care since receiving my diagnosis and treatment at Memorial Sloan Kettering, and

have never had to be concerned about the cost of my care. My medical bills have been almost entirely covered. My only concern has been my health. In addition, I have never been required to get pre-authorizations for any procedures. I have a direct relationship with my oncologist, and everything ordered comes directly from her. This should be the norm for all health care, but it is not the norm for Medicare Advantage plans.

Memorial Sloan Kettering does not accept Medicare Advantage plans and I am terrified by the prospect of your voting for a bill that would amend Admin code 12-126 and allow the Mayor to put all City retirees into a Medicare Advantage plan. Because my health requires that I get the best possible care, I would have to opt out. But it feels like a betrayal to have to start paying for a benefit that I was promised 30 years ago when I started teaching at CUNY. It imposes a financial burden that a senior should not have to assume at this stage in life. It makes retirement financially less secure, especially since there is no guarantee that the

cost of the premium won't increase over time. Still, in this situation, I am more fortunate than most. Many City retirees and workers will not be able to afford the premium. They will be the ones who are put into the Medicare Advantage plan if it's allowed to move forward. They will be the ones who will likely receive delayed and inferior care and experience poorer outcomes, especially with life-threatening diseases like cancer. And for City retirees who move to other states after retirement, unless they can afford to opt out of a NYC Medicare Advantage plan, their situation will be untenable, since it will be difficult, if not impossible, to find local doctors and hospitals that accept a NYC plan. For all groups of retirees, and for active workers too, a NYC Medicare Advantage plan will impose significant hardships and it should not be allowed to replace the health care that we have now.

I never imagined that the mayor of my city and the unions who are supposed to champion the well-being of its members would instead collude together and devise a plan that betrays City

retirees and workers and that will further entrench the divide between the haves and the have not's who live in our city. It's a plan that seeks to hide the short-sighted way, deceptive way in which some unions tried to deliver for its members and instead incurred a debt to the City that the City is now using to free itself from paying for the health benefits it owes, and should owe, its retirees and workers. It's an attempt for a quick fix that heedlessly ignores the harm it will inflict on people and also heedlessly ignores alternative suggestions that would provide for sounder, long-term solutions that address our City's fiscal issues.

The effort by the City to have you amend Admin Code 12-126 is a thinly disguised effort to have you, the City Council, be responsible for the harm that will follow. It is not something you have to do, despite the effort by an arbitrator to make it seem otherwise. It's a shabby, deceitful, unworthy business that's being engaged in, but you do not have to be complicit in any of it. You can do the right thing and

simply not pass this law that amends Admin Code 12-126.

I thank you for your time in listening to my testimony and hope that what I have shared will persuade you to take **No** action that would amend this code. I hope it will prompt you to recall the injunction to do no harm.

Sincerely,
Karen L. Anderson,
CUNY faculty retiree

Yes, please call his office as well as emailing him. Try to speak to someone who is familiar with the bill; the person we met with, for example. I don't have time to look up that name right now.

Use this as your template for what to say:

The Council should defer action on Int. 874. It is best to call the Mayor's bluff: let him do what he claims he will do: put all retirees into the Aetna "Advantage Plan." He cannot do that legally, and he knows it, which is why he is coming to the Council to give him cover. If he does it, we will sue and we will win. If we don't win, the Council can always change the law to actually protect retirees (which is not what this bill does).

The MLC says that Int. 874 is necessary to enable the unions to bargain for "choice" in health care benefits, and that is not true: the MLC and the City can bargain right now, and should do that.

It is the current law, which has been around since 1967, which protects "choice" of health care plans for current employees like you and for retirees, and requires the City to pay for your health insurance and mine, up to a cap provided for in 12-126.

Int. 874 creates "classes" of employees and retirees (what does that even mean?) which would have their health insurance benefits capped at different amounts for each "class." This creates "haves" and "have nots" and enables the Mayor and the MLC to change the classes at any time. Why would the C.M. want to give the Mayor and the MLC that power? Prior mayors have tried to change 12-126 several times in the past and the Council always resisted. The C.M. is being given a false narrative when the Mayor and the MLC claim that "the arbitrator" has given the City a "deadline": there is no deadline to act, and the Council should defer consideration of Int. 874 and have retirees and other stakeholders sit down and come up with ways to save the City money on health care.

On Thu, Jan 5, 2023 at 10:23 AM Karen Anderson <karenlinnea47@aol.com> wrote:

Thanks, Sue. I haven't yet written to my CM (Shaun Abreu) but will do so soon. What do I ask him to do? Please delay this vote? Please take whatever actions are needed to delay a vote on this bill? And at this point, is that all that we want to ask our CM's to do?

Part of me is getting annoyed by my own questions (as I imagine you may be too!) On the other hand, I think it's reasonable and wise to ask exactly what one wants from someone in power and to know whether and how they can do it.

Again, please don't take your time away to respond to me at the expense of other more important work, including some downtime for yourself! Be well! Karen

-----Original Message-----

From: Sue Dodell <suedodell@gmail.com>

To: Karen Anderson <karenlinnea47@aol.com>

Sent: Thu, Jan 5, 2023 9:32 am

Subject: Re: Your response and sorry my response is again so long...

If they delay the vote, then the Mayor claims he will go ahead and put us into an Advantage Plan involuntarily with no option for any other plan. (I don't think he will do that, but that is his threat). Then we can sue the Mayor and likely win in court as we have before. And even if we lose, the Council can always change the law to protect us. But if the Council changes the law now, it is much less likely that we will win in court.

On Thu, Jan 5, 2023 at 9:21 AM Karen Anderson <karenlinnea47@aol.com> wrote:

Thanks for clarifying what the PSC proposal effectively does. Too bad...

As for what the Council can do, I'm wondering how delaying a vote would make it more likely to be defeated. But don't feel compelled to answer that or any of my many questions. I know you are engaged in critical work and I don't want to take your time away from that!

-----Original Message-----

From: Sue Dodell <suedodell@gmail.com>

To: Karen Anderson <karenlinnea47@aol.com>

Sent: Thu, Jan 5, 2023 3:57 am

Subject: Re: Your response and sorry my response is again so long...

There's a lot of stuff going on now that I would rather not go into. But yes, the Council could delay voting on this at all, which is the best thing. As to the PSC proposal, our organization does not support it, I'm familiar with it and it essentially is robbing Peter to Paul, taking from one fund that benefits us to cover another fund. It just kicks the can down the road, which is not something we want to support.

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From: Sue Dodell <suedodell@gmail.com>

To: Karen Anderson <karenlinnea47@aol.com>

Sent: Thu, Jan 5, 2023 3:57 am

Subject: Re: Your response and sorry my response is again so long...

There's a lot of stuff going on now that I would rather not go into. But yes, the Council could delay voting on this at all, which is the best thing. As to the PSC proposal, our organization does not support it, I'm familiar with it and it essentially is robbing Peter to Paul, taking from one fund that benefits us to cover another fund. It just kicks the can down the road, which is not something we want to support.

On Thu, Jan 5, 2023, 12:50 AM Karen Anderson <karenlinnea47@aol.com> wrote:

Hi Sue - Thanks so much for your response. I had labored over my first email to you, and then after I sent it and cleared my head, the light dawned about why you were asking NYC relatives to speak for out-of-staters... I saw the forest for the trees!

It seems hard to believe that the Mayor could force people into an MA plan without an opt-out provision. It seems blatantly illegal for everyone, but especially, as you've noted, for its impact on out-of-staters who would, in effect, be left without any coverage, since no one where they live might accept a NYC MA plan... . And yet this is ironically good, as you say, for any litigation that would follow if Admin 12-126 stands! I guess Adams knows that too, which is why he is trying so hard to foist this whole issue onto the City Council. Boy, this is getting heart-in-throat scary!

In the meanwhile, the PSC, is asking us to call our CM's and ask them to vote for a proposal they've put forth. Have you seen it? I will forward the latest email from James Davis, the PSC's president. I actually haven't read it yet, but understand both their effort to offer something positive to vote on and your effort to have CM's simply refuse to participate "in this illegal effort to force Medicare Advantage on retirees." You have said that Scheinman's recommendation on Admin code 12-126 "does not require the mayor or the Council to do anything." But what does "not doing anything" look like when a CM is confronted with a bill they're being asked to vote on? If a vote is conducted, CM's will likely vote, which is why the PSC is offering an alternative.* But to follow your idea, perhaps Council Members should actually do something more radical and challenge having the vote take place in the first place. I think that all who support us need to filibuster the situation so the vote is prevented from taking place. Can we ask that of our CM? Perhaps not...? In some way voting on the bill needs to be permanently denied and I don't know how that could happen and how to ask for that... So, unless voting is permanently prevented, I hope this amendment is voted down. In the case of a vote, I don't want CM's to then do nothing, as we've asked. When their name is called, I want them to vote against this bill. I don't want them to abstain which I hope is not how some interpret "not participating". If they abstained, that might leave the outcome to a small group who favor the bill.

I am tired, and I hope I make some sense, but could the mutiny actually take place tomorrow and could CM's prevent the bill from being introduced in the first place, since it is, as you have pointed out, not in any way mandated. Or after it's introduced, could CM's vote to not consider it? That would stop this whole thing at its source and then there'd be no need to try to prevent a vote and no need for a vote... I like this idea best of all but am sure it's not likely to happen. Oh well, I can dream, which is what I think I should really try to do now since it's very late... Thanks for listening, if you do! (and I don't blame you if you don't!). Till later - Karen

* To be voted on, wouldn't their ideas need to be put forth as a bill... and would it be put forth as a competitor to the bill CM De La Rosa plans to introduce? I'm not sure how this would work. I have to talk with someone about this... Not that I'm favoring this over your plan to have CM's "not participate" if that means the whole thing is scuttled...

From: Karen Miller <millerk212@yahoo.com>
Sent: Friday, January 6, 2023 9:34 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Testimony of retiree Karen Miller before Civil Service and Labor Committee on Retiree Health Coverage

I am a NYC Department of Consumer Affairs retiree imploring you to maintain current health care coverage for retirees as we were promised.

When I retired, I moved in to a retirement community which has as part of its community, medical care onsite as well as physical therapy/occupational therapy and even skilled nursing. I chose this retirement community because I am alone and know that as I age I will need more support. In order to move in, I paid a non-refundable entry fee, as is common with life care communities, in addition to monthly fees. Medicare and my GHI Medigap policy and union drug coverage, provided me with all of the medical care I needed at a predictable rate. Last year, an attempt was made to strip NYC retirees of our Medigap coverage and force us in to an “Advantage” plan. I made inquiries of all of my providers. None of them would accept the “Advantage” plan and most said they would not accept any “Advantage” plan even though the plan said it would pay the Medicare rate.

The comments I received were that providers find that they cannot provide decent care with “Advantage” plans because of the pre-authorization hassles and the difficulty dealing with the insurance companies. I was told that they would have to hire additional staff if they dealt with “Advantage” plans which without additional payment, they were understandably not willing to do. Every one of my providers was willing to continue to accept traditional Medicare and Medigap.

I made my plans for retirement based on the promise that was made to me by NYC that as a retiree I would be provided with premium free Medigap. I am counting on the City Council to protect me and the other retirees and be certain that this promise is kept.

We understand that the City is looking for additional funds and strongly recommend that Marianne Pizzitola, President of the organization, be invited to share with you some of the ideas that we have that will generate savings.

Protect us. We are counting on you. Don’t amend the Admin Code. Sheinman’s opinion is just that—an opinion. It is not binding on the City Council. What should be binding on the Council is honoring promises made to us after our many years of service.

I am happy to answer any questions you may have.

Karen Miller
millerk212@yahoo.com

January 9, 2023

Good Morning Council Members,

I am a retired NYC DOE teacher who worked teaching in an elementary school for 32 years. I chose to work for less instead of teaching for neighboring Long Island districts with the knowledge that our health care was better and would continue once I retired. During COVID, although I was retired, I chose to work in the school I retired from as a sub for the betterment of the students and families in the community. I was the UFT Chapter Leader for 26 years in the same school; yes, I believe in unions. However, I am mortified that I convinced my colleagues to vote for a contract when we weren't informed that the money being used for our raise was from the stabilization fund that Mulgrew initiated.

At the time of my retirement, I was given a sheet (see attachment) with several choices that I could choose from as a retiree that were premium free and I would then continue with Senior Care once I went on Medicare. Never was I informed that I would not have those choices or would have to pay a larger premium. Apparently talks about putting retirees into a Medicare Advantage were already in the works, but we were never notified or informed of this at the time we handed in our retirement papers. Now, I am on Medicare with several health issues that require me to see specialists and have certain procedures at times. I have been informed by my doctors that they will not participate in a Medicare Advantage plan, and prior authorizations can result in further complications. I should not be required to look for new doctors that are not familiar with my health conditions, due to this new healthcare plan you are proposing. Amending 12-126 will create classes, aren't we beyond placing people into groups and/or classes? How and who will determine who will be in the various classes this proposed healthcare plan will create?

Mr. Scheinman's report issued on Dec. 15, 2022 is in no way a decision or a ruling; not a single retiree or individuals were a part of this "so called arbitration process." It was his opinion. Never were we asked to meet and share our ideas or proposals on how healthcare savings could be achieved. It has been one sided; this document is non-binding. Interestingly, Mr. Scheinman has made opinions in Nassau County labor negotiations which have not led to any Medicare Advantage implementation. One might ask why Mr. Scheinman and the Office of Management and Budget haven't shared the many cost-saving initiatives that can be implemented now to protect healthcare with the City Council.

The City Council should not participate in the illegal effort to force Medicare Advantage on Retirees, who are entitled to the traditional Medicare benefits they were promised and which we desperately need. If anyone were to readjust the hard-earned benefits promised to retirees, it should be the Mayor. The retirees will challenge him in court, with a strong promise that they will win against his proposed injustice. Again; give retirees the chance to fight and win in court with the current version of Section 12-126, which has existed for over half a century. Please fact check what you are being told.

I am asking you to please, for the benefit of all retirees, **not** Amend 12-126 that Council Member De La Rosa and Speaker Adams have brought to the Council floor at the request of the Mayor.

Sincerely,
Karen Scialo-Cohen
NYC DOE
RETIRED TEACHER 2018

MONTHLY NON-MEDICARE

INDIVIDUAL	Aetna EPO	CIGNA	DC37 Med-Team	Empire HMO	Empire EPO	GHI-CBP/EBCBS	GHI HMO	HIP HMO	HIP Prime POS	MetroPlus Gold	Vytra
Basic	\$201.52	\$732.55	\$0.00	\$295.85	\$611.48	\$0.00	\$139.53	\$0.00	\$953.89	\$0.00	\$98.97
Prescription Drugs	\$1,059.29	\$283.42	\$0.00	\$213.89	\$213.89	\$105.50	\$273.27	\$191.74	\$284.43	\$188.69	\$236.50
Rider Other*	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5.48	\$0.00	\$7.51	\$0.00	\$0.00	\$0.00
Total (Basic + Rider)	\$1,260.78	\$995.97	\$0.00	\$509.74	\$825.37	\$110.98	\$412.80	\$199.25	\$1,238.32	\$188.69	\$335.47
FAMILY	Aetna EPO	CIGNA	DC37 Med-Team	Empire HMO	Empire EPO	GHI-CBP/EBCBS	GHI HMO	HIP HMO	HIP Prime POS	MetroPlus Gold	Vytra
Basic	\$988.00	\$1,986.90	\$0.00	\$871.31	\$1,563.20	\$0.00	\$423.78	\$0.00	\$2,337.03	\$0.00	\$385.86
Prescription Drugs	\$2,971.13	\$788.70	\$0.00	\$524.36	\$524.36	\$189.00	\$696.72	\$469.75	\$696.85	\$433.39	\$615.03
Rider Other*	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13.89	\$0.00	\$18.39	\$0.00	\$0.00	\$0.00
Total (Basic + Rider)	\$3,959.13	\$2,775.60	\$0.00	\$1,395.67	\$2,087.56	\$202.89	\$1,120.50	\$488.14	\$3,033.88	\$433.39	\$1,000.89

* For GHI-CBP/EBCBS, "Rider Other" is for enhanced major medical coverage. For HIP HMO, "Rider Other" is for private duty nursing & durable medical equipment.

MONTHLY MEDICARE

INDIVIDUAL	Aetna Medicare Advantage Plan PPO/ESA (NY/NJ/PA)	Aetna Medicare Advantage Plan PPO/ESA (All Other Areas)	CIGNA Healthspring (AZ)	DC37 Med-Team Senior Care	Empire Medicare Related	GHI Senior Care	GHI HMO Medicare Senior Supplement	HIP VIP Premier (HMO)	Humana Gold Plus	United Healthcare Group Medicare Advantage Plan Horizons (NYC)	United Healthcare Group Medicare Advantage Plan Horizons (NJ)
Basic	\$158.37	\$0.00	\$125.13	\$0.00	\$88.72	\$0.00	\$362.08	\$0.00	\$0.00	\$139.67	\$127.17
Prescription Drugs	\$193.23	\$208.87	\$0.00	\$0.00	\$216.90	\$133.00	\$80.00	\$165.54	\$89.35	\$128.51	\$139.07
Rider Other*	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2.25	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total (Basic + Rider)	\$351.60	\$208.87	\$125.13	\$0.00	\$305.62	\$135.25	\$442.08	\$165.54	\$89.35	\$268.18	\$266.24
FAMILY	Aetna Medicare Advantage Plan PPO/ESA (NY/NJ/PA)	Aetna Medicare Advantage Plan PPO/ESA (All Other Areas)	CIGNA Healthspring (AZ)	DC37 Med-Team Senior Care	Empire Medicare Related	GHI Senior Care	GHI HMO Medicare Senior Supplement	HIP VIP Premier (HMO)	Humana Gold Plus	United Secure Horizons (NYC)	United Secure Horizons (NJ)
Basic	\$316.74	\$0.00	\$250.26	\$0.00	\$171.21	\$0.00	\$724.16	\$0.00	\$0.00	\$279.34	\$254.34
Prescription Drugs	\$386.46	\$417.74	\$0.00	\$0.00	\$433.80	\$266.00	\$160.00	\$331.08	\$178.70	\$257.02	\$278.14
Rider Other*	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total (Basic + Rider)	\$703.20	\$417.74	\$250.26	\$0.00	\$605.01	\$270.50	\$884.16	\$331.08	\$178.70	\$536.36	\$532.48

* For GHI Senior Care, "Rider Other" is for 365-Day Hospitalization.

INDIVIDUAL	Empire MediBlue HMO (NYC)	Empire MediBlue HMO (Rckl/Westchstr)	Empire MediBlue HMO (Nassau)	Empire MediBlue HMO (Suffolk)	FAMILY	Empire MediBlue HMO (NYC)	Empire MediBlue HMO (Rckl/Westchstr)	Empire MediBlue HMO (Nassau)	Empire MediBlue HMO (Suffolk)
If a member of a UWF providing prescription drug coverage.	\$21.42	\$151.17	\$91.48	\$64.15	If a member of a UWF providing prescription drug coverage.	\$42.84	\$302.34	\$182.98	\$128.30
If a member of a UWF that does NOT provide prescription drug coverage.	\$217.64	\$347.39	\$287.70	\$260.37	If a member of a UWF that does NOT provide prescription drug coverage.	\$435.28	\$694.78	\$575.40	\$520.74

NOTE: AvMed, BC Health Options & ElderPlan are "zero" premium plans.

THE ADMINISTRATIVE CODE AMENDMENT FOR RETIREES

IF THE CODE IS AMENDED

- We re-establish the same right that municipal unions have exercised for 40 years and can continue to negotiate high-quality, premium-free health plans for our in-service and retired members.
THE TRUTH: The right for municipal unions to negotiate high-quality, premium-free health plans has not been affected by the ruling. The unions are caving to city threats. Based on the quality of the now defunct Medicare Advantage plan, your negotiating skills are questionable.
- We maintain the right of retirees to have options for their health care plans.
THE TRUTH: The options would not be premium free, and for many that is not an option.
- We will be able to avoid premiums for the in-service and retired members.
THE TRUTH: So the people who are gainfully employed and have the opportunity to earn more income will protected, but elderly and disabled on fixed incomes can be charged. Medicare eligible retirees will have to pay a premium to stay with SeniorCare.
- There will be no change to the Medicare Part B reimbursement.
THE TRUTH: If the code is open to amendment now, part B will be the next to go.

WHAT YOU FAIL TO ADDRESS IS ALL EMPLOYEES AND RETIREES ARE CURRENTLY TREATED EQUALLY VERSUS CREATING INEQUITY IN COVERAGE AND COSTS IN YOUR AMENDMENT.

IF THE CODE STAYS AS IS

- Because the Judge has ruled that the code does not require the City to offer more than one plan to retirees, only one plan will be available to them.

THE TRUTH: The judge did not rule this. The city cannot unilaterally change plan options. The MLC must agree or it goes to arbitration. So what you are saying is, you will agree to this.

- Retirees will not have the option to decline the premium-free plan and pay up for an alternative health care plan.

THE TRUTH: Again, only if the MLC agrees. Will you be complicit to that act?

- In-service members may have to pay annual premiums to maintain their current health benefits.

THE TRUTH: The potential cost to in-service and non Medicare retirees for full coverage would be less than the premium cost for Medicare eligible retirees with less than 20% coverage. Pitting in-service against retirees.

RETIREE CORRECTED!



TRADITIONAL MEDICARE W/SUPPLEMENTAL PLAN VS. NEW MEDICARE ADVANTAGE PLAN: WHAT'S THE DEAL

Much controversy has surrounded the City's New Medicare Advantage Plan (MAP) so we're providing the differences to educate you why this can't be the only option left for retirees.

The New Plan Will Force Retirees to Pay More & Make it Harder to Get Health Care

1. **If the CMS subsidy that funds the MAP is ever reduced, the City would have to decide to pay the difference, pass the cost to retirees or renege on the benefit altogether.**
2. Traditional Medicare (TM) with GHI supplemental had no copays until they were implemented in 2022 to match the copays in the new MAP. Copays are an additional burdensome cost retirees did not count on, and come amid soaring inflation.
3. The new MAP is being promoted as having a cap on out of pocket expenses of \$1,470, but retirees would have to visit the doctor 98 times to reach the cap. A cap was not an issue in Traditional Medicare because there were no copays until Jan 2022 when the City initiated them.
4. Retiree agreements in stepped care living communities require they maintain TM and not MAP.
5. The Alliance Contract required other plans to charge a penalty premium to retirees for not choosing MAP.
6. Under TM, members can see any doctor that accepts Medicare, but MA plans have networks—if your doctor is not in network, members may have to pay up front and hope the service is determined to be medically necessary so they get reimbursed. If you have to pay and don't get reimbursed, it doesn't count towards the cap on out of pocket expenses.
7. Not all doctors who accept Medicare have to accept the MAP.
8. MAP requires prior authorization for tests or procedures, something that doesn't exist under TM. According to the AMA, and HHS OIG prior authorization leads to delayed medical care and patient injury.¹
9. Providers can drop out of MAP at any time, with no advance warning—this doesn't happen with TM. This disrupts continuity of care and results from contractual issues and poor reimbursement.
10. You may not know what's covered until you are IN the plan: a recent retiree who requires a transplant could not be told if the MAP would cover the transplant. If he went into it, the Alliance Customer Service Rep told him he would be dropped to the bottom of the transplant list.
11. MAP make the decisions about rehab and skilled nursing facility admissions and length of stay; in TM, doctors make the decisions. This denies utilization of needed services and burdens family.
12. The City removed all choices of health plans from retirees. (there were 14 plans to choose from)
13. With a MAP, you cannot have another insurance plan, this includes a spouse's plan or Private Part D. (drugs that exceed the Welfare Fund, if available or not in the formulary, require the retiree to buy a private D plan.) The retiree must EXHAUST the welfare fund before the rider can be used, thereby draining the union's welfare fund and must pay \$125/month for a plan they can't use until the welfare benefit is exhausted.
14. If you leave the Medicare Advantage Plan, you might not be able to get the same, or in some cases, any Medigap policy back unless you have a trial right.²

The MA Perks are Really the Pits

Perks like Fit Bits and medical rides are not a perk to everyone. Others like meals, or pantry require a "qualified event" and prior authorization. Medical rides are offered through Access2Ride, which is not available in all areas, must be booked 48 hours in advance, and be within a 30-mile radius. Google reviews show long delays in pick-ups from home or the doctor, and delays long enough their appointments were cancelled. **NOTE: The City manipulated the cost of HIP VIP, a closed plan, to \$7.50 from \$188 in order to charge retirees in other plans an additional \$191.57/month.**

¹<https://www.ama-assn.org/system/files/prior-authorization-survey.pdf> & <https://oig.hhs.gov/oei/reports/OEI-09-18-00260.asp>

²<https://www.medicare.gov/supplements-other-insurance/whats-medicare-supplement-insurance-medigap/medigap-medicare-advantage-plans> (second paragraph) (links last accessed 8/10/2022)

From: Karyl Lee-Figueroa <kelflek@gmail.com>
Sent: Thursday, January 5, 2023 7:28 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Admin 12-126

I am a retiree member of DC 37 who lives on my pension and social security. I'm currently enrolled in regular Medicare, and I wish to continue in it. I would even be willing to pay extra to stay enrolled in it, yet I'm aware that many other retirees would not be able to afford to do so. In addition, I now live in California to be near my grandkids. I retired at 62, and found that virtually no doctors here would accept my insurance from New York. I doubt many of them would again want to take my insurance if it was through an advantage plan centered in New York.

Advantage plans pretend to save money, while in reality, they continue to rake in huge profits by denying care that regular Medicare would not. I also know from friends who have these plans that doctors "hype" up their medical conditions - that is, make their medical conditions worse than they actually are - in order to get more money for them. They are nothing but the same old, same old insurance plans trying to rip us off to pad their bottom lines.

Medicare is a wonderful program that covers necessary medical conditions, and does so effectively and efficiently. I urge the city Council to NOT take away our right to remain in this program.

My name is Katharine Loving, and I am a current New York City employee.

I have a chronic health condition and require continuing treatment. This medically necessary treatment would very likely be taken away or improperly limited when I retire through Medicare Advantage's regime of prior authorizations and re-authorizations which has been well-documented by the New York Times and others.

I also fear that my current employee coverage will be destroyed by the proposal in Int. 874 to create classes of individuals, with healthcare costs for each class "not to exceed the full cost of such benchmark plan as applied to such class" and by the plan to cut current employee health care costs. Putting employees into an HMO, for example, would, just like Medicare Advantage, delay and deny needed care through prior authorizations and re-authorizations.

The MLC has tried to pit current employees against retirees and has spread misinformation which is despicable. The NYC Organization of Public Service Retirees has noted numerous other ways the City can save money.

Please protect health care for employees and retirees.

/s/ Katharine G. Loving

Katharine G. Loving, current employee
New York, NY 10014

From: Katherine Clyne <katherineclyne@aol.com>
Sent: Saturday, January 7, 2023 2:42 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Healthcare Testimony

To the Council,

I am a retired NYC Public School teacher. I would like to compare and contrast my experiences with Aetna managed care which requires pre certification like Medicare Advantage, (which will now be provided by Aetna according to my union) and Medicare with a supplemental plan. I understand that Aetna has a proven track record with Medicare advantage plans, but they cannot compare with regular Medicare.

A few years ago I fell and dislocated my shoulder. I went to the emergency room where they x-rayed and misdiagnosed my shoulder. It was a posterior dislocation which is hard to see on an X-ray. They did not see it and sent me home telling me to follow up with my doctor. I took the first appointment I could get which was not with the doctor but a physiologist who worked in the office. She examined me and sent me for an MRI. I tried to get an expedited MRI, but there was no way to convince Aetna of this. Even the Doctors office tried. Five days later I went for the MRI. I had another Dr appointment for a couple of days later. At that appointment it was determined I needed emergency surgery the following day to put my arm back in the socket. This was 9 days after the dislocation.

After a year of physical therapy the joint was deteriorating probably because of the many days without blood flow. At that point I had to have a total shoulder replacement. I will never have full range of motion there again.

By comparison, my knee ran out of cartilage in September and I could only hobble with a cane. By the x-Ray it looked as though only part of my knee was bone on bone so we decided I was a candidate for a partial knee, a procedure I had 10 years ago on my right knee with great success. I scheduled the surgery for mid November and began the process of getting clearance. Suddenly as I was about two weeks away from surgery, I started feeling pain on both sides of the knee. To determine if I needed a partial or a total knee, I needed a quick MRI, or my surgery would have to be rescheduled. Fortunately, because I didn't need pre certification, thanks to being on regular Medicare, I was able to get the MRI in time and realize I needed a total knee which the doctor was able to set up on the same date. Thanks to that, I am on my way to a full recovery instead of using a walker now.

This is why I don't want to give up regular Medicare for a Medicare advantage plan. I waited until I was 65 years old to get Medicare and now I'm going backwards to insurance managed care again!

Please devise an affordable way for me to retain my Medicare with a supplemental plan and not force me to go back on insurance managed care again.

Thank you,

Katherine Clyne

Retired NYC Public School teacher.

Rockaway, NJ 07866

Sent from my iPhone

Dear members of the city council,

At the hearing today, you will hear union bosses making a plea to amend code 12-126. I can not tell you how disgusted I am that the unions that are supposed to protect its members and their benefits are working in lock step with the mayor to diminish public service retiree healthcare.

They will tell you that they want to provide “choice” for their members. Charging \$191.00 for traditional Medicare is not a choice. There are retirees living on very small pensions and will not have the “choice” to remain on traditional Medicare. They will be forced onto a Medicare Advantage plan. A plan far inferior to traditional Medicare. With a Medicare Advantage plan, healthcare is now in the hands of business executives, not your doctors. When you privatize insurance you see more fraud, more denials to necessary procedures and narrower networks. Have no doubt that there will be denials for procedures recommended by a doctor to save the insurance company money and will result in harm to the patient.

I urge you to NOT AMEND 12-126. We should be moving toward universal insurance and passing the New York Health Act. Not privatizing insurance. Any money “saved” from amending code 12-126 will be put into a fund without proper oversight. They will likely be used for union negotiated raises, but that can not be sustained. This is an improper practice. Please vote to on amending code 12-126

Thank you,

Kate Connors

Public School Teacher

District 26 Constituent

9 January 2023

Dear Council Members,

VOTE NO TO AMEND SECTION 12-126. I AM ONE AMONG MANY WHO HAVE THEIR OWN STORIES.

My name is Kathleen Cahill. I am in my 80th year. I retired in 2004 after working as an attorney at the NYC Office of the Corporation Counsel for most of my career. Now I am in the “winter” of my life, facing the following FEARFUL, STRESSFUL, ANXIETY-PRODUCING situation.

Approximately one year ago I was told that my osteoporosis has accelerated and my bones are rapidly disintegrating. I found a renowned endocrinologist at Columbia University. I applied to be one of his patients because he only accepts very challenging, serious cases. I was accepted to be one of his patients. I am now getting two injections a year of medicine. When I was at my last appointment getting my second shot, the doctor’s assistant told me that ALL of their Medicare Advantage (“MA”) patients are NOT APPROVED BY MA to get this medicine. This is such a harrowing story! These are patients who desperately need this medication. This is the very same insurance plan that NYC wants its retirees to have: privatized, profit-seeking plans that can deny what doctors deem necessary for their patients. PLEASE SHOW YOUR EMPATHY, STEP INTO OUR SHOES, AND DENY ANY ALTERATION TO SECTION 12-126 OF THE NYC ADMINISTRATIVE CODE.

You know that Mr. Scheinman has no jurisdiction over the City Council nor NYC retirees.

Please protect us, who are so vulnerable in the winter of our lives, from losing our healthcare and financial peril.

If you have any questions or concerns it is your due diligence to find out the facts. I strongly encourage you to contact Marianne Pizzitola. Ms. Pizzitola has a deep historical knowledge of the facts regarding retiree healthcare. I want to thank and commend Ms. Pizzitola for her hard work.

Thanks in advance to all of the City Council members who are the leaders in voting no to amend Section 12-126.

Sincerely yours,

Kathleen Cahill

Testimony of Kathleen Donlon Spiegel to Committee on Civil Service and Labor on January 9, 2023:

I am the spouse of a retired teacher. Both my husband and I get our medical coverage through Medicare and GHI Senior Care and are very happy with both as we see doctors who happily accept this coverage.

My husband – 80 years old - has many health issues, including dementia, insulin-dependent diabetes, celiac, thyroid disease, high blood pressure, cholesterol, and others – for which he takes prescription medication.

I am 73 years old and take prescription medication for thyroid disease and cholesterol.

We vehemently oppose the City's plan to move retirees into a medicare advantage plan. From speaking with many of our doctors, they will NOT accept any medicare advantage plan and we are too old and too sick to start looking for new doctors, especially one who treats dementia.

Besides, many medicare advantage plans require pre-authorization for many procedures and this could result in life-threatening consequences.

Please, I beg of you – and particularly our Councilman Erik Bottcher – to vote against amending Administrative Code 12-126.

Thank you.

Kathleen Donlon Spiegel
City Council District 3 - Manhattan

From: Kathleen McCormick <kmccorm287@yahoo.com>
Sent: Friday, January 6, 2023 3:09 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Medicare Insurance

As a retiree of NYC Board of Education I am very upset & concerned about the possibility of being forced into a Medicare ADVANTAGE plan. I'm 83 years of age and remember when Medicare started in the 60's due to the fact that elderly people could not afford/or get health insurance due to their health status or cost and were dying in droves. This was due to retirement from private company positions, losing their health insurance benefit and not being able to afford the high priced cost of health insurance with a private insurer. Over the years the medicare paycheck deduction kept on going up so it almost matched the social security deduction when I retired. Now being a lung cancer survivor because of the wonderful, swift, professional care I was able to receive, I'm terrified that you want to put me in an Medicare ADVANTAGE plan that history has already proved ineffective.

This not only affects me but you and your family members as well being municipal employees. I hope you honor the promises made to municipal retirees who chose professions with lesser compensation because of the protections of the medicare insurance law provided by NYC when needed. The private insurance companies have already shown their stripes...profit, profit, profit!

Thank you for your consideration at Monday's meeting.

From: Kathy Napoli <kat4902@mac.com>
Sent: Thursday, January 5, 2023 7:00 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Opposing change in Administrative Code 12-126

Dear Council Members,

It is with a heavy heart and a worried mind that I present this personal plea to ask that you not entertain the proposal being presented today January 9, 2023 to change Administrative Code 12-126.

After forcibly retiring due to my medical disability from 21 years of dedicated service to CUNY Brooklyn College in 2013, I have relied upon my reduced pension, Social Security, Medicare and GHI Senior Care and Silver Scripts to keep me alive and somewhat functioning. I am retired with a reduced pension because the panel of incompetent people at NYCERS refused to recognize my affliction after a multitude of doctors and even the Social Security physicians did. So I had to accept it after 21 years dedicating myself to the good for my City.

No help came from my Union and even though the University made efforts to help, that NYCERS panel judged my medical condition incorrectly and forced me to live below my earned income. To change the Administration Code now will sink me into poverty because that Code gives me protection that I was promised when I paid Union Dues and followed all the rules for 21 years of my life. I am fortunate that my spouse is still alive and worked 50 years that provides a way for us to live paycheck to paycheck now as a retired couple. We have no savings, but we are luckier than my colleagues who are trying to live today on their pensions and social security individually. It's as if the current Mayor and current Union President has spit upon all the retirees by even suggesting to change this Code because the investments made by them that should provide the insurance that supplements Medicare is no longer plentiful in their calculations.

We respect the intelligence and compassion of the NYC Council members to recognize that changing this Code would bury many retirees before their time because their medical conditions would not be provided with the care they have been getting under the current plans they are under. This Change in Code 12-126 would take that protection away. Under the proposed private insurance sell out panels consisting of medical and non medical people provided by the private insurance firms who would be judging retirees needed tests, medications, doctors, and hospitalizations, etc. This is what NYCERS already does to people with their panels of judges, and I am a good example of that injustice and I am fairly certain there are many more like myself who have been hurt by such a system.

Please I implore you do NOT pass this proposed change in Administrative Code 12-126. So many hard working, dedicated, and loyal retirees will suffer if you do.

Thank you for your time and consideration.

This is my sworn testimony this day January 5, 2023.

Kathleen Napoli

Retired 2013, after 21 years of credited service to Brooklyn College, CUNY

January 5, 2023

I am writing to urge you to vote against any changes to New York City Administrative Code Section 12-126. This law has been in effect since 1967. I am a long time NYC resident, constituent and voter.

I am also a retired NYC public servant. I was a Principal on 9/11 and in charge of 700 children on that day. We were told that the City would never forget our service! I worked under a contract for the Department of Education for over 30 years and signed my retirement papers with a particular set of understandings about my salary and benefits. At this time I am feeling so concerned and disappointed that the City is looking to take away benefits I feel I earned and was promised. It feels like bait and switch. It does feel like we have been forgotten, and sold out as retirees. There are no retirees in the room when these conversations are taking place and we have no representation.

The City Council should not participate in the illegal effort to change medical care for retirees, who are entitled to the traditional Medicare benefits they were promised and which they desperately need. Let the Mayor be the one to strip retirees of these hard-earned benefits. The retirees will challenge him in court, and they will win. Again. But if the City Council amends Section 12-126, the path to victory in court becomes much harder. Give retirees the chance to fight and win in court with the current version of Section 12-126, which has existed for over half a century. If they lose, the City Council can always amend the statute later.

If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing us from winning this in Court. Don't prevent us from winning again in court. We served our time as employees and have a right to enjoy our time as retirees with proper care that we earned and paid for.

Don't buy the Big Lie. Scheinman has no jurisdiction over the City Council nor the Retirees and his recommendation is just that, and it's not binding! and the Judge DID NOT say you only had to offer one plan or the Medicare Advantage Plan. He said you can't charge us for our current plans because they are under the benchmark.

A progressive City Council changing the law we won our case on twice, in two courts and before six justices in order to force the elderly, infirm and disabled to pay for insurance or to only have a privatized public health benefit, Medicare Advantage, tells us you're no longer progressive. You're not thinking of the people who built this City, rebuilt it after 9/11 and now seniors or disabled.

Creating two classes of retirees, those forced into Medicare Advantage and those who can afford to pay-up to retain our current coverage, only makes the matter worse. Those least able to afford it would REALLY be forgotten. If we must all go into Medicare Advantage, let us stay together to fight in court.

Don't amend the Code, protect it like every City Council before you has. Protect 12-126.

We request that you do NOT support the bill being introduced on January 4th by Civil Service and Labor Chair DeLaRosa.

Kathy Rehfield

Retired, NYC Department of Education, 35 years

From: KEITH FIRESTON <kfirestone500@aol.com>
Sent: Monday, January 9, 2023 8:06 PM
To: Testimony
Subject: [EXTERNAL] Administrative Code 12-126

I attended the hearing on amending Administrative Code 12-126 virtually and I have one question that was not raised by any party: In the MLC Agreement in 2018 that Agreement cites the City Financial Plan and projects health care cost increases of 7% in Fiscal Year 2019, 6.5% in Fiscal Year 2020 and 6% in Fiscal Year 2021.

Yet the MLC agreed to 1.1 billion dollars in savings in the face of this compounding health care inflation. But even more unbelievably, the MLC agreed to 600 million dollars in health care savings in perpetuity. Why would the MLC agree to 600 million dollars of savings beyond the term of the Agreement and then put no term limits?

These are the same MLC members who are negotiating the terms of the Medicare Advantage Plan.

To Whom It May Concern:

Re: 12-126

Teachers must work too hard to keep their medical benefits. DO NOT change the city administration code and leave municipal workers' healthcare as is. Thank you for your time in this matter.

Kellie Johannsen

Public School #2

East Elmhurst, New York 11370

January 5, 2023

Re: NO to amending code 12-126

Good Morning Council Members:

I am respectfully asking that you DO NOT amend code 12-126 as it will harm our retired city employees. This code has protected retirees for over 50 years and there is no need to change it now. It protects our most vulnerable population, our retirees who worked diligently for the city for many years. The guise that they will "offer choices" for health care if this law is amended will help seniors is questionable. Currently we have Senior Care with NO premium. Where the potential problem lies is giving the MLC and the City (who are working together to harm seniors) the right to change the base amount used for potential premiums, which, currently is about \$900.00. There has been talk that they will lower this amount to something like \$17.00. So who picks up the difference? THE RETIREES

The retirees that I am writing about are those who have very small pensions. So, what happens here, the seniors either must pay up for their senior care or be forced on a Medicare advantage plan. While we don't know the details of a new plan, you can read about problems exposed by the New York Times and other publications. Currently, many companies are under investigation by the Department of Justice. Many of these companies provide inadequate service, especially when pre-authorizations are required. As far as the company we go with, the terms may be great today, but will they be great when it is time to renegotiate? We don't know. In the meantime, what happens to the senior? Does he get the care he deserves? Must he wait days or months to get an approval? Does the approval, as well as the tests, come back too late to save his life? This must be considered. A federal watchdog group found that "private Medicare plans rejected 19% of requests and claims that traditional government run Medicare allowed." (USAToday article April 22, 2022). The question then is what happened to the people who were the subject of these denied claims? For me, if even one NYC retiree loses his life due to a situation like this would be too many. Under Senior Care, the doctor and the patient decide the treatment plan, not some clerk who's job it is to deny and save money. Remember, these companies are in business to make a profit.

The right thing to do is sit down on a blue-ribbon panel and find ways to cut the bloat (and we know there is a great deal of bloat) from the city budget and plan accordingly. The retiree's organization that brought the lawsuit has already found money that can be cut. Ask them. Just, PLEASE don't open a Pandora's box that can hurt city retirees, as well as actives. If the mayor wants change, let him do his own dirty work.

Respectfully submitted,

Ken Kelly

Retired NYCDOE 7/1/2019
28 Years NYC Employee

Below please find a copy of the letter I sent to various members of the City Council. I implore you, PLEASE keep the lunch lady, para, crossing guard, etc. in mind when you make your decisions regarding amending 12-126. I strongly suggest a NO vote.

Good Morning Council Member. My name is Ken Kelly and I am a retired teacher who is opposed to changes to 12-126. Although the intentions are good that some council members think this would help their constituents, it will not. You see, what this will do is create a have/have not situation. The "haves," those who could afford to keep SenorCare with its \$200 per month, per person premium. Then you have the "have-nots," those who can't afford the premium and are forced into AdvanageCare. How will this happen? Very simple, the Unions and the City will change the HIP/HMO benchmark. I also understand that many teachers are calling you demanding that the law be changed. Of course they are, they CAN afford premiums. But, what about the crossing guard, the lunch lady, the para, the DC37 member with the smaller pensions? What happens to them? Imagine being forced to take MedicareAdvantage and possibly lose your care and doctors. Many of you claim to be "progressive" and the ones who are "progressive" are certainly letting the people that rely on them down. Also, why should anyone do the mayor's dirty work for him? Let him deal with it in court. You do realize, that in an election year, when (not if) this blows up and upsets retirees, actives, their families and their friends, someone has to be blamed. Here is the mayor's master stroke - 'it wasn't me that did this, it was them...' In this case, "them" is the City Council as he will place the "replace them" bullseye on the Council's backs. Think about that while you think about the lunch lady, the crossing guard, and other lower pension retirees who ave their all for the city. Those who are struggling to make ends meet and now must make a tougher decision. "Do I eat, have shelter, or pay for a plan that helps me or be forced into a plan that may hurt me?" True, we don't know the details of the new plan yet. However, there were numerous stories denouncing MedicareAdvantage, especially from the NY Times and USA Today. Also, let's just say they offer a great plan today, you thewn have to be carefully on what they do when it comes up for renegotiation. That is when the hammer will really fall. As Judge Judy says "if it's too good to be true, it probably is." Think about it.

Personally, as a retired teacher and I can afford to pay up (even though that was not what I was promised when I agreed to work for less wages then my counterparts in Nassau, Westchester, etc). Maybe I am the progressive as I care about the two school aids that used to work with me to give our kids the best of everything. I think about them as they busted their buns at work, only to bd tossed aside by greedy Unions and the City. Think about this before you make your decision as the lunch lady needs you.

Do Not alter 12-126

My name is Kenneth Kushel. I am a retired NYC teacher. I am 75 years old.

I guess that there are two ways to look at this. One might be that the union should be working to find us the best Medicare Advantage Plan that can be found. That would save the city some money, though the savings have been exaggerated.. Maybe the money would fund some active raises.

The other view would be that since no Medicare Advantage Plan will be as good as what we have, will limit the available doctors, will involve potentially life threatening prior approval polices to navigate in order to get timely care and in short will be a diminishment of health coverage, perhaps the union role would be to fight like hell to preserve having actual Medicare, which MAP programs are not, with the city covering the 20% supplemental insurance as it has for over 50 years.

The city has big negotiating power with insurance companies. The city has a very large budget that has many other avenues to effect savings. There is an element of choice in this.

And the idea that we should be allowed to pay for what we haven't had to pay for is really off point. We should not have to pay. No retired city worker should. We will have to if 12-126 is modified. It would be a travesty because it would force many people to accept a MAP program because they could not afford to pay for a supplemental out of pocket. What have the unions been fighting for here? Mine in particular. They should have been fighting to keep what we have had. They instead tried to sell us all on the MAP deal.

Because of documented deals between the MLC and the City, promises were made to save money by pushing all retirees into a MAP plan. It was attempted by the unions to railroad all retirees into the MAP program they had set up. One could only avoid being put into the program by opting out and paying almost \$200 a month per person to keep

the GHI Senior care supplemental along with Medicare. When the retirees took the city to court over it, they prevailed.

Many thousands of NYC retirees who live on small pensions could not possibly afford to now pay for what had been a key part of their retirement package. They were being forced into the MAP program. This is what the MLC and the City were and are trying to make happen. There is no daylight in between the MLC and the Mayor on this.

The only thing that stands between the Mayor and the MLC forcing retiree into a MAP program Is leaving 12-126 intact.

I pray that the City Council does not alter 12-126. The recent court rulings do not necessitate that change. I'm sure this will be contradicted here, but it is the truth. If the Mayor wants to unilaterally make changes they will not stand up in court. Meanwhile, let us keep what we need: Medicare with the city paying for the 20% supplemental part. It's what we worked for and what we deserve.

I believe that there is a special place in hell for those who would seek to profit from or take advantage of the elderly or the disabled. This is what the Mayor and the MLC are trying to do. Don't let them do it! Do not alter 12-126!

Thank you!

My name is Kerry Donohue and I support keeping 12-126 intact while we continue to negotiate for quality healthcare, and savings. 12-126 ensures an equal subsidy for all city employees and has done so for over half a century, no matter the vicissitudes of city finances and has done so by a defined price threshold set in a city law. If insurance costs less than the threshold we are covered. If it's more than the threshold, we pay the difference. Changing the code allows the city to reduce this threshold. Keeping 12-126 allows the most vulnerable among us to remain in publicly run Medicare and doesn't force anyone into the private, regional, for-profit Medicare Advantage ecosystem.

I have been an inservice school counselor from the NYC Department of Education at Aviation High School for 17 years. My union's (the UFT) attempts to lobby the city council to change the administrative code comes from the top leadership, not the rank-and-file working members or retirees. At no point have we had a vote or any say in the decision.

In addition to having the security of a strong healthcare safety net through traditional government managed Medicare, I also support the concept of traditional Medicare as one of the few public options available, unfortunately, only to retirees. Medicare is a government run program like social security and is supported by taxes we pay into both plans throughout our lives. Medicare has much lower administrative costs compared to private plans and a professional civil servant unionized workforce that can focus on addressing the needs of patients. Medicare sets standards of payments to control costs.

The advantages of Medicare for higher efficiency and control over rising costs should be extended to all Americans. Medicare is one of the best ways to control runaway healthcare costs.

Medicare Advantage plans are privately owned and managed profit-making operations, with much higher administrative costs than Medicare and with shareholder value being of higher value than patient care. We see expensive and extensive advertising with highly paid spokespeople for these plans and exorbitant executive salaries, dividends, and stock buybacks, often at the expense of patient care through denial of certain procedures and creating delays in gaining access to some procedures. Add the massive cost of lobbying politicians and even union leaders.

Recently, the mainstream press, led by the New York Times, has taken up the cudgel of exposing Medicare Advantage plans. The City Council is urged to reject all attempts to expand privatized Medicare Advantage plans and shrink highly successful traditional Medicare. I ask if this bill is passed to please vote NO to amend 12-126.

Signed,
Kerry Donohue
January 12, 2023

From: Kerry Weinbaum <kweinbaum522@msn.com>
Sent: Tuesday, January 10, 2023 3:37 PM
To: NYC Council Hearings
Subject: [EXTERNAL] PROTECTING ADMIN CODE 12-126 PROTECTS RETIREES! (Committee on Civil Service and Labor- Monday, January 9, 2023, 9:30 a.m.)

Importance: High

Honorable Speaker Adams, Chair De La Rosa and City Council Members:

I am a NYC retiree and I ask – no, **I implore you to vote NO to amend Administrative Code 12-126.** Better still, Speaker Adams, please decline to bring this proposal to a vote!!

First and foremost, no one, absolutely no one should **ever** be **forced** on to **any** Medicare Advantage plan (MAP). Despite what the MLC, the Mayor and Messrs. Mulgrew, Garido and Nespoli have repeatedly contended, **MAPs are not the same** as traditional Medicare; in point of fact, Medicare Advantage Plans are **only an advantage for the private health insurance companies that profit by administering them!** **The Mayor and some of his acolytes insist that a NYC MAP plan will be “special” and “different” from all the others. NONSENSE!** We have seen the first incarnation of the “special and different” NYC Medicare Advantage Plan go down in flames after the City first lost in Supreme Court and then in Appellate Court for a number of reasons including the fact that with the required prior authorizations, networks of doctors, etc., the “special” MAP was not only not so special, it was **NOT** equal to what we have now. We deserve to keep the healthcare benefits we have, which was promised to us years ago!

Second, the Scheinman report **IS NOT a DECISION OR A RULING OR AN AWARD; it is an OPINION AND IT IS NOT BINDING!** It’s paid propaganda and the hope is that the City Council falls for it! The retirees have identified at least \$300 million in savings. The Mayor’s Office of Management and Budget (**OMB**) knows about some of these savings, **BUT HAS NOT** implemented them **NOR** has it informed the City Council. Worse yet, OMB is unaware of other potential savings! **HOW CAN THE MAYOR OR THE COUNCIL MAKE A DECISION IF THEY ARE NOT BEING PROPERLY INFORMED BY OMB?** Do reach out to the **NYC Organization of Public Service Retirees** for the “real” facts and not the “alternative” facts being promulgated by the MLC spearheaded by Messrs. Mulgrew, Nespoli and Garrido. The MLC doesn't want you to know they “sold” our healthcare for raises! And yes, that includes you!

Now, the City Council is being threatened that if it doesn't amend Administrative Code 12-126 to force retirees on to a MAP, the Mayor will do it on his own. Amending the statute does the same thing! Why should the City Council amend the law if the Mayor will do it anyway? Why do his dirty work? Let the Mayor take the political hit for hurting retirees and remove City Council Members from the anger of retirees and constituents in their next election. **If the Mayor amends the statute, retirees will be able to challenge and win in court where we have been successful twice** because the City has clearly violated the law. Having the City Council do it is the Mayor's way of getting around it and keeping his hands "clean." **If the City Council amends this Administrative Code, it will affirmatively hurt retirees and prevent us from winning this in court. Please don't do this!** We served our time as active employees and union members (we are still union members and pay union dues); we now have a right to enjoy our time as retirees with the health care that we earned and paid for.

Don't buy the "Big Lie". Do not amend the Code; protect it like every City Council before you has. Do not let the Mayor hide behind your apron strings. Do not do his bidding. Protect 12-126!

I respectfully request that you **DO NOT** support the bill that was introduced on January 9. Thank you in advance for protecting us from financial peril and from losing our hard earned and well-deserved healthcare.

Respectfully,

Kerry Weinbaum

(First UFT and then CSA; retired 2013 after 35 total years of service)

Greetings, members of the Committee on Civil Service and Labor, chaired by Council Member Carmen De La Rosa,
I'm writing to you today as a CUNY employee in hopes that you will support the PSC's efforts to provide a solution to the future of healthcare for NYC retirees/employees:

**PSC/CUNY Proposal for NYC Employee Health Benefits Program
December 30, 2022**

The recommendations offered by Martin Scheinman on the future of healthcare for New York City retirees and employees present a false choice: either the City must force NYC retirees into private, for-profit Medicare Advantage or it must impose monthly healthcare premiums. These are not the only options. Worse, neither option addresses the fundamental issues that are driving up the City's healthcare costs. Even if a Medicare Advantage program were put in place today and the savings were \$600 million annually, the underlying problems would remain. Within a few years, the City would find itself back in the same crisis it is facing now. A better solution is within reach. There is an alternative to stripping retirees of the free Medicare-based healthcare they were promised or changing the Administrative Code to eliminate a historic right to basic healthcare. The current crisis reveals the need for fundamental change in the cost structure of the City's healthcare coverage. The Professional Staff Congress/CUNY, a union that represents health policy professors among its 30,000 members, proposes an approach that responds to both the urgent need for immediate relief and the longer-term need for structural change. We believe that a solution can be developed that protects premium-free health coverage and at the same time addresses the root causes of escalating healthcare costs. The solution requires recognizing the structural and political forces that have created the current healthcare situation and developing a political consensus to address them. It requires implementing a temporary fix, for the next three years, to replenish the Stabilization Fund while long-term solutions are negotiated. It also requires replacing the Stabilization Fund with a sustainable plan to fund the benefits it provides and current healthcare costs for active employees, retirees and their dependents.

The City Council can offer leadership in developing the solution by advancing new legislation. The goals of the legislation would be to:

- Formalize the City's commitment to premium-free high-quality healthcare for active employees, retirees and their dependents.
- Articulate the City's historic commitment to maintaining the same health insurance coverage for all workers and retirees, refusing to divide or tier access to healthcare by income, job title, gender or race.
- Affirm that the City will keep its promise to retirees of premium-free health

insurance through traditional Medicare and a Medicare supplemental plan.

- Recognize that City workers have historically made sacrifices in wages to ensure that all City workers—active and retired—have the means to sustain their health and the health of their families and communities.
- Address the immediate crisis for the Stabilization Fund; relieve the pressure on collective bargaining funds; and buy time to develop a long-term solution by allocating some of the budget funding over the next three years that would otherwise go to the Retiree Health Benefits Trust. See “A Resource to Sustain Benefits While NYC Health Benefits are Restructured.”
- Create a stakeholders’ commission charged with finding a path to control health insurance spending, with a focus on hospital pricing, before the end of the three-year period.
- Develop a sustainable City health insurance funding mechanism, replacing the Stabilization Fund.
- Affirm the Municipal Labor Committee’s right to bargain with the City over health insurance on behalf of public employees. Such City Council legislation would be both visionary and pragmatic, in the best traditions of the Council and New York City.

Background

The existing mechanisms for New York City financing of health insurance for its employees, retirees and their families are no longer viable. The City pays for employee health insurance based on the mandated HIP/HMO rate. In 1984, when the HIP/HMO rate was insufficient to pay for a GHI PPO alternative plan (now called the Comprehensive Benefit Plan or CBP), the City and the Municipal Labor Committee (MLC, a coalition of unions that negotiate with the City over health care) created the Health Insurance Premium Stabilization Fund (Stabilization Fund) to bridge the gap. In the years when the HIP rate was more than enough to cover the CBP costs, the City paid into the Fund and the Fund grew. In years when the GHI plan cost more, the difference has been paid out of the Stabilization Fund. However, in recent years the cost of CBP has consistently been greater than the HIP/HMO rate, and the difference keeps expanding, with no signs of reversal.

In 2014, the City and the MLC agreed on the first of two Health Savings Agreements. Both agreements achieved savings by limiting increases in the HIP/HMO rate without effectively addressing the rising costs of care. The result is that starting in fiscal 2016 the New York City budget has reflected an artificially suppressed health insurance obligation, while costs have continued to rise. There is no foreseeable time when the City’s payments into the Stabilization Fund will be adequate to equalize the difference between CBP costs and the HIP/HMO rate. The Stabilization Fund is guaranteed to run out of money. The savings the City is seeking from transferring retirees to Medicare Advantage will

not resolve this issue: *health care costs will continue to outpace the suppressed HIP/HMO rate unless action is taken to address rising costs themselves. By shifting the burden of added costs onto employees, there is no incentive for the City to bargain or otherwise address those rising costs.*

The largest driver of the rising costs for City workers' health insurance is hospital pricing. Compare the rates of reimbursement for doctors with those for hospitals in New York City. Commercial insurance reimburses doctors about the same amount as Medicare does. But the commercial insurance reimbursement rate for hospitals (both inpatient and hospital-based outpatient and ancillary service costs) averages 2.5 times what Medicare pays. New York City could use its regulatory powers and unique market share to lower hospital prices without damaging the capacity to deliver quality care.

Our Proposal

1. Buy enough time to develop a sustainable solution.

The City can buy time and sustain the Stabilization Fund over three years by allocating to it budget funding that would otherwise go to the reserves of the Retiree Health Benefits Trust and thereby not have to force NYC retirees onto a Medicare Advantage plan. See "A Resource to Sustain Benefits While NYC Health Benefits are Restructured."

2. Create a stakeholder's commission charged with finding a path to control spending.

The problem of rising hospital prices is political, not economic or technical. The City Council should authorize creation of a stakeholder commission to consider alternative approaches to hospital pricing. Members would include NYC elected officials, MLC leadership, union, hospital, physician, and insurance company representatives as well as elected retiree representatives. The Commission should have a sufficient budget to hire experts from academic and consulting groups. Its charge will be simple: develop a consensus plan to equitably limit hospital prices to ensure the city can achieve needed savings in health care spending while continuing to provide high-quality premium-free health insurance options to all City workers, retirees and their families.

3. Develop a sustainable City health insurance funding mechanism.

The commission should also develop recommendations to synchronize and rationalize funding mechanisms for active and retiree employee health insurance while maintaining the municipal unions' rights to bargain about health insurance.

Thanks,
Kevin

Kevin Kolack, Ph.D.

My name is Kevin Lyle. I am married to a retired teacher, and we both receive our health benefits from New York City. We have traditional Medicare with GHI as our supplement. I hope you will not amend 12-126 so that we can stay on traditional Medicare.

I am a transplant patient. I received a kidney in 2004 at Columbia Presbyterian Hospital. My operation took place on the eve of Thanksgiving. Fortunately, I did not need prior authorizations, and received excellent care. As a result, I feel strongly about having insurance that does not limit my care through networks and preapproval.

After my surgery, I decided to change careers. As part of that process, I took a temporary job working in the Emblem Health Advantage Care Call Center. My experience was extremely upsetting. I received phone calls from elderly retirees. These retirees said that they could not get doctor appointments with the doctors in their network. I tried to assist them, and I accessed software that showed the doctor's schedules. I found that the doctors in the network were booked for 3-4 months in advance. Prescriptions for life supporting medications were not sent to pharmacies in a timely manner. Pharmacies would claim they never received the scripts. Insured, elderly, patients would call looking to rectify these problems. I was not able to offer remedies to their problems. It was disheartening to me to hear the anger mixed with fear in the voices of these patients. Consequently, I was happy to move on from that position. I did not know at that time, I might share those same problems.

Looking to the future, I would also like to share a recent experience with Aetna. Unfortunately, my mother, who is 92, contracted covid, flu, and pneumonia before Christmas of this year. She has Aetna Advantage Care. Although she had a combination of conditions, she was released within three days of entering the hospital. The CDC advises that patients are contagious for at least five days, so she was released before her period of contagion was over, endangering our family. She needs physical therapy and follow-up care. My family has made appointments with nurses for that care, but many have been canceled. We anticipate that Mom will need a nursing home in the future. I have called several local nursing homes, and I have not found one that accepts this insurance. I am horrified that I might be placed into a plan that is run by Aetna.

Please do not let my insurance be selected by Mr. Schienman. His opinion is not legally binding, and he knows nothing about health insurance. Do not be guided by Mr. Mulgrew or Mr. Garrido. They do not care for the people they represent. Please form a blue ribbon panel and research the cost saving measures that are available to us. Do not amend 12-126.

Kevin Lyle

jkylesr@optonline.net

This testimony is to address the issue at the hearing held by Civil Service and Labor January 9, 2023.

Good Morning City Council Members,

My name is Kim Pecorella and I am a UFT Retiree. I retired in 2010. Please vote no to amend 12-126.

When I am now making appointments for my doctor visits, the first thing that the office asks is if you are on an Advantage Plan. I respond, "No," and they say this is great. They are not taking any Advantage Plans at all. What will happen to me and others if we are put into this plan?

This is from my daughter.

My name is Ashley Sanchez and my mom is Kim Pecorella. She worked for the DOE for 17 years. She told me what is happening with the vote to change the code 12-126. Please do not. Here is my story.

I was diagnosed with Epilepsy, Fibromyalgia, Long Haul Covid and Dysautonomia with now a possibility of Endometriosis. I have been going to doctors, The Mayo Clinic, The Watson Clinic. ER rooms NYU Medical Center since I was in the 8th grade. I am now 30. I was at one last night for severe stomach and head pain.

Thank goodness my insurance covers all of this without preauthorization to get any tests done. Mom always told me to get the best insurance that is offered. Thank goodness she also had the Catastrophic Insurance through the Union. For the past year, I have been getting general letters that the facilities and doctors are sending all their patients that they will NOT accept any form of a Medicare Advantage. She was promised good health care when she retired.

If any of my procedures had to be preauthorized who knows what damage would have been done to me.

What is going to happen to my mom if you take away her Senior Care? Are you going to be the one to argue with the Advantage Plan to get the help she needs? What about her prescriptions? Will you pay out of pocket expenses? Are you going to be the one to take her to a new doctor because her doctors will not accept these plans? Are you going to be the one to watch her wait for the approval for a procedure that Traditional Medicare would have covered that day?

Please do not let her go through this because the Mayor wants to change the medical to save the city monies. What is the real reason why he would do this? The Scheinman report was only an opinion and not what the judge ordered. There are over 250,000 retirees and each one has a story about why the city should not go to an Advantage plan.

Thank you,
Ashley Sanchez
Daughter of a Retiree UFT teacher

Thank you,
Kim Pecorella

To Whom It May Concern:

I am a NYCDOE employee and I am pleading with the City Council to leave the Admin City code 126-12 and the Municipal workers' healthcare as is. My husband is currently undergoing treatments and his doctors and current healthcare plan is vital to his success. It would be so difficult for us, and many other members to change treatment course midway. Please leave our healthcare as is!

Thank you for your time,
Kristen Lantry

To: The New York City Council Members

From: Kristi Powell

Re: The Question of Amending the City's Administrative Code 12-126, under consideration by the City Council Committee on Civil Service & Labor Hearing, Jan. 9, 2023

As a NYC retiree, I am writing to ask that you **not** amend city Administrative Code 12-126.

Admin. Code 12-126 protects New York City employees' and retirees' promised benefits of reliable and affordable health insurance, including our current retirees' Medicare supplemental health insurance plan.

The privatized Medicare Advantage (MA) Plans in which the city and the largest city unions are considering forcing retirees to enroll - in violation of Code 12-126 - have not proven to be reliable or as equitable as our existing plans. These MA plans have an inherent conflict of interest as their profits depend on denying care, and they have been the subjects of investigations and lawsuits. It is disconcerting and disappointing that the city would even consider giving taxpayer funds to, or doing business with, entities that are under investigation for defrauding the government Medicare system.

On a personal note, I understand that the current MA plan being considered would not be accepted by Memorial Sloan Kettering Cancer Center (MSKCC) - health care on which my family has depended for years, to literally keep one of us alive, to continue to be a working, contributing taxpayer in our city. It is frightening to think of the possible health and financial consequences to losing our MSKCC access.

We senior citizens need our earned and promised health care, and can least afford cost increases. We did not cause the city's budget problems. Our aging backs should not be made to bear the burden of bad decisions and poor fiscal management by some union leaders and earlier city administrators.

With imagination and the will to do so, the city could look at alternatives for managing rising health care costs. Instead of amending 12-126, the city could, for example:

- pool resources for more efficient health care funding across city entities;
- use its purchasing power to address the skyrocketing costs of prescription drugs;
- monitor private hospitals for exorbitant charges;
- audit current insurance providers, etc.

I say all this to you as a proud New Yorker, a labor and union supporter, and a proud parent of New Yorkers who graduated from our public schools and the CUNY system. I worked for the New York public schools for 25 years, first for a non-profit ally of the public schools, then as a Dept. of Education (DoE) employee and DC37 union member for 17 years, until my retirement in 2021.

I worked for the DoE because I believe that public education is the best hope for democracy, and that nothing is more important to the future than the education of our children.

I could have made much more money working in the private sector. However, I felt the lower city pay - with decent benefits - in the name of doing good work for the city, along with the promise of good, affordable retirement health insurance was worth the delayed gratification.

Do not break the promise of decent health care for retired city employees - or diminish an attractive benefit that entices good people to work for the city now and in the future. Please leave Administrative Code 12-126 intact, and continue to explore other, more viable and equitable resolutions to the health care issue.

Respectfully,
Kristi Powell
Jan. 8, 2023

From: Phoebe Ng <smileyphoebe51@gmail.com>
Sent: Friday, January 6, 2023 11:31 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Upcoming Hearing on Proposed City Retiree Health Care Legislation - Mon., Jan. 9

Dear City Council Speaker, City Council Members,

My name is Lai Ha Ng. I am a 71 years old early city retiree who retired early after working with DOHMH Office of School Health for 19 years since 1994. I retired early in 2013 due to multiple cancers and health issues, when I was 62 and found out my second lung cancer is stage 4.

The current Original Medicare and GHI EmblemHealth Senior Care (Medicare Gap Plan) we are having now are essential life savers for sick and vulnerable retirees like me. Our current doctors are unwilling or declined to accept Medicare Advantage Plans because Medicare Advantage Plans decline payments, decline to approve needed medical procedures and tests that the doctors ordered. Medicare Advantage Plans are diminishing health care.

Our PMD Dr. Thomas Molnar, MD who has been taking care of us for decades told me, "If you are healthy, you are not sick, you can go for MAPs. I won't put my own mother in any MAPs."

My eye surgeon's office mentioned that some MAPs declined regular Cataracts Surgeries, and refused to pay for the tissues used for cornea transplants. The doctor had to cancel the scheduled cornea transplant procedure.

My cardiologist who is afflicted with St. Francis Hospital that does not accept any Medicare Advantage Plans at all.

I was told by my doctors to stay with the Original Medicare and Medicare Supplement Plan, stay away from Medicare Advantage Plans. And I told them, "We have the promised Health Insurance for life. I have GHI. I was told that, "When I am 65 and old enough for Medicare, GHI will become our secondary insurance for life."

I can not thank enough to the Original Medicare and GHI EmblemHealth Senior Care we have since we are eligible for Medicare. My husband who died of Multiple Myeloma and Stage 4 Rectal Cancer in 2020 received the proper care he received and needed, (including my own medical care at the same time) by the coverage of the Original Medicare and GHI EmblemHealth Senior Care.

Before we were eligible for Medicare, the copays and the waiting for the GHI approval of life saving procedures, eg. chemo-pump insertions, etc., to be approved were a lot of struggles and too stressful for us to handle. Not to mention that GHI declined a needed PET / CT to determine the proper use of the chemotherapy regimens. Our doctors had to call them to negotiate with the representatives on the other end of the line for the important lifesaving medical procedure although he had provided all the appropriate ICD DX Codes on the order. I can not imagine it would happen to us again when we are even older, more confused, anxious, in our older age with the health insurance coverage by Medicare Advantage Plans that so many medical facilities and medical doctors decline and refuse.

We didn't have any salary raises nor any new contracts for years working with the City. Instead, we were promised to have the continuation of our current health insurance and health benefits for life. And the lower

salaries also led to the lower social security retirement benefits that we are receiving now. (Yet, we are not qualified for Medicaid.)

Any unpredictable out of pocket payments and expenses, which are not covered by our health insurance, become an unplanned, unexpected burden for us, the old, sick, weak, confused, fixed incomes population, to handle.

Please continue to support the sick and vulnerable City retirees from age discrimination, anti-disability, anti-poverty, anti-vulnerability.

I believe that you are fully aware that the SCHEINMAN REPORT IS NOT A RULING. IT IS AN OPINION. The actions of MLC, DC37, UFT to pressure you to amend NYC Administrative Code Section 12-126 is an insult to your intelligence. The city tried to amend NYC Administrative Code Section 12-126 before. Thanks to the City Council Members always knowing what is the best for the City retirees. Thus, NYC Administrative Code Section 12-126 continues remaining intact as we have been promised. WE HAVE FAITH IN YOU THAT YOU WILL CONTINUE TO PROTECT US!!!

There are ways to fund the Health Insurance Stabilization Fund instead of diminishing the needed promised health insurance to the retirees after we worked for lower pay for the City than private sector jobs because of the promised health benefits for our retirements.

Your support is essential to our lives!

Your attention and support to keep the many years promises of bargaining results of local law NYC Administrative Code Section 12-126 the way it is to let the retirees (and city future retirees and the dependents) live a peaceful retirement in our last chapter of life is greatly appreciated!!!

Thank you very much again for your support to all of the NYC Municipal Retirees, who are mostly old, vulnerable, low-income, lack of any energy and knowledge, and confusing to fight and protect our own selves!!!

And most of us CAN NOT AFFORD TO PAY FOR OUR OWN ORIGINAL MEDICARE AND SUPPLEMENT PLAN as we were promised, if it is removed.

Please kindly read the following "Message to NYC Council" written on January 2, 2023, from NYC Organization of Public Service Retirees:-
(That is also what we want to say.)

"After consultation with our legal team, we offer you this information. On December 15, 2022, Martin Scheinman issued a 31-page document that has no force of law. As the signature page at the end explains, it is just a "Recommendation." Scheinman has no authority to order the City and the MLC to force retirees into Medicare Advantage, which is far worse than the traditional Medicare benefits that retirees have long received.

As he admits, Scheinman's limited authority comes from a 2018 Agreement between the City and the MLC. Under Section 5 of that Agreement, he and two other members of the "Tripartite Health Insurance Policy Committee" are authorized to "make recommendations to be considered by the MLC and the City." The Agreement does not allow the Committee, let alone Scheinman alone, to order anyone to do anything. Moreover, the Agreement requires the Committee to make "recommend[ations] for implementation as soon as practicable during the term of this Agreement but no later than June 30, 2020." Thus, not only are recommendations non-binding, but they are also now two-and-a-half years too late.

Some have attempted to make Scheinman's document seem more consequential than it really is by calling it a "decision" or "order" or "award." However, it is none of those things. It is just a non-binding (and untimely) recommendation, as the document itself makes clear. Although the 2018 Agreement allows Scheinman to

arbitrate certain disputes between the City and the MLC, there was no dispute between the City and the MLC here – both are aligned with respect to forcing Medicare Advantage on retirees. Thus, Scheinman was not acting as an arbitrator and was not issuing a ruling, decision, or award on anything.

Scheinman's document is a transparent and futile attempt to make it seem like the City is being ordered to take away traditional Medicare from Retirees. The document does not—and cannot—require the City, or anyone else, to do anything. If the Mayor wants to take away the healthcare rights of elderly and disabled retirees, he should not pretend that anyone is making him do it. And the City Council should not assist him in this charade by amending Section 12-126. The City Council should not participate in the illegal effort to force Medicare Advantage on Retirees, who are entitled to the traditional Medicare benefits they were promised and which they desperately need. Let the Mayor be the one to strip retirees of these hard-earned benefits. The retirees will challenge him in court, and they will win. Again. But if the City Council amends Section 12-126, the path to victory in court becomes much harder. Give retirees the chance to fight and win in court with the current version of Section 12-126, which has existed for over half a century. If they lose, the City Council can always amend the statute later."

Again! I can not say it enough, Your support is essential to our lives!
Your attention and support to keep 12-126 the way it is to let the retirees (and city future retirees) live a peaceful retirement in our last chapter of life is greatly appreciated!!!

Thank you very much again for your support to all of the NYC Municipal Retirees, who are mostly old, vulnerable, low-income, sick, lack of any energy and knowledge, and confusing to fight and protect our own selves!!! We really can not afford to deal with any unpredictable declined payments and incidents that are caused by any unpredictable health insurance issues in the late stage of our lives.

Thank you in advance!!!
Your support to protect the NYC City Retirees to PROTECT ADMINISTRATIVE CODE SECTION 12-126 IS GREATLY APPRECIATED!!!!

Sincerely,

Lai Ha Ng
(NYC retiree worked with NYC DOHMH for 19 years since 1994.
Early retirement in 2013
due to multiple cancers and health issues)

Hoover Ave
Briarwood NY 11435-2137

smileyphoebe51@gmail.com

From: Lana Bind <lbind@hotmail.com>
Sent: Monday, January 9, 2023 8:47 AM
To: NYC Council Hearings
Subject: [EXTERNAL] 12-126

12-126 please note no. Reject it. It is will be bad for city employees

Sent from my T-Mobile 5G Device

Do not change Adm Code 12-126

Dear Members of the NYC Council,

Thank you for this opportunity to submit written testimony about an issue that is critical to me, thousands of current NYC retired public employees, millions of their family, friends, and care takers, and countless public servants who will one day join us in retirement.

I served New York City as a public-school teacher for 16 years, working way beyond the school day during evenings and weekends and, as most teachers do, spending personal funds for classroom supplies and necessities to ensure the future citizens of NYC, our children, received a quality education.

During this time, I was paid and received health benefits and believed, as all public servants for the City do, that I would have certain benefits upon retirement. Now I am having the rug pulled out from under me. The City and Union leaders, who I trusted and believed were working to protect me and their constituents, have turned against us and are trying to take away the quality health care that was dangled as a carrot. The agreement was that in exchange for our devotion and hard work we would have a stable and secure retirement. We delivered, now it is the City's turn to deliver.

Under the City's watch, money was allowed to be withdrawn from the Stabilization Fund, which was purposed to protect Retirees' health benefits. Now the City is urging that the money be replenished on the backs of thousands of teachers, FDNY, NYPD, EMS, office workers, janitors ... the list goes on and on. We all know there have been many alternative suggestions for how to find savings to pay back the fund, which the City has refused to consider.

I see ads saying that there may now be a teacher shortage or that the City is having trouble filling positions. My father sadly passed away a few years ago. He worked for years as a New York City Policeman, putting his life in danger, caring about the people in underserved neighborhoods. He was a proud public servant and told his six children that working for the City was worthwhile. Three of us followed his advice. It would break his heart to know that you can no longer trust that the benefits you worked so hard for, accepted lesser pay for, could disappear. The best way to recruit future generations of public servants is through the recommendations of satisfied employees, like my father.

I deserve the health care that I worked for. It isn't a gift. I did the work. Don't do the Mayor's dirty work for him. Give us a fighting chance to protect what we have earned in the courts.

I implore you to protect Admin Code 12-126.

Thank you,

Lana LoBue, Retiree
NYC Teacher, 16 years

Laura Genovese

NYC 10002-5623

District 1

Hi. My name is Laura Genovese. I live in District 1 and my Council Member is Christopher Marte. I'm also a retired city worker -with 21 years of public service - 18 of them as a DOE school secretary. I have a deep feeling for the labor movement, and am strongly against both privatization of our schools and healthcare.

This can't be repeated enough: The City has attracted its municipal workers, not by offering high salaries, but by compensating us with good quality, premium free, life-time benefits.

I gave up a high paying, private sector job, to work for the welfare of children, while counting on the City's commitment to provide me with the benefits I earned- benefits that also help raise the standard for all workers.

And yet, here we are - facing a clear move to privatize our healthcare, as our prominent union leaders shockingly join with the Mayor to amend our key protective Adm Code 12-126.

Never did I imagine that my so-called UFT union leader, Mr. Mulgrew, would ever ignore many options of savings only to resort to selling retirees off to health insurers in return for raises for active members during his 2014 & 2018 negotiations.

- ... That it was done by misusing \$1 Billion from our Healthcare Stabilization Fund with the "approval" of a very secretive MLC (dictated by him, Mr. Garrido and Mr. Nespoli).
- ... That they blatantly violated our AC 12-126 –and got caught because they didn't anticipate a Retiree Lawsuit
- ... That, rather than fixing things, they've since doubled down to getting the code amended, lied about the Judge's decision, rallied misinformed members and collaborately used with threats made by the OLR - so they can continue on the same brutal track to strip us of our healthcare for their own benefit
- ... All this, as they continue to withhold from you the massive savings that were uncovered -which would truly provide the funds need.

Two minutes can't suffice to address all the deceptions the MLC, leaders of UFT, DC37, Sanitation, as well as the city have been engaged in, but this point must be made: They have very SERIOUS credibility issues and are now rushing you to do their bidding. It's

dangerous to open up AC 12-126 –the code that some figures in the City have longed to manipulate. Please don't do it.

AND PLEASE NOTE: Mr. Scheinman wrote a paid option. His findings are not binding -and should not be influenced by "scare tactics" coming from the MLC UFT and DC37.

Meanwhile the drive to privatize healthcare has escalated nationwide, and profiteers who align themselves with private health insurers are making it more difficult for seniors to keep Medicare (which 94% of our nation's doctors accept). All privatized Medicare Advantage Plan share the same MO: lucrative profits for shareholders, while cost-savings measures fall on the backs of patients. They not your doctors decide the kind of care they feel you should get. Many fatalities are due to that and the delays caused by cost saving gatekeepers and countless authorizations.

More leaders and lawmakers need to be alarmed by the way multi-billion dollar insurance conglomerates keep becoming more powerful and astronomically richer, as the rest of us get plundered and put in harm's way. Insurers across America are now sharpening their claws as they watch NYC. It would be a great victory to have our AC 12-126 preserved exactly as is. Please be on the right side of history. Don't let them capture our healthcare. Vote NO.

Thank you.

Laura Daigen-Ayala

NY, NY 10034

Ldaigenayala@gmail.com

Good Afternoon, Council Members. My name is Laura Daigen-Ayala and I am a retired NYC Public School teacher. I served this city and its children beginning in 1981 and retired in 2016. You can do the math, because a (probably public school) teacher taught you how. During my last two decades of service, I worked for the United Federation of Teachers Teacher Centers as a Literacy Coach at PS 48, a bilingual school in Washington Heights, and subsequently as Teacher Center's Instructional Specialist for English Language learners. In that role I supported schools and teachers and fought for the educational rights of English Language Learners across the city.

I am here today to ask members of this Council to reject any amendments that would change the Administrative Code 12-126. As a retiree on fixed income--and with a history of cancer, and a husband who is diabetic, I cannot afford the additional costs or medical risks this amendment would cause me. I am therefore in opposition to Intro Bill No. 874. My pension and our social security are our only income, and any raises we have seen have already been usurped by inflation and by the new co-pays we have been forced to come up with this year.

When I was diagnosed with lymphoma, I was grateful to have coverage that allowed me to seek care at the best cancer centers. When an emergency MRI was required, I was able to secure it in a matter of days. When the cancer I that had was determined to be aggressive, I went straight from the surgeon's office to the hospital and was operated on the next day. Pet Scans were performed immediately. None of this would have been possible if I had been covered

under Medicare advantage. The additional time to seek approvals would have given my aggressive tumor more time to spread encroach on my lower spine.

Data about Medicare Advantage shows that it has an inferior survival rate for cancer patients. The most renown cancer center in this city does not accept MA. Yet, I cannot afford the nearly 400 dollars I would be required to pay out of pocket to keep my Medicare plan if this amendment passes.

I served the city's children, teachers and school system faithfully and with full confidence that promises made to me would be kept upon my retirement. To have this promise pulled out from under me at 68 years of age is a cruel and heartless betrayal. Voting to break the promise to me simply says I am expendable. Is **that** how the administration and the Union that used to represent me figures they can save money? Just let the retirees have inferior care and a Silver Sneakers membership and hope that we die off? Think of the savings! That's what this amounts to.

Now a nodule has been discovered in my lung. I have had to undergo a series of diagnostic tests and have another scheduled this month. I cannot imagine the extra emotional distress and medical risk I would have to undergo if I had to fight for pre-approval before each of these tests.

Retirees should not be the ones to solve the City's problems fiscal problems and *unions should not be using us as pawns*! NYC Organization of Public Service Retirees has identified sources of significant savings and these should be considered before any reduction in services to anyone. You should be extremely suspicious of an administration that would even consider negotiating with one of the several providers that have been under investigation for massive Medicare

fraud, including overcharges to municipalities for 'phantom' procedures while denying patients necessary services.

As the City Council, you need to know that ***you do not have to push this bill***. You should not participate in the illegal effort to **force** a Medicare Advantage Plan on your most vulnerable constituents-- retirees, who are entitled to the traditional Medicare benefits that were promised to us. PLEASE Don't be blackmailed or intimidated into supporting this unfair bill that would be devastating to us. Remember that those who would be most deeply are those who retired on lowest salaries: the oldest retirees as well as those who served in lowest paying positions—aides and paras, for example--predominately women and predominately people of color.

Thank you for your time.

Laura Daigen-Ayala

Laura Spalter
Bronx, NY 10471

Testimony
New York City Council Committee on Civil Service and Labor
January 9, 2023

Via email: testimony@council.nyc.gov

Dear Members of the New York City Council,

As a retired NYC schoolteacher, I attended Monday's packed hearing along with hundreds of municipal city workers opposed to any change in Section 12-126 of the Administrative Code. I dread and fear having to pay almost \$400.00 a month in order to keep my traditional Medicare plan for both my husband and myself. This prohibitive cost would undoubtedly go up in coming years.

I object to fundamentally being forced to enroll in a free, but inferior private for profit Medicare Advantage Plan. Many doctors and institutions do not accept any Medicare Advantage Plan. Furthermore, seniors will be subjected to greater pre-authorization bureaucracy resulting in delays and/or denials. The lack of transparency is also troubling in that we have been denied the right to see the proposed plan.

Please protect Admin Code 12-126 in its current form. A law suit has clearly established that this statute has protected retirees rights for decades. The Council should not participate in this unseemly scheme to allow the City of New York to do an end run around Justice Frank's ruling by amending Code 12-126.

Thank you for this opportunity to voice my opposition and concerns.

Laura Spalter

From: Laurie Sholinsky <lesholin@gmail.com>
Sent: Thursday, January 5, 2023 3:56 PM
To: Testimony
Cc: Laurie Sholinsky
Subject: [EXTERNAL] Traditional Medicare...

We are retired New York City retired teachers on traditional Medicare which we were promised contractually. We feel that changing the city code would force Medicare advantage down our throats. When we most need this dependable healthcare as we age, we will be forced to get pre approval (or not) for physician approved tests and procedures. We may not be able to use our medical providers because they are out of network, we will be at a loss for coverage while traveling in the US. IF we chose to remain on Traditional Medicare, it will cost the two of us an extra \$400a month, an extra \$4800 a year which is quite a sun of money on a fixed income. Please, we implore you not to amend the code governing Medicare which will deny us the medical insurance we are entitled to!

Sincerely,
Laurie and Steve Sholinsky

Sent from my iPad

From: Laurie Elvove <laurie.g.elvove@gmail.com>
Sent: Tuesday, January 10, 2023 6:12 AM
To: Testimony
Subject: [EXTERNAL] Administrative Code 12-126

Do Not Amend Administrative Code 12-126.

Dear Civil Service and Labor Committee,

My name is Lawrence Bromberg and I am the spouse of a retired NYC employee (Hilary Bromberg, DOE, 21 years of service, retired 2019).

I am testifying today to implore the Council to not change Administrative Code 12-126. This Code has protected all NY City employees and retirees for decades.

The Mayor, the OLC, and the MLC are trying to force retirees into an inferior, customized, privatized Medicare Advantage Plan for the sole purpose of having the federal government subsidize the cost, thus allowing the Health Stabilization Fund to be restored after it was illegally raided and used to fund raises for active employees. These Medicare Advantage Plans, customized or not, are run by for-profit companies. It is well documented that their practices include denied and delayed care in order to save money. And if there is an aggregate savings from the Plan, Medicare gives them a bonus. So, it is to their advantage to keep spending down at all costs, even at the risk of human lives. These plans have limited networks for doctors (ie, your doctors) and hospitals (ie, Sloan Kettering and Hospital for Special Surgery), further hindering quality care.

Code 12-126 allows for a minimum of one no-cost plan for retirees, with as many optional plans as the City cares to offer. The optional plans are no-cost if they fall below the benchmark cost cited in the Code. Any plan above the benchmark cost will have a retiree pay-up cost. The Mayor does not want to pay for no-cost plans and neither does the MLC. So they have threatened us with withdrawing all options and just offering the Medicare Advantage Plan as the sole plan, cost-free. In the name of "supplying choice" they want Code 12-126 changed to omit the benchmark provisions and offer all other plans as pay-up. This is not choice; this is forcing retirees out of Traditional Medicare into this inferior plan. Especially long-time retirees who are low-pensioned. We want our Traditional Medicare and promised cost-free Medigap Supplement.

City employees spent their careers working for lower wages than their private-sector counterparts, often making negotiated sacrifices, in return for job security and benefits. The promise of retirement benefits should be sacred and not toyed with.

Please don't believe the lie that an arbitrator has ruled that only one plan should be offered with no options. There was never any binding arbitration between the retirees and the City and the MLC. Mr. Scheinman was hired by the MLC and the OLR to arbitrate any differences between themselves, and there are none. Their goals are identical. His report is nothing more than his opinion and a recommendation. It holds no legal weight, has no deadlines, and is not binding.

Please leave Administrative Code 12-126 intact, as-is. If the Mayor wants to delete all other plan options, let him do it. He said he'd do it anyway. Why should the Council face the ire of 250,000 retirees and a growing number of active employees? Our organization has won in two courts and in front of six justices. Allow us the opportunity to again battle in court for our earned and promised benefits.

Lawrence Bromberg

From: Lawrence Isaac <lisaac1@me.com>
Sent: Sunday, January 8, 2023 10:52 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Protect Admin Code # 12-26

Speaker Adams

I am an elderly retiree having served the city for over 30 years.

I am aware of that the Mayor has a difficult job of balancing the budget,.

To balance it on the shoulders of elderly retirees (many of us in dire need of medical attention) is an "ABOMINATION".

I have read so many articles on the "disadvantages" of Medicare "Advantage" Plans and that frightens me.

PLEASE do NOT amend the bill and hopefully in my remaining years I will have the knowledge the my medical needs will be provided for me by regular Medicare (at no additional expense) as I was assured at the time of my retirement.

Respectively submitted

Lawrence J Isaac

Retired April 12th 1986.- 32 years Service

NYC Transit Authority-Engineering Dept

From: Larry Konstan <larrykon6715@aol.com>
Sent: Saturday, January 7, 2023 4:46 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Proposed City Retiree Health Care Legislation

Dear Committee Members,

My name is Lawrence Konstan, retired from NYCHRA where my last position was Deputy Commissioner of the NYC Food Stamp Program.

I retired in 1998 and began receiving Medicare at age 65. For the last 15 years this medical coverage made it possible to see all my regular doctors without the possibility of waiting for approval when a procedure was required. It took the worry out of medical care.

I received this benefit after putting in 32 years with HRA, beginning as a caseworker and working my way up to management. As you know, salaries were never commensurate with those in the private world. But we stayed with the promise of a good pension and, more importantly, excellent health benefits. And we have received that promise from the City until now.

There are numerous ways to save City on city costs. As a member of the New York City Managerial Employees Association I request that you do not implement the anaged are Medical Plan until you meet with retiree representatives and let us demonstrate that this change in health coverage can be avoided.

Thank you very much

Lawrence I Konstan

From: Lawrence Zajac <llzajac@gmail.com>
Sent: Sunday, January 8, 2023 11:53 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Proposed Amendment 12-126

My wife has had problems with her digestive tract for nearly three years resulting in numerous and some lengthy hospitalizations, but it wasn't until we sought help at The Cleveland Clinic that stomach cancer was identified as a possible reason for her difficulties. Later scans by Sloan-Kettering determined her cancer had grown outside the stomach lining into her abdominal cavity, hence Stage 2 stomach cancer. I hate to think what stage of cancer she would be in now if we weren't able to seek out-of-state expertise. Local hospitals: Maimonides, Langone, and Mt. Sinai all failed to detect her poorly-differentiated cancer growth. A Medicare advantage plan would be more likely to deny extending benefits than traditional Medicare. For that reason, when given the option of retaining traditional Medicare and the GHI Senior Care plan, we elected to retain this service even if it meant additional expense on our parts. Now the NYCDOE with Mulgrew's blessing want to make it so that all retirees have to give up the service they were promised and enroll instead in an advantage plan. Please do not allow them to steamroll us into their plan.

TO ALL WHO ARE CONCERNED AND INVOLVED IN THIS TRAVESTY:

My husband retired from NYC USA **32 years ago**. Back in September, I wrote to the NYC Council on his behalf because he is unable to do it on his own because of his poor health. He is 76 years old. I implore you to please read his words below my signature sent in September! **It is time for Governor Hochul, Mayor Adams and the City Council to do what is right for their most vulnerable former employees!**

Their lives REST, in you hands!

Leanora Fleming

Spouse of Thomas Fleming, Retired NYC USA Member

"As I said, I worked for the City for 20 years. Throughout my years of service, I was diligent and dedicated. I strongly believe I earned and deserve the benefits awarded to me when I retired 32 years ago. **Changing the rules now to take away a benefit I earned is *unfair, unethical and against the tenants set by fair labor practices*. How will this personally affect me and my family is of the utmost importance!** It will mean that we will have to pay \$573 per month for myself, my wife and my adult disabled son. Imagine how that will affect my pension of 32 years ago, on a monthly basis? This is not what my retirement package promised, nor what was negotiated in good faith. We will also be confronted with the dilemma of determining whether my wife and son should remove themselves from my health care plan because my wife has her own plan and may lose her benefits if she switches to the Medicare Advantage through my plan. We will lose the ability to continue to enjoy having a thorough and effective way of taking care of our medical needs through the health plans (her's and mine) we were promised at retirement. **So, in essence, the city is forcing us to lose valuable coverage or an exorbitant amount of money that will**

not give us any more or an equivalent of what we have presently, anyway you examine it. Therefore, in my opinion, it will be unfair, unethical, and evil if this objective is achieved through the adoption of the proposed changes to NYC Administrative Code Section 12-126. I implore you to please: VOTE NO on the proposed changes. *‘The goal of better controlling the cost of healthcare benefits has it’s merits, but the pursuit of that goal should not fall directly and heavily upon retirees.* That our well-earned and justly awarded benefits are regarded as a burden on the City that must shed is reprehensible. We did what we were asked to earn what was offered. We deserve to be respected, to have the commitments made to us honored and to be left alone to enjoy what time we have left. I hope you, Governor Hochul, Mayor Adams and City Council choose to maintain the status quo of NYC Administrative Code Section 12-126 and not succumb to the corrupt union leaders who are throwing their former employees under the bus.’”

Thank You

From: Lee Robinson <leerobinson6767@gmail.com>
Sent: Sunday, January 8, 2023 11:02 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Admin code section 12-126

To whom It May Concern:

I want to state my opposition to amending NYC Admin Code 12-126.

As a NYC retiree having the Medicare Advantage Plan would be catastrophic. I have medical conditions (as most do at this age) and have doctors I have worked with for years. I cannot risk losing them.

We have been told that doctors in NYC accepting the Senior Plan have been consulted and will accept the Medicare Advantage Plan. My surgeon's office said they are not sure and my oncologist said she has not been consulted!

Also, it is unreasonable to have a plan where we have to wait up to two weeks for an insurance company to approve a doctor's request for a test. That protracts suffering and treatment that substantially slows the process for healing.

Living in Manhattan it is particularly important to preserve the medical relationships we have. It is extremely difficult to find new doctors that accept any plans let alone an Advantage plan.

Do not "save" money at the expense of Seniors. Lastly, in the original plan there was a provision to "opt out". That provision needs to be available.

Lee Robinson
Retiree
The New York Public Library

NYC, NY 10024

Sent from my iPhone

January 9, 2023

Honorable Speaker Adams, Chair De La Rosa, and Members of the City Council:

My name is Leela Fazio Fiorino. I reside at _____ in Douglas Manor, NY 11363. Council Member Paladino is my representative.

I am submitting this testimony via email because I was unable to attend today's hearing due to a medical condition.

As way of background, I am a FDNY Captain's daughter, born and raised in NYC. My father retired after working 44 years at FDNY and he was the reason I went into NYC government service. I started working for the City of New York in 1970 and served in every mayoral administration from John Lindsay to Mike Bloomberg. After working in the NYC Department of Finance from 1992 to 2012, I retired as the Director of Business and Community Outreach. It should be noted that, as a NYC manager, I was not represented by any union and I resent the fact that the unions (specifically the MLC) have decided they now have the right to take away my existing health insurance.

Just to make it perfectly clear: I absolutely oppose any change to 12-126, and I am respectfully asking the Council NOT to amend 12-126. Please do not allow yourselves to feel pressured into doing the Mayor's bidding.

In fact, I and my fellow retirees consider this threat to our existing health coverage to be a form of elder abuse. Aside from it being mean-spirited and cruel, it is arbitrary and capricious. Seniors face many stressful situations as they age. As a retired NYC manager, one thing I never thought I'd have to worry about is my health insurance coverage. I was always assured that the City would provide this one benefit - traditional Medicare as my primary insurance, with GHI (now known as Senior Care) as a secondary supplemental insurance. For this one benefit, I worked many 12 hour days with no overtime or comp time. I actually used to joke that if you consider how many hours I worked, I earned below the minimum wage.

I consider myself to be extremely aware of what is happening in our City. But I know many retired managers in their 80's living in Florida, New Mexico or the Carolinas, who still have no idea this is happening; many have dementia or Alzheimers; some don't even have a computer. I am a member of the NYC Organization of Public Service Retirees, and if it wasn't for this network, I would feel powerless, totally frightened and depressed at what I see unfolding. In fact, I view the City's attempt to strip away the health benefits from unsuspecting retirees as a truly disingenuous act by politicians and highly paid union leaders who obviously could care less about 250,000 retirees who will have their world implode if their health coverage is taken away from them. As it is, we now have

to deal with co payments we never had before and it is definitely affecting my household budget. I can't even imagine what it is doing to retirees who have a much lower pension than the one I am lucky to have.

Let's be clear: we are in this situation because of the misuse of the Health Stabilization Fund by the Municipal Labor Committee (MLC); they used this Fund to pay for the City teacher's raises, among other things. The MLC got away with this because there is no oversight or audits of this Fund. That should stop, asap!

Retirees have many ideas on how to save money but, unfortunately, neither the City or the MLC will sit down and speak with us. Why?? What is the agenda here??

Also, please do not be intimidated by the "arbitrator"; he has absolutely no legal standing and is merely a paid consultant for the City and the MLC.

Many aspects of this nefarious campaign by the City and the MLC are really disturbing, but of particular concern is the effect this proposed change in healthcare benefits will have on the retirees who live on pensions of \$20,000 or less. These retirees cannot afford to pay an extra \$191/month per person to retain their Medicare coverage, and they will have no choice but to accept an inferior Medicare Advantage Plan.

Bottom line: If the Council amends 12-126, it will be responsible for creating different classes of retirees with lesser health coverage, mostly affecting women and persons of color.

Section 12-126 of the Administrative Code has been in existence since the late 60's. Over the years, several Mayors have tried to amend the Code but, until now, the City Council has kept it in place. Please do the right thing and protect the retirees now. Thank you for listening to our testimony on this most important issue.

Leela Fazio – Fiorino

From: Leigh Fox <leighlfox@gmail.com>
Sent: Monday, January 9, 2023 1:41 PM
To: Testimony
Subject: [EXTERNAL] Do Not Amend Administrative Code 12-126

Hi,
I am writing to express my concern over the proposed amendment to Administrative Code 12-126. PLease protect city workers health insurance and do not amend this law.

Thank you,

Leigh Fox
Brooklyn Public Llibrary Employee
Brooklyn, NY 11230

From: Lani international <globalnewsphoto@yahoo.com>
Sent: Thursday, January 12, 2023 12:02 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Please protect Admin Code 12-126. Oppose proposed legislation to dump me into Medicare advantage.

Dear Honorable NYC City Council members:

I am a black female who fought the good fight and endured harassment and discrimination as a civilian in NYPD but stuck it out for a tiny pension and free health insurance for life. But unless you protect the promised free health insurance for life and my current plan by opposing Medicare Advantage "bait and switch", I will be further discriminated against.

I know how essential it is to have quality health care and insurance. I took leave from employment to care for two elderly aunts who passed at 105 and 101 respectively. So I returned to the NYC workforce after caring for my super senior citizens knowing that health and the promised free health insurance for life was more important than the low salary. I retired with free GHI Senior Care health insurance (no co pays), health issues and approximately \$13k pension each year. My rent after SCRIE is \$1,472.29.

Please don't inflict more pain physically or financially. Please vote "NO" to change Administrative Code 12-126. Thank you.

Respectfully,
Leilani Lewter

Brooklyn, NY 11229-3726

Sent from my iPhone

January 10, 2023

Honorable City Council Members:

My name is Lena Haber. I live in the Bronx and am a lifelong New York City resident. I was employed by the Department of Education for more than 40 years as a teacher and guidance counselor.

During my years of active service and as a retiree I have benefitted from a wonderful healthcare plan. Now I and 250,000 other retirees are threatened with being forced to accept a Medicare Advantage Plan. As a cancer survivor who is grateful to be here today, I know that my healthcare facilitated a seamless delivery of medical services. I DID NOT HAVE TO GET REFERRALS, MAKE COUNTLESS TELEPHONE CALLS TO SECURE APPOINTMENTS, OR DELAY VITAL SURGERIES AND TREATMENTS.

The proposed MAP is a seriously limited and inferior plan. The touted Silver Sneakers and 25 rides to a doctor are hardly commensurate with the choice to see any PHYSICIAN.

Please cast your vote TO MAINTAIN ADMINISTRATIVE CODE 12-126.

Thank you very much,

Lena H Haber
Bronx, NY 10463

Testimony of Leonard D. Polletta, Esq.
Before the New York City Council
Civil Service and Labor Committee
January 9, 2023

Dear Chairwoman DeLaRosa and Council members,

My name is Leonard Polletta. I am a retiree and former Assistant General Counsel of District Council 37, AFSCME, who spent 22 years as a lawyer representing thousands of union members and DC 37 in labor relations matters. Henry Garrido is a friend as are dozens of local union officers and Executive Board members.

I come to urge the Council to leave NYC Administrative Code section 12-126 as is. Changes to section 12-126 can only serve to hurt retirees and undermine their healthcare protections. Section 12-126 is the product of robust collective bargaining that took place over the 50 years ago, and should be left alone. Section 12-126 was passed when unions vigorously fought to extend the rights and benefits of healthcare to retirees. For decades it has served all city and public sector retirees by providing them with free healthcare, a benefit that chronically underpaid employees looked forward to at the end of their careers. Public retirees, especially lower paid retirees, spent their careers working under the promise that their healthcare would be guaranteed. They deserve to have that promise kept.

Please do not succumb to the claims that a change in section 12-126 is required by Judge Lyle Frank's decision or to save retirees' freedom of choice. No change in the law is required to preserve that choice. The city and the MLC have the right and the power to preserve existing healthcare choices and find ways to cut costs other than pushing retirees into a Medicare Advantage plan. As currently written, the proposed amendment will only change the city's obligation to pay the full cost of employees' healthcare, a matter unrelated to the retirees' issue.

The city cannot unilaterally change the healthcare of retirees without the consent of the unions. So, if the MLC wanted to negotiate a different scenario from that which retirees are confronting it could do so. But for the collective bargaining process to work there must be a genuine good faith effort from both the MLC and the city resolve the problem of exploding health care costs. Instead of working to negotiate a meaningful solution, the city and the MLC are asking the Council to collapse the city's obligation to provide healthcare by shifting the burden and the costs to the public retirees by moving them into a Medicare Advantage plan that will provide less care and cost retirees more out of pocket.

Martin Scheinman's letter announcing imposition of a single Medicare Advantage plan as of July 1, 2023 is simply a reflection of the parties desire. It has no legal affect. By the terms of the June 28, 2018 agreement, Martin Scheinman's authority expired on June 30, 2020.

According to that June 28, 2018 agreement between the city and the MLC there are eight suggested alternatives for healthcare cost savings only one of which mentions Medicare Advantage. So clearly, there are other unexplored avenues for the city and the MLC to take unrelated to imposition of a Medicare Advantage plan.

Rather than asking public sector retirees to pay more or get less health care in a Medicare Advantage plan, the Council should be demanding that city and the MLC focus on the cost cutting measures that can save the city and the unions money. The city has the capacity to use its clout with hospitals, doctors and drug companies to negotiate lower costs, and to work with the federal government and Medicare if they need help in doing so. The city could be working with the MLC, and the MLC should be advocating strenuously that hospital, doctor and drug costs be reduced directly at the source. We are all aware of the exorbitant costs being paid to hospital systems that in turn pay their executives multi-million-dollar salaries, or charge exorbitant fees.

We all know that hospitals and insurance companies are profiting enormously from our current health care system. We pay the highest prices for hospital care, doctors and drugs of any industrialized country in the world. And here in New York City, the largest city in the country, with a workforce of close to 400,000 employees the city government has enormous leverage to negotiate with hospitals and doctors to cut costs just like the federal government has done with traditional Medicare. And we have the possibility to institute a traditional Medicare system for all city employees that would cut the costs of healthcare dramatically. That is a better way to cut the city's healthcare costs and it can provide real benefits for all public sector employees.

I implore the Council to preserve the existing NYC Administrative Code section 12-126 that guarantees medical benefits for public sector retirees.

Testimony re: taking NYC worker's health care benefits away

Do not interfere with NYC worker's health care benefits. These public servants chose these vocations because it was their calling to be there for their fellow New Yorkers. They could have pursued another way to do so, but chose to work for the city because of the benefits that came with the job. If this is taken away, you disrespect these heroes that devoted their lives to the citizens of NYC and you will not have anyone to replace these heroes. These heroes LITERALLY gave their blood, sweat and tears AND LIVES for the citizens of NYC! It is disgusting that taking from them would be considered!

Leonard Decker

Testimony of Leonard Rodberg, PhD
before the NYC City Council Committee on Civil Service and Labor

January 9, 2023

I am Leonard Rodberg. I am Professor Emeritus of Urban Studies at Queens College/CUNY and Research Director of the NY Metro Chapter of Physicians for a National Health Program.

When the City and the MLC introduced their plan, 18 months ago, to move all their retirees to a Medicare Advantage plan, they claimed that the federal government would make up for the \$600 million cut in City spending on our healthcare. That statement was false. The City is currently contributing 20% of our healthcare costs; the federal subsidy to Medicare Advantage for the past few years has been just 4%, and this year it is reported to be just two percent (see Figure 1)

Further, in Medicare, federal money goes directly to doctors and hospitals. In Medicare Advantage, private insurers siphon off an average of 14% to pay for everything from the cost of staff to review requests from physicians to authorize tests and treatments for their patients, to profits for stockholders, to salaries for overpaid CEOs like Mark Bertolini of Aetna – the City’s chosen insurer – of [\\$27 million](#) last year. The result is that Medicare Advantage is inferior, cut-rate medicine, with 24% less money available to care for patients compared to real, traditional Medicare.

This cut of nearly a billion dollars will have real consequences: Less access to care. More illness. People will die so the City can save money, and insurers like Aetna can enjoy growing profits and paychecks.

The City should continue its practice of the last forty or more years and pay for coverage so all retirees can have high-quality Medicare coverage. My union, the PSC, has shown that the money is there, in reserves that are larger than ever, to keep the existing coverage while the City and the unions pursue real efforts to contain rising healthcare costs.

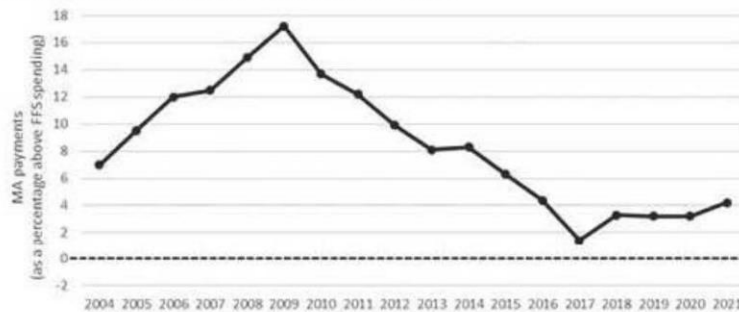
Speaker Adams and Chairperson De La Rosa, in the statement they issued last week, said that any plan “must include support for low-income retirees to truly access choice in their healthcare coverage,” Nothing I have seen so far does that, except for maintaining the existing access to traditional Medicare. That’s the promise that should be kept.

Thank you for the opportunity to present my views.

Figure 1

Originally a large federal subsidy for MA plans. Now it's about 4%.

Medicare has paid more to MA plans than FFS Medicare spending would have been for the same enrollees, 2004–2021

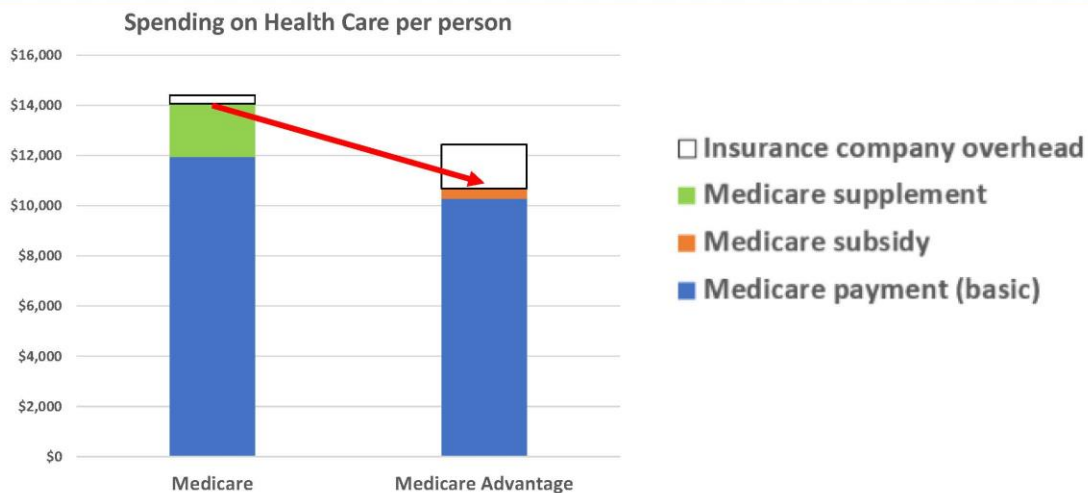


“In 2021, total Medicare payments to MA plans average an estimated 104 percent of FFS [traditional Medicare] spending” – Report to the Congress, Medicare Payment Advisory Commission (MedPAC)

Source: MedPAC. <http://www.medpac.gov/-blog-/for-the-record-medpac-s-response-to-ahip-s-recent-correcting-the-record-blog-post/2021/03/03/for-the-record-medpac-s-response-to-ahip-s-recent-correcting-the-record-blog-post>

Figure 2

Patients in Medicare Advantage receive 24% less care than in traditional Medicare



Source: https://www.pnhpnymetro.org/city_s_plan_will_reduce_retiree_health_care_by_24

Good Morning Members of the City Councils, Brother and Sister Retirees. My name is Leonard Yarde and I am a NYC Retiree. I am giving testimony against amending Administrative Code 12126 in any form which removes the guardrails of protections of health insurance for City Employees, Persons retired from city employment, and dependents of all the above mentioned.

The plan by the City of New York to force current and future Traditional Medicare recipients into a Medicare Advantage plan is shameful. A plan that comes with a built in disadvantage of placing profit over people. This is not what city employees were promised. The promise as stated in this sovereign code states 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. This ladies and gentleman is not an ambiguous statement, it is intentional and weaved within the fabric of city labor.

Furthermore, this issue has been adjudicated in the courts and successfully for at least two times. This attempt to circumvent and remove the protection of 12126 in any form is a blatant betrayal of trust and the promise made. This a defining moment in City Labor, health care and how we treat retirees. Retirees are not disposal garbage or pawns in a city political volley ball game. We were you and one day you will be us. Members of City Council , I solemnly hope and pray that one day you too will be retired. I hope 12126 will still be the promise made that is the promise kept.

Thank you so much for your time.
Leonard Yarde

From: Lesa Westerman <lesa_westerman@yahoo.com>
Sent: Sunday, January 8, 2023 10:39 AM
To: NYC Council Hearings; Testimony
Subject: [EXTERNAL] Proposed Amendment: 12-126

My name is Lesa Westerman. I am a retired teacher. I was employed for 30 years at a school in the East Village. I am providing a written statement in opposition of the bill to amend 12-126 of the NYC Administrative Code. The Medicare Advantage plans are inferior and would require prior authorizations that would delay necessary treatments/tests. As my husband and I age, my husband and I have developed new conditions that have required X-rays, MRI's and Cat Scans, and more. If the City Council amends the code, these treatments will be delayed which medical providers who are not even our doctors decide if these treatments are necessary or relevant. Many medical providers and hospitals do not accept MA plans. On top of this, doctors and hospitals are allowed to drop out of the Medicare Advantage plans each year, and many do so because of the harm to patients with prior authorizations which delay treatment.

I know I am not alone in these concerns. Many of these concerns have been voiced on social media sites like <http://www.nycretirees.org>, and the official teacher retiree Fb page. We are not unsympathetic to NYC attempting to achieve healthcare savings. This should, however, not be done on the backs of retirees. Continued research should be done to find different ways to cut costs and save money.

There is no rush for the City Council to push through an amendment to the Administrative Code. This body does not answer to the Municipal Labor Committee. There is no dispute for the arbitrator to resolve.

Please do not amend Section 12-126 of the New York City Administrative Code. Please allow the pending litigation against the City work its way through the courts, which will appropriately resolve many of the issues. It is so very important that these protections that the City Council put into place for City employees and retirees in the 1960's. This is not the time nor the place to amend code: 12-126.

As a NYC teacher and City employee, I never dreamed I would be rich but I always felt secure that I would have my pension and quality health care as I aged. Please do not diminish our Health Care. As we age, we more often require more, not less care.

Sincerely,
Les Westerman
Retired Teacher

New York, NY. 10009

[Sent from Yahoo Mail for iPad](#)

From: leslie freed <emifreed@icloud.com>
Sent: Monday, January 9, 2023 9:45 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Code 12-126

Please do not amend the code. Delays and denials can cause many unnecessary deaths! Thank you!
Sent from my iPad

Good day Carmen De La Rosa, Chair of the Committee on Civil Service and Labor. Thank you for allowing me to present on this critical issue.

Firstly, I am a CUNY retiree.

This action to change the code would remove benefits from those who in good faith took a position and started a career with the city. This unconscionable change begs the question "can you trust the city now or in the future to honor its employment commitment". I implore the city council to honor these contractual plans that we agreed to as active employees. **Seniors know all too well how to organize, vote and fight, so cross them at your own risk at the next election.**

The City has an obligation to cover retirees' health insurance costs, and SeniorCare has done it well, without premiums, co-pays, or prior authorizations. This proposed Administrative Code change undoes all of this. The code change also opens a door to future changes to the quality or cost of active employee health insurance.

When current retirees initially became city employees, they were contractually promised that they would be able to keep the medical coverage they initially chose once they retired. Private sector retirees for the most part, earned much more money than city worker retirees. Most importantly, private sector retirees

knowingly opted for the higher pay their jobs offered while forgoing medical coverage. I had the same choice to decide, city worker vs. a career in the private sector. Even with my master's degree, I still knowingly chose to become a city employee and earn less money because I knew that when one becomes a senior, the best quality medical coverage then becomes a necessity. My GHI Senior Care affords me this opportunity.

Buyer beware: potential city employees should be advised to take a job in the private sector where they can enjoy a higher salary and are protected from a politician's whims.

LESLIE WILLIAMS

From: Liliane Bronfman <lilibro305@gmail.com>
Sent: Sunday, January 8, 2023 7:49 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Maintaining Current Senior Care Health plan options for Retirees

I am writing to you as a Board of Education, having completed 33 years of service.
I am begging the City Council to keep the current health care option many of us have selected, as opposed to forcing us into a Medicare Advantage Plan which is inferior to what we currently have.
I was recently found to have a pancreatic problem which must be monitored closely.
Early detection, diagnosis and treatment is essential. Delays caused by needless and tedious pre-approval process by non-medical personnel would have caused greater complications to ensue. The fact that there was an early diagnosis was cost effective, decreasing the need for extensive and costly treatment options.

I hope you will honor the promises made to retirees. I worked in a profession that I loved, accompanied by the promise and assurance that in my retirement I would continue to have excellent health coverage.

Please keep Admin Code 12-126. Do not amend it.

Thank you in advance

Liliane Bronfman

From: Linda Marschner <853ldm1945@gmail.com>
Sent: Sunday, January 8, 2023 4:20 PM
To: NYC Council Hearings
Subject: [EXTERNAL] ADMINISTRATIVE CODE 12-126

8 January 2023

To: The New York City Council

From: Linda D. Marschner (Miss)

Dear Council Members:

I am a Cultural Institutions retiree for some 16 years, and living out of N.Y.State (wrong move but that's another story). I do not know where to begin but this writing is to PLEA with you to not amend Administrative code 12-126 but to put into place changes of operations that wouldn't allow the depletion of funds and to have withdrawn monies used for non healthcare purposes paid back (with interest).

My greatest fear is that senior health insurance coverage will be totally eliminated due to one word being changed from its plural form to a single form. I am referring to:

§ 12-126 Health insurance coverage for city employees, persons retired from city employment, and dependents of such employees and retirees.

- a. Definitions. As used in this section, the following terms shall have the meaning hereinafter stated:
 - iv. "Health insurance coverage. "A program of hospital-surgical-medical benefits to be provided by health and hospitalization insurance contracts entered into between the city and companies providing such health and hospitalization insurance."

Yes, the word CONTRACTS being changed to CONTRACT.

I was appalled to learn that in 2014 the UFT (United Federation of Teachers) was allowed to withdraw 101 BILLION DOLLARS for the funding of raises for their members without provision for refunding these monies. For a combined total of 40 years, I was employed between two cultural institutions and they certainly knew what it was to need "much needed raises" but our administrators had to make cuts wherever they found necessary in order to survive financial crisis after crisis.

Medicare Advantage plans are not very popular here in Arizona. When the New York City Medicare Advantage Plan was first forced on retirees; I say forces for if we wanted to keep GHI Senior Care, our out-of-pocket cost, that would come out of our pension checks, would be between \$191.00-\$192.00/month). Plus, because of this Advantage Plan, a \$15.00 or more co-payment was tacked on and, as one GHI Customer Care Representative told me, "it was to make the Advantage Plan look more desirable."

As it now stands, I have to cancel medical appointments because of not knowing what plan I will have, or even if whatever I have will be accepted, and scheduled Immunotherapy because they will be weekly injections at \$15.00 co-payment/injection/week for 6-12 months.

It is not easy finding excellent healthcare when living in a small, rural town, so, I now trek to Flagstaff (Northern Arizona Healthcare) for my various appointments. Under my current health insurance coverage, the medical staff doesn't have to spend hours on the phone with an insurance company practically begging to have a procedure or test being approved. It's a waste of the medical staff's time and talents. On a side note, the cardiologist requested a heart monitor. When I went to check-out, the scheduler first said that she would have to call my insurance for approval but then after seeing my insurance coverage, she said, "Oh, I don't have to call them, they will approve the heart monitor."

For your information, most of us have pensions that do not give COLA increases, annual or otherwise. Therefore, the only COLA increases we retirees receive is from Social Security, whereupon, in most cases, our Medicare monthly payments are increased. But do you know that in some areas of the country, rent increases are based on Social Security COLA increases? I'm currently living in a 55+ mobile home park where the State of Arizona has now put mobile home parks under their housing department; we can legally have 10% rent increases every year; believe me, we get a rent increase every year for the DIRT our homes rest on. I have senior family members renting their housing in Connecticut and New Jersey and their rent increases every time Social Security is increased.

I urge you and the N.Y. City Council to consider NOT amending Administrative Code 12-126 but to, instead, reorganize how the HSF is administered. Some suggestions are by setting up HSF as a trust fund, having a committee consisting of bi-partisan individuals not affiliated with a union of any kind and a representative from each union representing the cities retirees, who could police the expenditure of this fund; reimbursement of past monies taken for non-healthcare purposes and making sure this NEVER happens again; monies from the Federal Government covering healthcare be put into this proposed trust fund and that all covered under this trust receive an annual report as is done by pension funds.

Again, please keep intact Administrative Code 12-126.

Sincerely yours,

Linda

LINDA D MARSCHNER

CHINO VALLEY, AZ 86323-5994

Brooklyn Botanic Garden Retiree

From: Linda Stone <lindajoy24@yahoo.com>
Sent: Friday, January 6, 2023 8:14 PM
To: NYC Council Hearings
Subject: [EXTERNAL] NYC workers & Retirees

Please, leave our medical coverage alone!

I started working for the city in 1984. I'm now retired on disability.

I need desperately to have my original Medicare and my GHI/Emblem Health!!!

Please it's impossible to take it away from us now after it was promised to us.

I truly don't understand how it could be said that the funds have run out!

I am begging you not to make our lives harder than what they already are. I am only asking for what we were promised!

Please do not go back on your word!

Yours truly,
Linda Stone

Brooklyn, NY

From: LINDA WOOLVERTON <lwoolverto@aol.com>
Sent: Saturday, January 7, 2023 11:54 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Proposed city retiree health care legislation

I retired from the Department of Education in 2017 after 23 years of city service. I am also a cancer survivor and have several ongoing chronic medical conditions.

In 2007 when I was diagnosed with breast cancer, multiple diagnostic tests were required. Each scan required pre authorization and sometimes the doctor had to go back and forth with the insurer to get approval. It appeared that the process was designed to prevent tests as the guidelines were not transparent. It took 3 months before all the tests were done and surgery was approved. By that time I had an aggressive stage 3c cancer that had spread to many lymph nodes. Months of chemo, radiation and other treatments were required. Treatment could have started much sooner and maybe the condition would have been less serious(and less costly) if not for the delays caused by preauthorizations.

Since I have been on Medicare, every doctor I've seen has accepted Medicare and my GHI Senior care plan. Not one of my treatments was delayed for pre authorization. The doctors are familiar with Medicare guidelines and stay within them. When the doctor orders scans and treatments, I do not have to wait for someone else to say it's OK. Several of my physicians have made it clear that they do not accept Medicare Advantage plans. In my discussions with them, they have pointed out that the pre authorization process can be quite onerous resulting in delays and sometimes denial of treatment.

In addition, I can travel outside of the city and still be confident that I can get covered medical care when I need it; something that is not necessarily true with Medicare Advantage.

I believe that any Medicare Advantage plan will result in a diminution of my benefits impacting my treatment options and possibly my health. I trusted that I would be able to continue my Medicare and Senior Care coverage as the premium free option. I am appalled that the unions would so readily change the plan and fight so hard against the retirees, the same people who paid their dues for so many years to earn these benefits.

Please vote to protect our benefits and prevent the unions from harming us to achieve raises and benefits for active employees. They no longer represent us and they see us as a burden.

Thank you for your consideration
Sincerely,
Linda Woolverton

Staten Island, NY. 10301

I
Sent from my iPad. Linda Woolverton

From: Lindsay Allanbrook <lindsay.allanbrook@gmail.com>
Sent: Tuesday, January 10, 2023 8:32 PM
To: Testimony
Subject: [EXTERNAL] Testimony

As a public school teacher, I am appalled that NYC officials and my union, the UFT, are attempting to strip the retirees of this city of the healthcare that they worked for as city employees. Choosing to work for NYC should be rewarded with what was promised—the same healthcare coverage that we have as current workers. That was the deal. It's used as a recruitment tool—that when you work long and hard for this city, you'll be taken care of. That when you retire, you will keep the healthcare you received when you became a city employee; the city's healthcare coverage gives city workers stability that should continue into retirement.

Stripping those who worked long and hard for this city—from teachers, to firemen to DC 37 workers—of their long-promised healthcare coverage is shameful. Medicare coverage is national healthcare that all people over 65 enjoy. Privatizing the healthcare of seniors will lead to unwanted health outcomes and ultimately will not save the city money.

As a teacher who is still working, I also know that once this administrative code, 12-126, is amended, active teacher's health benefits (as well as all city workers') will begin to be chipped away. The door will be opened for weakening of our healthcare and benefits. There will always be those in power who will work to dismantle the NYC workers' health coverage, (unless we stand up and fight back...)

As your constituent, I want you to stand with our New York City retirees in opposing changes to the City's **administrative code 12-126**.

Sincerely,
Lindsay Allanbrook

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Check out my class Amazon wish list! (Items can be purchased from non Amazon vendors as well!)
https://www.amazon.com/hz/wishlist/ls/2M1IETIN98DPR?ref_=wl_share



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<fellini49@icloud.com>

Date: January 10, 2023 at
12:16:32 PM EST

To: Lisa

<cinephile49@gmail.com>

Subject: Lisa Flanzraich
CUNY Retiree

DO NOT AMEND ADMINISTRATIVE
CODE 12-126

Lisa Flanzraich CUNY Retiree
_el_0909.jpg

Flushing NY 11367

Dear Councilmembers,
The provisions of Section
12-126 have been in place
since 1967 to guarantee that
active and retired city
employees alike, as well as
their dependents, receive
quality health insurance
coverage at low to no cost.
12-126 protects both
retirees and actives health

I was honored to teach in the NYC Public School system for over 25 years, and retired seven years ago, partially because my husband was very sick and I wanted to devote more time to him. (Unfortunately, he passed away last year.) When I decided to teach, I knew I was not going to get rich doing so, but I decided that the benefits of premium-free health care made up for the higher salaries many of my fellow NYU graduates would be making.

Now however, I am hearing that this premium-free health insurance is being threatened. I am not knowledgeable enough to know who to believe, as I am hearing different stories from Michael Mulgrew as well as some other non-UNITY caucus groups. Personally, I don't know who to believe. I only know that I strongly object to the proposed change to the Administrative Code Section 12-126 enabling the City to make Medicare Advantage the only premium-free retiree plan. The current Medicare/Senior Care plan will then cost at least \$200 a month per person. Changing Section 12-126 of the Administrative Code will seriously undermine the healthcare protections for all City workers. It will allow the City to renegotiate the rate for everyone and place employees into different "classes" with reduced benefits eliminating the protections and equal treatment regarding health benefits that current and retired employees have now.

I oppose the Administration's planned reductions in health coverage through the privatization of Medicare for retirees as the City seeks to weaken the protections for all City workers in the Administrative Code. The City has alternatives for managing rising health care costs. Instead of amending the Administrative Code, the City could use its purchasing power to go after hospitals for exorbitant charges, address the skyrocketing costs of prescription drugs, and audit current insurance providers. The burden should not fall on current workers, retirees, and their dependents.

Retirees want you to know the Scheinman report is NOT a "ruling", it's an opinion and IS NOT BINDING! It's paid propaganda and they're hoping the city council falls for it . . . it is not a decision, it is not a ruling, it is not an award!! The retirees have identified at least \$300 million in cost savings that offer an alternative solution for the city worker and retiree healthcare impasse. The Office of Management and Budget (OMB) knows about some of these savings options, and has NOT implemented them NOR informed the city council... and OMB is unaware of others!

Which is worse? HOW CAN THE MAYOR OR THE COUNCIL MAKE A DECISION IF THEY ARE NOT BEING PROPERLY INFORMED BY OMB? DO NOT MAKE ANY CHANGES TO THE ADMINISTRATIVE CODE UNTIL ALL OPTIONS ARE EXPLORED! Please reach out to the NYC Organization of Public Service Retirees for real facts! The MLC doesn't want you to know they sold off ALL of our healthcare for raises! Yes, that includes you!

Please remember this as we go into the New Year. *Admin code 12-126 is what gives us choice and ensures we all have premium-free healthcare. Changing the code eliminates the choices and protections we've enjoyed for over 55 years.*

Happy New Year AND DO NOT AMEND THE ADMINISTRATIVE CODE 12-126!

Yours respectfully—
Lisa Joffe

Subject: Proposal to amend administrative code to facilitate moving city retirees to a Medicare Advantage plan

Submitted by Lisa Siegman, NYC retiree

Things that are commonly known:

- Under the current economic, social, and political conditions, aging is difficult. The persistence of COVID and the changes it has brought worsen this situation.
- Access to consistently good healthcare has a major impact on both quality of life and productiveness. This is especially true for seniors.
- Many NYC retirees have devoted years to serving the public good. This often involved a range of personal sacrifices. Pensions are very variable, as are retirees' economic resources.
- Reneging on agreements, while sometimes inevitable, destroys trust and should be avoided if at all possible. Doing this at a time when there are shortages in many public service jobs is an especially dubious action.
- The pandemic has seriously impacted NYC's economic situation in ways that will require creative accommodations from its residents, its employees, and city beneficiaries, including retirees.

Things that are in question:

- How did we arrive at this point?
- Which of the competing claims and counterclaims are actually true?
- What are the various municipal workers' unions' vested interests in the various possible solutions?
- What will be the overall impact of privatizing a public program, which is what the switch from Medicare to Medicare Advantage does?
 - How will it impact retirees access to health care, especially given the recent investigations about fraud and denial of care in Medicare Advantage programs?
 - Is it possible to create a program that will actually deliver equivalent benefits, both now and in the future?
 - How will this change impact current NYC employees?
 - What will be its impact on healthcare providers?
 - What message does it send regarding universal access to healthcare?

Important questions for the City Council:

- Is this the only solution to relieve the current tension between economic necessity and public well-being or are there other, more equitable solutions?
- What role do the City Council members choose to play in resolving this?

TESTIMONY from:

Lisa Y. Rubin

NYC, NY 10011 (Council District 3, CM Bottcher)

To:

NYC Council Committee on Civil Service & Labor

City Council Member Carmen De La Rosa, Chair

**Committee Hearing: Re; Int. No.874-2023 (Amending S. 12-126 of
the NYC Administrative Code on health insurance for NYC
Retirees, Employees and their Dependents)**

WHY I OPPOSE THIS LEGISLATION

January 9, 2023

Good Afternoon, Madam Speaker, Madam Deputy Speaker, Madam
Chair and Distinguished Members of the Committee, including my
Council Member, Erik Bottcher.

My name is Lisa Young Rubin. I am a retiree from the New York
City Council, and I reside in Manhattan. I submit my testimony in
opposition to the above-referred legislation. This bill calls for the

‘amending’ of the health insurance that is now available to the above-referenced groups.

However, this bill - if enacted into law - would harm the members of these groups by impeding their access to their necessary health care services. These barriers to accessing their health care through their insurance could also end up costing the City, State and Federal governments more money. This is so because consumers facing barriers to using their insurance for their health care would be more likely to use costlier emergency room and/or Medicaid-financed care.

I would like to note that in addition to these increased risks and costs, the dangers of this proposed legislation are personal to me. Just this afternoon, I had to go for a pre-surgical medical appointment after my physician said that she will have to conduct various tests and procedures - including a biopsy under general anesthesia at the hospital – to confirm or rule out a diagnosis. My physician explained to me that the sooner these tests and procedures could occur, the lesser risk I would be for harm, including death.

While I am grateful that I currently have the health insurance needed to see my doctor and follow up on her advice on a timely basis, I fear the risks I would face to my health and my life if this insurance were to be gutted by the City Council, acting without any apparent care, “at the request of the Mayor.”

As it emerged during a similar proposal by the current Mayor and his predecessor, managed care, including Medicare Advantage Programs (MAPs) could result in a health care consumer losing access to his, her or their health care provider(s), should the provider(s) decline to join the MAP network. Additionally, the consumer could face health risks – including risks to the consumer’s life – due to delays in getting preauthorization for medical visits, tests and medical procedures.

If I was financially confined to the use of the MAP, there is no guarantee that I would have obtained medical advice and/or treatment with the same physician who has been following me for years – as there is no guarantee that she would have joined or remained in the network. Additionally, and even if she were to join, we could – as was revealed in the course of the previous proposal - be waiting up to at least 14 days for

preauthorization for the tests and procedures that my physician had ordered. So by voting to approve legislation that would financially coerce me to join a MAP, you would potentially be putting my life or health at risk.

One of the many principles derived from the now vanquished *Roe v. Wade* is that medical decisions should be based only on private discussions between a health care consumer and that consumer's physician. By adding the presence of a for-profit insurance company with veto power into these discussions, however, the City Council would be violating this cherished principle – and at the risk of the health and lives of City Retirees and Employees.

Therefore, I urge that you vote “No” on this bill, review the proposed budgetary savings put forth by the New York City Organization of Public Service Retirees and be more reflective before you pursue any similar legislation. Thank you.

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My name is Lizette Colón. I am a Counselor at Hostos Community College CUNY and a member of the Professional Staff Congress, American Federation of Teachers Local 2334.

First of all, I want to thank every single organization that has taken the time to educate and organize us citywide regarding this fight, especially the NYC Organization for Public Service Retirees, the Cross Union Retirees Committee (CROC), COMRO, and the Physicians for a National Health Program (PNHP).

I come today to urge the City Council to **VOTE NO to amend Administrative Code 12-126.**

I would like to take this opportunity to publicly share my outrage for all the mistreatment and distress that our NYC retirees have been subjected to for the past year and a half, by the City representatives, elected officials and top MLC unions leaders avoiding to look for real and long term solutions to this issue.

Through these past months I have learned many painful truths:

- The unfair unbalanced power of the municipal labor council (MLC).
- The misuse of the Health Stabilization Fund to pay off a bad deal behind closed doors between Mayor De Blasio and the top 4 leaders of the Municipal Labor Council (MLC) Mulgrew, Garrido, Nespoli, and Floyd.
- The terrible proposed solution of putting all of us into a Medicare Advantage Plan that is neither Medicare nor is an Advantage but rather inferior option to “save money”.
- Outrage knowing that by the proposed switch to Medicare Advantage the City is not making any significant savings but rather just affecting retirees.
- Outrage to know that thousands of NYC union retirees, with low pensions, will not be able to afford the opt out option and will end up with only access to an inferior privatized medical plan.

As a result, I just feel:

- Outraged by the lack of information and education outreach efforts in our communities, about the facts behind what has brought us here and to this point.
- Outraged for all the times in which we have been gaslighted in this process.
- Outraged from observing, as well as witnessing city officials, elected officials and ‘so-called union leaders’ on how they twist information to protect their own interests and not the ones of the people or members they represent.
- Outrage to see that while sound alternatives have been shared with all of you as decision makers, you keep asking us to “keep sharing more possible alternatives”

and saying meeting after meeting that “ we cannot tell you our positions as we are still considering them.”

None of us in this chamber today need to remind you that you all represent us , your constituents. The ones who elected you. Meeting after meeting, email after email, phone call after phone call, we have reiterated what we need and that we do not want so-called “choices of plan” through inferior Medicare Advantage Plans. All that while our Mayor has kept pounding the need for ‘austerity measures’ narrative when our city has the money. [There are sound and viable alternatives](#). My union, the PSC, has shown that the money is there, in reserves that are larger than ever, to keep the existing coverage. I urge you to consider the PSC’s proposal pursuing real efforts to contain rising healthcare costs.

So for God’s sake, please listen and honor what we, as city workers and retirees, have been saying since this battle started 18 months ago: we have served our beloved city well, despite working under the eternal narrative of austerity measures. We knew that at least when we would retire we would have the promised healthcare benefits . What we perfectly understand now is that the administrative code 12-126 has protected our healthcare benefits since 1967. There is no need to change it.

So do not delay your decision. Do the right thing : Vote No to any proposed amendment to code 12-126. Stand up with the retirees!

On a personal note, as a Puerto Rican , It is painful and pathetic that this devastating bill to Amend the Administrative Code 12-126 is being co-sponsored by two Elected Latina Council Members: Council Member De La Rosa (representing Washington Heights) and Diana Ayala(representing El Barrio) affecting the majority of their constituents, amongst the most vulnerable in the city. All that under the request of a so-called Democrat, African American Mayor, Eric Adams, who during his campaign, correctly called Medicare Advantage a “bait-and-switch.” Now that he is under the influence of insurance company lobbyists, he is using that bait-and-switch to take away hard-earned and hard-won medical benefits from retired civil servants who have supported the labor movement their entire working and retired lives. Furthermore, he is using it as an awful leverage tactic to hold hostage our upcoming bargaining contracts negotiations. Despicable!

January 9th , 2022

NYC City Council Civil Service and Labor Committee Public Hearing

Lizette Colón

NY NY 10001

lizettecolon711@gmail.com

From: Lloyd Balch <balch.lloyd@gmail.com>
Sent: Thursday, January 12, 2023 8:15 PM
To: NYC Council Hearings; District5; Speaker Adams; District10; Office of Council Member Powers
Subject: [EXTERNAL] Testimony for Proposed City Retiree Health Care Legislation

Dear Speaker Adams, City Council Members De La Rosa, Menin and Powers,

I am a constituent of City Council Member Julie Menin. I am writing to you to ask you NOT to amend the City Administrative Code 12-126.

I watched the hearing on Monday, January 9 and it is my understanding that the “arbitrator” is a consultant hired by the City and his opinion has no legal standing. The City Council does not need to amend the Code at this time.

Voting to amend the city code is NOT a vote for choice. It creates two-tier health coverage for retirees: those that can afford the medi-gap supplement (GHI Senior Care) to go along with traditional Medicare, and those who cannot (who will be forced to take the substandard Medicare Advantage).

Please do NOT amend the City Administrative Code. Allow the NYC retirees to continue their legal battle in court. Don’t weaken the legal options of the retirees. If they should lose any further legal processes, the City Council can always go back and look into other options.

If health care for NYC public retirees needs to be examined, I urge you to create a commission that includes NYC retirees along with other stakeholders to make recommendations to the NY City Council.

For myself, I depend on being able to use traditional Medicare to receive medical scans when I need them without the fear of “prior authorization” to deny me access to tests. My expensive doctors take Medicare. Recent articles in the New York Times have concluded that Medicare Advantage is a scam that sends public money to private insurance companies. New York is a progressive city with progressive leaders. Please don’t give away our care to a private health insurance scam. Please do NOT amend the City Administrative Code 12-126.

Thank you for your time.

Sincerely,
Lloyd Balch

From: Lois Schwartz <lo612@icloud.com>
Sent: Saturday, January 7, 2023 5:49 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Don't Change Administrative Code 12-126

Dear Council Members,

My name is Lois Schwartz. I strongly oppose any changes to administrative code 12-126. The Sheinman report is nothing more than an opinion. It is not binding. I belong to the Organization of Public Service Retirees. Check them out. They know all the facts and the truth and lies the MLC, UFT and DC37 are lying to its members concerning 12-126. I want to keep my premium free traditional Medicare with GHI/Senior that was promised to me. If you amend the code it will open the door to disaster for retirees. It will create a two tier system for the haves and have nots. We will end up having to pay for what we worked decades for premium free healthcare. Many retirees including myself would be forced into a Medicare Advantage Plan because we cannot afford to pay for what we now have. MAP is nothing like what we have. We can end up losing our Drs., having tests and procedures denied. With traditional Medicare we don't have to worry. As we age we need more care. We see more Drs. Being denied treatments can mean a matter of life and death. Please do not change 12-126 and leave it as it is.

Respectfully yours,
Lois Schwartz
Retired 2014
NYC Department of Education
DC37

Sent from my iPhone
Sent from my iPhone

We wonder if you hear us and if you do, WHY DO YOU THINK WE ARE ENDURING THIS CHAOS ON A COLD Monday in January 2023?

I am an 80 year old retiree and a member of the Professional Staff Congress, the CUNY faculty and staff union.

I think the healthcare that I have right now is EXCELLENT. Please do not force me into a Medicare Advantage plan which in all likelihood will restrict my health care coverage.

Vote NO on the changes to administrative code 12-126 which would violate the longstanding promise of premium free health care the city has made to retirees.

Amending the code would have impacts far beyond retirees – this change will open the door to cuts to city worker health insurance in future rounds of bargaining without addressing the underlying issue of rising health care costs.

I urge you not to betray the City's promise to retirees. Vote no on the Administrative Code change and urge the Mayor to go back to the bargaining table and find a better solution.

Lolly McIver

From: Lori Rudolph ljrudy5@aol.com
Subject: Medicare for City retirees
Date: Jan 4, 2023 at 7:46:12 AM
To: SpeakerAdams@council.nyc.gov

Dear Speaker Adams

I read in the Daily News this morning that the council will be considering legislation to roll back a local law allowing Mayor Adams push to enroll the municipal government's into the Medicare Advantage plan.

My husband and I are getting ready to enroll in Medicare and the fact that we will be saddled with Medicare Advantage plan, and will have to pay \$191/mo to opt out is both scary and unfair. My husband worked 34 years for the City and was promised with premium-free health care for life. I don't think you have to "investigate" whether the Medicare Advantage plan is an inferior plan; just the fact that it will save the City \$600 million should tell you all you need to know. Nothing "cheaper" is "better".

Some friends who have this plan were told Sloan Kettering does not accept it, as well as many of their former doctors. Aren't the workers who spent their lives helping the City entitled to a quality plan and a fair deal. We aren't talking about a really high end plan, we are talking about straight Medicare.

I pray you and the city council respect the retired municipal workers, on whose backs this city was built and was kept running during its darkest periods, and do not roll back laws. Haven't we had enough of rolling back laws with abortion?

Be an example of government "keeping their promise".

Respectfully
Lori Rudolph

From: Luvlibrary <luvlibrary@aol.com>
Sent: Friday, January 6, 2023 11:00 AM
To: Testimony
Subject: [EXTERNAL] Save our choices!

My name is Lorraine Pearson, a retired NYC educator who is now anticipating the use of excellent health benefits that Medicare provides for us in our years of need. It seems totally dishonorable that the City Council could even consider the elimination of our promised access to Medicare after having this plan in place since 1967. Please, in all good conscience, vote NO to amend Administrative Code 12-126.

We'll all sleep better if you do.

Sincerely yours,
A Servant of NYC

Attn: NYC City Council

To Whom It May Concern:

Why must the employees of NYC always be asked to relinquish their rights and privileges, when those who have so much are asked to relinquish relatively nothing (doctors, hospital administrators and the insurance companies) The working people of this city should have health care improved at lower cost to the employee, instead of lining the pockets of those who already have too much.

Loula Nacinovich

My name is Lourdes Gutierrez Molina, I support keeping 12-126 intact while we continue to negotiate for quality healthcare, and savings. 12-126 ensures an equal subsidy for all city employees and has done so for over half a century, no matter the vicissitudes of city finances and has done so by a defined price threshold set in a city law. If insurance costs less than the threshold we are covered. If it's more than the threshold, we pay the difference. Changing the code allows the city to reduce this threshold. Keeping 12-126 allows the most vulnerable among us to remain in publicly run Medicare and doesn't force anyone into the private, regional, for-profit Medicare Advantage ecosystem.

I have been an in-service Math Educator from the NYC Department of Education for 9 years. My union's (the UFT) attempts to lobby the city council to change the administrative code comes from the top leadership, not the rank-and-file working members or retirees. At no point have we had a vote or any say in the decision.

In addition to having the security of a strong healthcare safety net through traditional government managed Medicare, I also support the concept of traditional Medicare as one of the few public options available, unfortunately, only to retirees. Medicare is a government run program like social security and is supported by taxes we pay into both plans throughout our lives. Medicare has much lower administrative costs compared to private plans and a professional civil servant unionized workforce that can focus on addressing the needs of patients. Medicare sets standards of payments to control costs.

The advantages of Medicare for higher efficiency and control over rising costs should be extended to all Americans. Medicare is one of the best ways to control runaway healthcare costs.

Medicare Advantage plans are privately owned and managed profit-making operations, with much higher administrative costs than Medicare and with shareholder value being of higher value than patient care. We see expensive and extensive advertising with highly paid spokespeople for these plans and exorbitant executive salaries, dividends, and stock buybacks, often at the expense of patient care through denial of certain procedures and creating delays in gaining access to some procedures. Add the massive cost of lobbying politicians and even union leaders.

Recently, the mainstream press, led by the New York Times, has taken up the cudgel of exposing Medicare Advantage plans. The City Council is urged to reject all attempts to expand privatized Medicare Advantage plans and shrink highly successful traditional Medicare. I ask if this bill is passed to please vote NO to amend 12-126.

Lourdes Gutierrez Molina
1/11/2023

LUCIA CARCIU testimony regarding ADMINISTRATIVE CODE 12-126

I am Lucia Carciu: I worked for NYCHA 31 years 4 months 17 days: **half of my life.**

Upon hiring we were **guaranteed** due to ADMINISTRATIVE CODE 12-126 that we will get our health insurance carried with us in retirement.

This determined us to work for the city for a much less salary than in private industry. Fast forward and now when the City of NY does not need us anymore, the city is looking into depriving us of our health insurance. If breaking the contract did not work in the court of law, the city relentless and innovative ways to cheat us continue by attempting to go even further and get rid of the ADMINISTRATIVE CODE 12-126 which will allow the city to not have any contractual obligations to us, to current and future employees and retirees. Once ADMINISTRATIVE CODE 12-126 ceases to exist, **all will suffer**: retirees and employees: the city will have no obligation to offer any health insurance.

When you even remotely entertain the idea of destroying this provision think about your future and your retirement too.

The mayor promised during elections to not touch the health insurance of the retirees. Now that he's got the votes, he does not care to keep the promises he made for those votes. I feel lied to, cheated and I am angry and disappointed seeing how the city that fights for illegal immigrants does everything it can to destroy its own citizens.

Please do not destroy your old that served this City with honor.

From: Romero Lucia <LRomero9@schools.nyc.gov>
Sent: Tuesday, January 10, 2023 8:12 AM
To: NYC Council Hearings
Subject: NO TO AMENDING CODE 12-126

No to AMENDING CODE 12-126!
Lucia Romero- DOE PARAPROFESSIONAL

I am an 82 year old retired NYPD police officer. I had a stroke in March of 2022, and previously had a massive heart attack, 4 weeks in coma, and 3 months at Brain Injury Rehab. We are living in NC our doctors and hospitals will NOT ACCEPT a Medicare Advantage Plan. Changing or revising Code 12-126 will give the City the power to change our health insurance....literally, signing our death certificates. We cannot afford to purchase a private supplemental policy on the small pension I receive. My wife is a 2 time survivor of cancer and 3 major spinal surgeries. I remained a police officer turning down more lucrative jobs with higher salaries because of the benefits promised to us upon retirement for life Now the UFT, MLC AND Mayor Adams have connived and spread lies and false information to the City Council, active employees, news media, and retirees. They have used scare tactics, putting the elderly under high anxiety levels adding to their medical problems. We are the people who served the City in many capacities, teachers, firemen, police, school crossing guards, janitors, lunchroom servers. Lastly, first responders on 9/11. When you called, we served and now NYC wants to kick us to the curb.

-Luigi Scagnelli

From: LUZ ADRIANA PINEDA <adrianapin@aol.com>
Sent: Tuesday, January 10, 2023 8:57 AM
To: NYC Council Hearings
Subject: [EXTERNAL] NO TO AMENDING CODE 12-126!!!

NO TO AMENDING CODE 12-126!!!

Luz A Pineda

From: Luz Pineda <luzpineda.laguardia@gmail.com>
Sent: Tuesday, January 10, 2023 9:02 AM
To: NYC Council Hearings
Subject: [EXTERNAL] NO TO AMENDING CODE 12-126!!!

NO TO AMENDING CODE 12-126!!!

LuzPineda.LaGuardia

From: Luz Pineda <luzpineda.queens@gmail.com>
Sent: Tuesday, January 10, 2023 9:02 AM
To: NYC Council Hearings
Subject: [EXTERNAL] NO TO AMENDING CODE 12-126!!!

NO TO AMENDING CODE 12-126!!!

LuzPineda.Queens

From: Lyda Zissimatos <lydanplato@aol.com>
Sent: Tuesday, January 3, 2023 12:29 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Health Coverage

Please keep our health insurance as is. As city educators we worked hard and paid for it. At this time being retired and older, insurance is more important than ever. This w coverage was promised to us. Please support us. Thanks. Lyda Zissimatos Sent from my iPhone

From: Lydia Howrilka <lydia.howrilka@gmail.com>
Sent: Monday, January 9, 2023 7:02 PM
Subject: [EXTERNAL] PROTECTING Admin Code 12-126 PROTECTS RETIREES

The City Council is being threatened that if they don't amend the statute to force retirees into the Medicare Advantage, the Mayor will do that on his own. Amending the statute does the same thing! Why should the City Council amend the law if the Mayor will do this anyway? Why do his dirty work? Let the Mayor take the political hit for hurting retirees and remove City Council Members from the ire of retirees and constituents in their next election. If the Mayor does this act, the Retirees will be able to challenge and win this in court where we have been successful because the City has violated the law and this is his way around it.

If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing us from winning this in Court. Don't prevent us from winning again in court. We served our time as employees and have a right to enjoy our time as retirees with proper care that we earned and paid for.

Don't buy the Big Lie. Don't amend the Code, protect it like every City Council before you has against a greedy Mayor. Protect 12-126. Scheinman has no jurisdiction over the City Council nor the Retirees.

We request that you do NOT support the bill being introduced on January 9th by Civil Service and Labor Chair DeLaRosa.

Thank you for protecting us from financial peril and losing our healthcare.

Lydia Howrilka, former UFT member of the NYC Department of Education, 10 years of service

VOTE NO TO AMEND 12-126

My name is Lynn Bender Max. I am a NYC Retiree and I am urging you to vote NO to amend 12-126 of the Administrative Code. I am fortunate to be represented by the extraordinary Council Member Gale Brewer who “is a supporter of Retirees who are concerned about maintaining their current health providers and not having insurance companies be gatekeepers”. Due to redistricting, I will be in Council District 7 next year, currently represented by Shaun Abreu. There are 4 candidates running for that seat and they will all be asked their position on this issue.

Much has been made of the so-called Arbitrator’s opinion that the City should switch 250,000 retirees and their dependents into an inferior Medicare Advantage Plan. But it is just that – an opinion – and is not legally binding. This was not an arbitration and Mr. Scheinman was not an arbitrator in this situation. This was a discussion between two parties that agree with each other and organizations representing Retirees were not part of that discussion.

Retirees gave their all to NYC. They worked for substantially less money in their paychecks in return for guaranteed quality health care at no additional cost to themselves. That promise included a choice of medical plans including traditional Medicare with the City providing Medigap insurance for the 20% of health costs not covered by Medicare.

If the Council votes to amend 12-126, they will be voting to establish a two-tiered health care system for Retirees. Those who earned less money in their careers and have smaller pensions will be forced to accept an inferior plan with long waits for preapproval of life saving tests and procedures and often denial of care. Many studies, including the 2022 report by the Inspector General of the US Department of Health and Human Services, show that for profit Medicare Advantage Plans offer substandard care. Those Retirees with higher pensions will have better health care choices. Please, in 2023 in the City of New York, do not vote for inequality.

Finally, on a personal note. Last summer my husband was rushed to the hospital in excruciating pain. He had a scan at 2 AM, another at 4 AM and emergency surgery at 11 AM. If we were covered by a Medicare Advantage plan requiring prior authorizations for each test and procedure, he might not be alive today. This is what is at stake.

Save Administrative Code 12-126

Do not amend code 12-126. This code was created to guarantee health care coverage to city workers, including teachers, police officers, firefighters, librarians, sanitation workers, first responders and many others who have worked hard to keep the city running, and, in return, have received excellent health care coverage both during working years and during retirement.

I am among the city retirees with a small pension, who can survive in the city due to my health care coverage, Medicare and GHI, which allows me to see the best doctors and go to the best hospitals with minimal expense, only reasonable annual deductibles, on my part. I am terrified at the prospect of losing this coverage. I am a senior, at an age when illness strikes more frequently, and my ability to get the care I need will be compromised. I have already had hip replacement surgery which let me walk again, and cost almost nothing due to the superior coverage that I now have.

I hope that the City Council will not vote to take this coverage away from retirees to save money. The city can and should find other ways to save money, not on the backs of retired city workers who have been the heart and soul of the city.

Medicare Advantage has many flaws, including limiting doctors and requiring excessive preauthorization. It is an unacceptable alternative to Medicare/GHI.

Please protect our health care coverage by saving code 12-126. Do not destroy the city's promise to its workers and retirees.

Lynn Gonen

DC 37 Retiree

Dear City Council

I am a 73 year old DOE retired paraprofessional. Paraprofessional salary and pensions are low. There is no way that I can afford approximately \$400 per month (family plan) to keep my original health care. Please do not change Administrative Code 12-126 as it would result in extreme financial hardship. It is important to keep my current Senior Plan. I am the parent of a disabled dependant who is covered by Medicare and my Senior Care. I do not want to risk his health or life on having to get MAP approval for his health care or medications from someone other than his own doctors.

I am writing to you as the City Council to ensure that the health care of retirees will not be diminished by altering the Administrative Code section 12-126. The Mayor and MLC will be asking you to change the code and in so doing change the "Original Medicare supplemented by GHI Senior Care". That health care structure was the result of many years of collective bargaining work and the sacrifice of the City's workers as well as the financial assistance to the City by my former union.

I am asking you to vote NO on any changes to Administrative Code 12-126.

There is a Stabilization Fund that was supposed to protect these health care benefits. A misappropriation of approximately one billion dollars (\$1,000,000.000) has brought us to this point. Where is the accountability for what was done to the Stabilization Fund?

New York City should not allow the promises to its workers to be destroyed by turning its back on its retirees. Nothing less than the full faith and word of New York City is at stake.

Thank you for taking the time to read this. Feel free to contact me for first hand information on the consequences this will have on me and my family. I implore you to not allow retirees to be punished for the actions of those that "borrowed" money from the Stabilization Fund.

Sincerely,
Lynn Seideman
DOE

From: Lynn Ubell <lynnubell@icloud.com>
Sent: Sunday, January 8, 2023 9:02 PM
To: Testimony
Cc: Lynn Ubell
Subject: [EXTERNAL] My testimony

To the NYC Council,

I am a recent retiree from the DOE. I had been hoping to retire at 70 years old, but at 63 I was diagnosed with 2 incurable cancers. At 68, I could no longer work. I retired with a medical disability.

I worked through rounds of chemo, a stem cell transplant, a stroke, numerous and extensive hospitalizations. Fortunately for me I had an amazing administration who had my back.

Who doesn't have my back? My union and the city. They want to take away the medical insurance that we were promised and have us forcibly enroll in a Medicare Advantage plan that is inferior to what we have now.

With tradition medicare and GHI Senior Care, I am able to see my oncologist and my other providers that have helped me stay alive. Alive to see my oldest son get married and make me a grandmother. I do not have to worry about if a procedure that will help extend my life will be denied by a pencil pushing insurance bureaucrat (my stem cell transplant coat \$250,000. and all I had to pay was \$300.) I know my doctors accept traditional Medicare and GHI Senior Care. None of them accept any managed care program.

I am now on palliative care, and I having Senior care is one less worry that I have.

If you vote to change the city code, you will have sentenced retirees like me, who devoted their careers to this city, a death sentence.

Lynn Ubell

NYC, N.Y. 10128
lynnubell@nyc.rr.com

Sent from my iPhone

It's hard to fathom how or why NYC council members would not stand up for the sick, disabled or elderly citizens. Surely a New Yorker is able to see through lies, falsehoods and sleight of hand scams.

My father, Daniel Stromer, is 96. He'll be 97 in February. He and my mom, Antoinette (90) live on his modest \$13,000 pension from his retirement in 1979 from the fire department. My parents scrimped and saved and calculated how much money they would need to retire so they wouldn't be burdens to their children or society. And I'm proud to say they never have been. I am hopeful they never will be.

My father, was a WWII veteran and recipient of the Chevalier French Legion of Honor. He was an FDNY firefighter for 26 1/2 years (4 of those he spent as Brooklyn Trustee of the UFA). The late State Senator Jose Peralta sent a Proclamation to Albany in my father's honor. My father's whole life has been dedicated to service and helping others.

My parents are not highly educated. My father was pulled out of HS before he could graduate with a broken elbow to serve his country. My folks are old school. They know how to read and comprehend. They don't have a computer. They don't even use a calculator. They use common sense and their brains. It's clear to my senior citizen parents, as it should be to you, that although Mr. Scheinman is an arbitrator, he was not acting as an arbitrator. He merely rendered an opinion.

My parents have 6 children. We were taught to be good moral people. You help the most vulnerable of society--you don't hurt them for greed!

Some of their children (including myself) and their grandchildren have followed in my father's footsteps. We became NYC civil servants. We didn't do it for the money, we did it for the benefits and the chance to serve.

When my parent's health insurance was first threatened, I advised them to switch to the NYC retiree AETNA plan. The alternatives would have been unsustainable. At the time, they could not have afforded the threatened monthly penalties (nearly \$400) nor could they afford \$15 copays on my father's \$13000 pension.

AETNA promised them they could keep their healthcare as they knew it. That has not been the case. Despite numerous assurances from AETNA that their primary at the time accepted AETNA, he did not and refused to do so. They lost the primary that they had been seeing for years.

Both parents were receiving at home physical therapy. Again, AETNA assured them that they would be able to keep their physical therapy. They could not. The agency does not accept AETNA.

While they have been able to find another primary physician, they are still struggling to find a suitable physical therapy service.

Before I switched my parents to AETNA, I had to contact the local hospital. Because, only a few years ago, AETNA argued that the hospital accepted AETNA as an insurance. However, the hospital at the time did not. They do now but unlike traditional Medicare, we have to keep our fingers crossed and pray that they do not back out of AETNA as they have in the past. Many hospitals do not accept any MAP plans.

Growing up as I did, I find it so hard to understand why others feel free to hurt the most vulnerable of society.

While I am aware that there are unjust and immoral people in this world and people, even high-level officials, who make mistakes, I believe and will continue to believe the arc of the moral universe bends towards justice.

Innocent lives should not be turned upside down because of at best a mistake in judgement by the MLC and at worst, greed and corruption by the city and the MLC.

Thank you for taking the time to read this. Please do the right thing. Don't change 12-126.

Sincerely,

Michele Stromer
NYPD Sergeant, Retired

My name is Madeline Salerno and my husband is a retired NYPD Captain. He dedicated 28 ½ years of his life to serving NYC and its residents. It was a challenging journey for both him and our family. There were times when we could not afford to pay bills, in part due to taking zero raises to secure future healthcare, periods (during high profile events, riots, blackouts, major weather events and terror attacks) when most families rely on each other for support yet we were forced to be apart, many holidays disrupted and the constant fear for us that we'd get that dreaded "knock at the door".

He sacrificed his health for this city, as so many first responders do. In the aftermath of 9-11, when we all knew the EPA was lying about the quality of the air, first responders dutifully stepped up at tremendous personal risk to do the right thing: at first zealously trying to rescue people, then moving on to the grim tasks of recovery and clean up. They breathed in particles of the buildings, furniture, airplanes, jet fuel, etc. and, dare I say, human remains. They did not allow that stop them, though, from doing what needed to be done. The excruciatingly long days were interrupted only by the many funerals, not just for colleagues but for friends and family, as well.

Now it's your turn to do the right thing. The proposed amendment to 12-126 is nothing short of an abomination. The law as written is all that protects the right to quality health benefits for the hundreds of thousands of people who currently do and have run the City. Stop putting money before human lives! Yes, the cost of healthcare has increased very significantly. However, the resolution does not lie with diminishing what has been earned and promised. It lies in reform at a national level. Maybe salaries for healthcare executives need to be capped or a percentage of profits need to be reinvested for the greater good.....there are much smarter people than me out there who should be able to figure out a solution.

I am smart enough, though, to know that this amendment is wrong and it's being sold to you as a good change. That could not be further from the truth! As the law was written and intended, all employees, retirees and dependents are treated equally in that the amount that must be paid by the City is the same. If you vote to amend the law as proposed, that equality will be taken away, thereby diminishing benefits. There is nothing in the proposed language that guarantees that more classes will not be identified. Don't kid yourself, it may start with the Medicare eligible retirees/dependents. **What is to stop the City and MLC from agreeing to continue segregating by agencies, job titles or even income levels???** What's to stop them from segregating uniformed services from civilians, or paras from teachers, or setting a benchmark based on income level???? **ABSOLUTELY NOTHING!**

With respect to traditional Medicare vs. Medicare Advantage.....the fundamental differences are profound and if you do not ask the right questions, you would think they are comparable. **PLEASE** educate yourself because you are playing with people's lives!

Tremendous pressure is being put on you by the City and the MLC. Ask yourself why they are in agreement on this when they are typically at odds. Why would the MLC concede to diminishing benefits....because there is no doubt that this would be a significant diminution? And do you really want to be part of such a negative historic shift?

DO THE RIGHT THING! AMENDING 12-126 AS PROPOSED IS NOT IT!

Respectfully,

Madeline Salerno

January 8, 2023

Testimony:

I worked for the NYCDOE for over 37 years prior to my retirement in 2017. I held three job titles serving inner city students. At the time of retirement, I was told I would keep my health benefits and upon becoming Medicare eligible I would have GHI Senior Care as my supplemental insurance. Please do not amend Code 12-126, protect retirees, actives, and yourselves.

I understand that some City Council members are following Martin Scheinman's opinion on amending the code. Martin Scheinman issued a 31-page document that has no force of law. As the signature page at the end explains, it is just a "Recommendation." Scheinman has no authority to order the City and the MLC to force retirees into Medicare Advantage, which is far worse than the traditional Medicare benefits that retirees have long received.

Scheinman's limited authority comes from a 2018 Agreement between the City and the MLC. Under Section 5 of that Agreement, he and two others member of the "Tripartite Health Insurance Policy Committee" are authorized to "make recommendations to be considered by the MLC and the City." The Agreement does not allow the Committee to order anyone to do anything. The Agreement requires the Committee to make "recommendations for implementation as soon as practicable during the term of this Agreement but no later than June 30, 2020." Thus, not only are the recommendations non-binding, they are now two-and-a-half years too late. Some have attempted to make Scheinman's document seem more consequential than it really is by calling it a "decision" or "order" or "award." It is just a non-binding recommendation, as the document itself makes clear. Although the 2018 Agreement allows Scheinman to arbitrate certain disputes between the City and the MLC, there was no dispute between the City and the MLC; both are aligned with forcing Medicare Advantage on retirees. Scheinman was not acting as an arbitrator and was not issuing a ruling, decision, or award.

The City Council should not assist the mayor in taking away the healthcare rights of elderly and disabled retirees in this charade by amending Section 12-126. The mayor should be aware that Scheinman's document is that of opinion only. The City Council should not participate in the illegal effort to force Medicare Advantage on Retirees, who are entitled to the traditional Medicare benefits they were promised and which they desperately need. Let the Mayor be the one to strip retirees of these hard-earned benefits. The retirees will challenge him in court, and

they will win again. But if the City Council amends Section 12-126, the path to victory in court becomes much harder. Give retirees the chance to fight and win in court with the current version of Section 12-126, which has existed for over half a century.

In 2020 I developed colorectal cancer and have been treated by a wonderful team of doctors, none of whom will accept a Medicare Advantage Plan. Within the past week I have learned my cancer may have metathesized to my lungs. I am undergoing tests and scans, and may once again need surgery and possibly further treatment. Please retain my right to quality healthcare by keeping traditional Medicare for retirees.

Please consider my information, as well as, those of other retirees supplying testimony.

Respectfully,

Madelyn Fink
mgpc1@aol.com

My name is Marc Kagan. I am a constituent of Councilperson De La Rosa from Bennett Ave. I am an UFT retiree, angry that my former union is at the forefront of this effort to take away the medical benefits of myself and my wife, a double cancer survivor whose next CAT scan is tomorrow morning. Thankfully, her constant regime of testing is not subject to prior authorizations – and denials. She has enough on her mind without fighting with insurance companies.

And I am a grateful active member of the Professional Staff Congress–CUNY – grateful not only that the PSC voted against Medicare Advantage at the Municipal Labor Committee, but has gone the extra mile and more, setting forth a realistic alternative plan that the City Council can and should embrace.

Councilmember Restler is right that Adams and Nespoli have rigged this as a game of chicken.

Councilmember De La Rosa asked “can the City and the MLC do this?” We’ll see what the courts say, but YOU are the City too. You can reject the game of chicken. You can reject being the bad guy, Adams’ tool. You can intervene proactively. You can tell Adams to use the Retiree Health Benefit Trust. You can use the 36 months that gives you to build a better health plan, not just for retirees, who cost the city so little, but for all city workers. These “savings” are a one-shot temporary fix to a systemic problem. What the PSC is proposing is that we look for a real sustainable solution rather than victimize retirees this year, new hires the next, people with high prescription costs or lots of dependents in a third, and so on.

Marc Kagan

New York NY 10033

From: Marc Lavietes - Rose Rosal <rosemarc9@gmail.com>
Sent: Monday, January 9, 2023 3:06 PM
To: Testimony
Subject: [EXTERNAL] written testimony re: administrative code 12 - 126

To the Council:

I am Dr Marc Lavietes, for 20 plus years the Secretary of Physicians for a National Health Program local chapter.

As a physician, I want to make one thing clear about the proposed change to the administrative code. The Mayor proposes to transfer our city retirees' health insurance from a public non - profit program, Medicare, to a private for - profit program, Medicare Advantage. He assures us that the cost to the city will decrease while health care delivery will either be unaffected or possibly improve. That would be because Medicare Advantage, unlike Medicare, covers dental and hearing needs. The Mayor is incorrect.

Medicare in the term Medicare Advantage, is a misnomer. This is private, not public insurance. The goal of private insurance is : profit. Insurance companies make exorbitant profit on health care first by inflating anticipated costs to the Medicare fund and then by denying legitimate claims. Of every 100 claims rejected by a Medicare Advantage firm, 14 are found to have been appropriate and would have been reimbursed by a real Medicare plan. Each of those 14 claimants are then left to pay an inappropriate medical bill, sometimes reaching six figures.

There is a better way to reduce health care costs: passage of the bill the "New York Health Act". This bill provides universal care to all New York State residents. It has majority support among both State Senators and Assembly persons. Note however that strong opposition to bringing the bill for vote on both the Senate and Assembly floors comes from our Municipal Labor Council. Yes, the same clique that represents many of our public sector workers and pushes to privatize their retirees' Medicare also blocks the passage of a bill that would make health care affordable and available to all New Yorkers.

Council members, do the right thing. Do not amend code number 12 - 126.
Marc H Lavietes MD

NY, NY 10013

From: Marcia Annenberg <m.annenberg@att.net>
Sent: Monday, January 9, 2023 8:36 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Public Service Retirees Health Care

Dear City Council,

I am appalled and dismayed that you would consider withdrawing health care choice from retired city workers.

How cruel to force teachers, such as myself, who spent 25 years teaching in inner city schools, to even anticipate changing all of their doctors in their golden years.

How do you even pretend to represent the people of this city?

If this comes to pass, I will no longer be a member of the Democratic Party.

This is a complete injustice.

Sincerely,

Marcia Annenberg Scher,

, New York, NY

10040

Email: m.annenberg@att.net

From: MARCIA ARONSON <marcia.a@rcn.com>
Sent: Monday, January 9, 2023 8:22 AM
To: Testimony
Subject: [EXTERNAL] Keep Medicare for NYC Retirees

I'm a retired NYC teacher having worked from 1964-2002 and am DEMANDING that you DO NOT vote to change Administrative Code 12-126 allowing for Medicare Advantage thus putting private healthcare companies in the position to be "the gatekeepers" of my healthcare! I want to KEEP the healthcare that was promised i.e. I want to keep MEDICARE! DO NOT CHANGE THE CODE!!!
Thank-you...
Marcia Aronson

TESTIMONY OF MARCIA BIEDERMAN

For the hearing of Jan. 9, 2023, Committee on Civil Service and Labor

Good afternoon and thank you, committee, for this opportunity. During my retirement from teaching, I've published four nonfiction books. One was a work of labor history about a woman who led a strike of 350 coal miners over health issues.

That book — *A Mighty Force: Dr. Elizabeth Hayes and Her War for Public Health* — was the basis of a *New York Times* piece by the labor journalist Steven Greenhouse which ran in April, quoting my work.

Hence, I can say with AUTHORITY that the leaders of the Municipal Labor Committee have been *wrong* and *unjust* to characterize as ANTI-LABOR those of us who oppose them on this retiree healthcare issue. I am union to the core. Yet I urge all of you to vote NO on the proposal to amend 12-126.

It's sad when advocates for workers must stand up against union leaders. But, as I wrote, it has happened before.

In the last months of World War II, a company doctor named Elizabeth Hayes discovered that the drinking water in her Pennsylvania village was contaminated. The mining concern that owned the town refused to address the problem. So did the United Mine Workers — led by the legendary John L. Lewis — because sanitation wasn't covered by the national union contract

So Hayes and the miners struck on their own, without union authorization.

The press was fascinated. John L. Lewis dodged their questions. His deputies called Dr. Hayes a "third party" or an "outsider." But that didn't stick: Hayes had grown up in Force, PA, where the strike unfolded.

Realizing that the public admired Hayes, the union newspaper jumped on the bandwagon. It ran pieces applauding the miners, but the union president stayed silent.

Five months into the strike, President Truman intervened. The strikers won. Safe water was provided, and the towns were cleaned up.

It was a victory for the UMW too. Sanitation WAS addressed in their next national contract. Lewis was pleased, but he never credited Hayes.

Challenging union leadership ISN'T anti-labor. It can make labor stronger.

Marcia Biederman

KINDLY REDACT THE FOLLOWING PERSONAL INFORMATION BEFORE POSTING THIS TESTIMONY ONLINE:

City Council District 39

Brooklyn, NY 11215

marcia@marciabiederman.com

Website: marciabiederman.com

From: Marcia Newfield <revolu@earthlink.net>
Sent: Sunday, January 8, 2023 10:35 PM
To: NYC Council Hearings
Subject: [EXTERNAL] testimony re change in Administrative Code

Testimony: Public Hearing Jan. 9, 2023, Change in Administrative Code 12-126. via zoom

Marcia Newfield Adjunct CUNY . revolu@earthlink.net

Speaker Adams, Chair De la Rosa and Civil Service and Labor Committee Members:

A SLIPPERY SLOPE AND A CRITICAL VOTE—Marcia Newfield

Once a legislative body votes to do away with a right or a commitment, it is an easy slip to deprive its constituents of more and more. I am a retired adjunct; I taught for 30 years, was a VP of PSC part timers, and when I retired at age 80, I was still not eligible for city retiree health insurance which we had fought so hard to get for active employees. Adjuncts, the CUNY 11,000 plus low paid college teaching force, is inextricably connected to the defunding of CUNY, which is a chronic problem that legislation has not completely addressed. Yet you could & the state could & the federal government could more fully support higher education, just as you, City Council, could hold hearings as suggested by the Move the Money campaign, on the cost an 8 billion dollar federal military budget wrecks on our communities. This brings me to my second point: namely, that you have the power to cast a critical vote to maintain the city's agreement to provide insurance for retired full time city employees. Your votes make a difference in people's lives—abortion rights/prohibiting housing discrimination based on race/ childcare/ paid sick leave/ landmark preservation. You have the power to pierce through obfuscation and do the right thing once again. You could also include retired adjuncts this time.

From: marcy miller <marcy.miller1957@gmail.com>
Sent: Tuesday, January 10, 2023 9:47 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Please do not ammend code 12-126

Dear City Council Members,

I am a retired NYC teacher. My name is Marcy Raindorf. I taught Autistic students in District 75 for 32 years. I have had Medicare and GHI Senior Care for the past year since turning 65.

At age 50 in 2007 I was diagnosed with Ovarian cancer. If I had been on a Medicare Advantage plan I fear I might not be alive today. Medicare Advantage has a pre authorization for just about every test and procedure. My oncologist ordered a CT scan and it was done that day. A few days later I was having surgery to remove my ovaries, Fallopian tubes and the lining of my stomach. Chemotherapy started two weeks later. All of this was done at a major cancer hospital in NYC. That cancer facility does not accept Medicare Advantage. Medicare Advantage discourages diagnostic tests that doctors prescribe. The patient is the loser.

Please please please vote no to ammend 12-126. We the retired workers served our city and now we are at our most vulnerable.

Thank you,

Marcy Raindorf

Retired from the NYC Board of Education in 2012. Service for 32 years.

Sent from my iPhone

City Council Testimony

Margaret Cohen

New York, NY

I retired in 2010 from a more than 40-year career with the City of New York. I worked at the Department of Education, The Agency for Child Development, The Department of Employment and New York City Health and Hospitals Corporation. I reside in Gale Brewer's 6th Council District and deeply appreciate her support.

I am writing today to ask that you NOT change local law 12-126. It protects the health insurance I have been using since I retired, namely Medicare and GHI Senior Care. The proposed changes open the possibility of my having to use a Medicare Advantage plan which would SERIOUSLY limit my access to care and potentially jeopardize my health.

In spite of claims by OLR, the prior City proposed managed care plan was not going to be accepted by my internist, my cardiologist or my gynecologist. It seems pretty clear that if doctors can avoid accepting an advantage plan, they will do so. There is no doubt that the Aetna plan will have the same issues. Advantage plans do NOT have to be accepted by doctors.

In addition to not allowing me to use doctors I currently use. I am aware of the national troubled history of advantage plans in terms to patient outcomes. Recent reports demonstrate that people in Medicare advantage plans have poorer outcomes than those using traditional Medicare. Delays in getting tests, denials of treatment all lead directly to poor health outcomes

When I retired, I never dreamed that I would not be able to keep Medicare and Senior Care. There are other ways to solve the City's fiscal crisis than to diminish a retirees' health insurance. The NYC Organization of Public Service Retirees, Inc. has advised the Council that they are willing to work with the relevant parties to find cost savings.

The myth that an arbitrator has ruled that the law must be changed is just that, a myth. There was NO arbitration. Mr. Scheinman wrote an OPINION, not a ruling that the Council must obey.

Finally, I draw your attention to the fact that if the Council changes the current law, you will be creating two classes of retirees. Those that have limited pensions will be forced to use the Advantage plan. Those with larger pensions and more financial resources will be able to stay with traditional Medicare. What kind of a City Council discriminates in this way?

I understand that this is difficult for Council Members. Please do not move this forward.

Thank you.

Good Morning City Council Members and City Officials.

My name is Margaret Epstein retired from Health and Hospital 2015. I would like to share my story with the the council. I was 6 months old when I was diagnose with Cerebral Palsy and Epilepsy. I was fortune that the care I received was through the NYC Health and Hospital. When I became of age to work I took a job with the Hospital that took care of me throughout my younger years.

I need special medical care throughout my life, I was able to received excellent care because I was given a choice of medical plan that would suit me needs working for the city. Not every plan fit all. I understand what a Medicare Advantage plan is, because I was the one who called for authorization and how sad it was when the insurance company denied care for services .and authorization information was given to clinical person who sat behind a desk not even knowing the patient needs.

I was told I would have a medical plan with excellent coverage for my life when retiring from the city Medicare Advantage require per authorization , doctor and hospital dropping out of these plan. This is not excellent MEDICAL COVERAGE. By the way Atena is under investigation **I urge the City Council not amend 12-126 and have the City and MLC go back to the table and find savings not on the back of retirees.**

From: Pansbro35 <pansbro35@aol.com>
Sent: Monday, January 9, 2023 4:08 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Re: Do not change the administrative code section 12-126.

To Whom It May Concern:

I was a teacher in NYC system for 34 years and now my guaranteed health benefits are in jeopardy. Please do **not** amend the administrative code! Please form a blue ribbon committee that includes the real spokesperson for the 80,000+ retirees that have joined The NYC Organization Of Public Service Retirees, President Maryanne Pizzitola.

Thank you for your consideration of the extremely important matter!

Sincerely yours.
Margaret F. Ansbro

Testimony of Meg Feeley

Retiree PSC-CUNY

I retired as an adjunct, part-time, lecturer at Kingsborough Community College just shy of my 62nd birthday, and a month short of the equivalent of 15 years of full-time teaching, service which I accrued over a total of almost 20 years. I continued to teach, as a retiree, through 2021. Why would I retire when staying on another semester would have increased my pension? Because, on a temporary, semester-long full-time line, I became eligible for retiree health insurance – a prize most long-serving adjunct faculty at CUNY don't manage to get. I say this to point to the promise upon which I planned my future. I lost pension benefits in order to gain health insurance in retirement. And I am not the only one.

I developed thyroid cancer last year, so If the city sees fit to impose this change to the administrative code, I will have no choice but to pay the premium I was promised I wouldn't have to pay – which will serve as a 25 percent tax on my pension of \$806 per month.

The myth is that city workers get Cadillac benefits at taxpayer expense. The reality is we have quality health insurance only because of the buying power of large numbers of members choosing it. Split that up, and we shall see the City revert to a place where elders are neither served nor wanted. The plan to change health insurance for City workers and retirees is not only pebbled with broken promises; but with mistaken mythology and unintended consequences.

Margaret Feeley

My name is Maeve Turner and I am a quasi-city employee, as a gardener at the Brooklyn Botanic Garden. I am writing in **strong opposition** to Intro 874. I urge the Council not to support the Mayor's and the Municipal Labor Committee's attempt to force City retirees into a Medicare Advantage plan and undermine the health benefits City workers have been legally entitled to for decades.

The change in the proposal would pull the rug out from under so many workers who dedicated their careers to the city and retired under the expectation that their benefits would remain covered by the city, and made fiscal calculations based on that expectation. The premium attached to traditional Medicare that would be left to retirees to pay will be out of reach for many retirees on their incomes, and impact the standard of care available to them, that they have relied on for so long. Medicare Advantage has also been the subject of much reporting regarding fraud with the program and I am very concerned that this will be functionally the only option for many retirees who have been legally guaranteed a certain standard of benefits for decades.

As active workers, we have been told by our union leadership that it is necessary to put the Medicare Advantage switch in place in order for the City to fund our raises, or that we will be forced into paying health care premiums if the switch does not go through. I strongly object to retirees and active workers being pitted against each other when the City and unions could pursue other options. Retirees and the Professional Staff Congress have identified several alternative approaches to lower healthcare spending such as the City creating a self-insurance plan or all City workers' union welfare funds being consolidated for better leverage and group purchasing. I urge the Council to meet with these groups and hear about their proposals. For other active workers like myself, this change to the administrative code opens the door for our own healthcare benefits to be altered or for more "classes" to be created with diminished health care benefits, such as new hires. The City is already hemorrhaging workers, and gutting benefits will make it even more impossible to hire and retain talent while our essential agencies are already dangerously understaffed.

The Council should not play into the Mayor's and the MLC's plan to get around their legal obligations to retirees and should not pass Intro 874. Thank you,

Margaret Maeve Turner, Brooklyn Botanic Garden, DC37 Local 274

January 8, 2022

Councilwoman Carmen De La Rosa
NYC Council Member, District 10
250 Broadway, Suite 1880
New York, NY 10007

Dear Councilwoman De La Rosa,

Re: NYC Administrative Code 12-126

My husband and I are both retired New York City employees and we reside in Brooklyn. I am writing to you as Chair of the Committee on Civil Service and Labor. I have already written to our local Councilman, Justin Brannan, in District 43, giving more detailed reasons why we do not want 12-126 amended to allow the Mayor and MLC to force the Medicare Advantage plan on us.

It is not Medicare and it is not an Advantage to us. We will have problems with keeping our current providers and obtaining our health care needs. We understand that the city budget deficit needs to be addressed but believe that not all options are being considered and instead, City Retirees are being asked to pay the price. Mayor Adams and the MLC are trying to have the City Council do their dirty work. We want to keep our Medicare and Senior Care!

Thank you for your consideration.

Yours truly,

Margaret Nelson
Retiree, MetroPlus Health Plan

Gerald Nelson
Retiree, NYCERS

Brooklyn, NY 11228

From: marguerite durkin lockwood <mdaisydl@icloud.com>
Sent: Tuesday, January 3, 2023 9:38 PM
To: Testimony
Subject: [EXTERNAL] Do not amend

In 2018, I was diagnosed with a relatively rare cancer called MDS. A bone marrow disorder, it usually afflicts people in their 70's. My marrow counts were as close to zero as you can get when I was admitted to the hospital. After months of chemo, platelet infusions (which didn't always work and to which I became allergic) and blood transfusions on a weekly basis (sometimes more often), I was told that the only curative remedy was a bone marrow transplant, which I agreed to without hesitation.

Why am I so upset at that my union, the UFT is betraying its retirees by proselytizing Medicare Advantage ?

Here's why

In 2010, after much research, Medicare recommended that BMT transplants could be offered to Medicare eligible patients in their 70's suffering from MDS. Prior to 2010, that would not have been the case..

According to an April 2020 JAMA oncology article, one of the reasons people my age don't have the benefit of a BMT transplant for MDS is that "third party payers do not cover HCT until there is transformation to AML," the deadliest of leukemias. No transplant for me until that occurred would have been a death sentence.

On January 30, 2019, the day before my 73rd birthday, I was admitted to NYU Kimmel Hospital for my transplant which Medicare covered in full. All I had to do was sign a bunch of forms indicating that the government could use my transplant information to track progress/success rates. That I happily did.

This coming February 5, I will joyfully celebrate my "fourth" birthday, an event that I probably would not have experienced under this Disadvantage Plan. Nor would I be writing this statement.

If you wish to verify my story, please feel free to go to <https://nyulangone.org/locations/blood-marrow-transplant-program> and meet my young donor from Bavaria. It's a story with a joyous ending because of my current medical coverage and a dedicated medical team. Let's continue to provide stellar care for seniors facing series medical issues.

Last thought: If you, or a loved one, were facing the end of your life, would you want some nameless processor determining your medical care or would you want a physician you know and trust to make those life saving decisions?

Marguerite Durkin

○

Sent from my iPad

From: Maria Damelio <mdwdstk@gmail.com>
Sent: Sunday, January 8, 2023 6:11 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Fwd: Medicare Advantage plan

----- Forwarded message -----

From: **Maria Damelio** <mdwdstk@gmail.com>
Date: Sun, Jan 8, 2023 at 5:59 PM
Subject: Medicare Advantage plan
To: <hearing@council.nyc.gov>

To Speaker Adams,

I am truly upset and devastated in regard to amending the administrative code to the city of New York , in relation to health insurance. Through Collective bargaining we agreed not to receive a pay raise to keep the health insurance we presently have.

As a retired Dept of Education teacher I gave 34 years of endless dedication to teach our children. Now to be told I will be forced into a mediocre Medicare Advantage program. This is truly a disgrace and a slap in the face.

I should have the right to opt out of the plan and keep the health insurance that I have.

I will pay the premium just to keep my Medicare senior plan and GHI Emblem.

Respectfully,

Ms. Maria DAmelio

From: Maria De Palma <italianbroad@gmail.com>
Sent: Sunday, January 8, 2023 7:36 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Fwd: Amendment to Administrative Code 12-126

----- Forwarded message -----

From: Maria De Palma <italianbroad@gmail.com>
Date: Mon, Dec 26, 2022, 5:16 PM
Subject: Amendment to Administrative Code 12-126
To: <borelli@council.nyc.gov>

I'm contacting you with reference to the above-mentioned...a matter that is of major importance to all DC 37 members. As a retiree after 20+ years of service it is imperative that there NOT be Amendments to Administrative Code 12-226 as it would impact all DC 37 member both retired and current. The financial impact of such a disastrous maneuver would devastate member financially. When we took official oaths to serve the City of New York it was with the understanding our salaries would not increase beyond a certain percentage in exchange for promised lifetime healthcare at an affordable rate....what happened sir...What the hell happened. Well, it seems unscrupulous individuals with access to DC 37 funds were playing "fast and loose" with members dollars as if they were in a chase game. The results obviously has taken years to reveal just how damaging those incompetent Individuals were and remain...the unseen faces who possess a "let them eat cake" mentality who thought they'd never be revealed have now been revealed leaving DC37 members scrambling to match brain health care for themselves and their families. Unfortunately, the changes thus far with the implementation of the additional \$15 co pay per Doctor, per tests, per member... per child, etc is evil beyond imagination....thoughtless, cruel and utterly self serving on so many levels. Therefore I am urging you to NOT support the Amending of Administration Code 12-126...to do so would have devastating impact on so many members and their kids. The rise in cost of living currently is beyond comprehension and cruel! We accepted lower salaries in exchange for promised lifetime health coverage. It's high time an investigation ensue to weed out those responsible for such a cold blooded act against contributing members...it's inhumane! Thank you for reading my statement ...I sincerely hope it has helped to convince you to NOT support any changes to Administrative Code 12-126 as to allow it to pass I assure you will not only be devastating to members but also to all who committed fraudulent maneuvering if members monies...a true "Bait and Switch" game playing havoc with all DC 37 member lives. Thank you....I remain...Maria DePalma a 20+ year ex employee of the City of New York serving two NYC Agencies separately...The Kings County District Attorney's Office as a Confidential Employee assigned to the "Trial Cadre" unit dealing with highly confidential cases that shook the city, receiving extensive Media coverage...and the Homicide Unit...and lastly, the New York City Department of Education's Prosecutorial Administrative Trials Unit. Prior to joining the City of New York I spent approximately seventeen years in Radio Broadcasting...working at two well known highly established Radio Stations...programming music at both stations and at NBC as Supervisor of Music/ Audience Research for their then owned FM station which reached the #1 position in the Adult Contemporary Music Category which is the most covered category in all Music/Entertainment publications. Wishing you a Happy and most Healthy New Year. Respectfully Submitted....Maria DePalma, DC 37 Retiree

From: EMAIL SERVICE <gelly@twc.com>
Sent: Friday, January 6, 2023 8:37 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Proposed Changes to Retirees Health Insurance

I worked for the City of New York from 1989-2017. City salaries were less than private companies, when we went years without raises. I stayed because of the promised health insurance upon retirement. Now with the proposed changes, retirees are being penalized. This is unfair and immoral. I stayed working for the City because it was important to me to have adequate medical insurance upon retirement. Why should the retirees be the ones carrying the cost of the City's mismanagement of health insurance costs.

Marie Appia

Dear Council Members on the Committee of Civil Service and Labor,

I am writing to request you NOT to agree to amend Administrative Code 12-126.

I first started working for the city in 1965. I have always been a strong supporter of civil service and unions. With an MA in mathematics and a computer science background, I sacrificed financially to work for the city. But the goals and benefits were important to me. And knowing that I would have a pension and good medical benefits was part of that decision. I enjoyed my years with the city. And I cannot tell you how angry I am at the betrayal of two unions I supported. I have walked on many a picket line, going back to the 1960s grape workers' strike.

Forcing me to change medical insurance now would be detrimental to my health and peace of mind. Fortunately, I am in a financial position to pay for a gap policy, if necessary, but the vast majority of retirees can't. They will be stuck with inferior medical insurance that will need prior approvals and denials at every turn. This creates a two-tier system that punishes our most vulnerable.

Like thousands of City government retirees, I am horrified at the idea that the City Council is being pressured to amend a code that will allow the Mayor to change the terms of our labor agreement that promised us Medicare and a supplemental health insurance upon retirement.

Most people who hear the words "Medicare Advantage" understandably think that this is a Medicare program with even more benefits. They have no idea that this is private for-profit insurance, where profit is the main goal. They hear about free trips to a doctor, gym memberships and free meals and don't question where the profits are going to come from. I am pretty sure Joe Namath is not relying on Medicare Advantage for his health needs.

Thank you for considering the implications of this action and the impact on those of us who gave our service to New York City.

Marilyn Schorr

Retired from NYC Dept of City Planning, Department of Health and Hospitals, CUNY Brooklyn College, and Department of Education

From: Marion Kaplan <marion.kaplan@nyu.edu>
Sent: Monday, January 9, 2023 3:24 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Medicare Advantage : a real DISadvantage!

To the City Council:

I hope the city council takes the following into consideration before subjecting NY City employees to this scam.:

1. Advantage raises prices after the first contract for that 80,000 Americans have NO coverage thru Aetna right now.
2. The NY Times exposed the outrageous price gouging in Medicare Advantage. Please read the expose of Oct. 2022! <https://www.nytimes.com/2022/10/08/upshot/medicare-advantage-fraud-allegations.html>
This means NY City will get scammed too! Why head for disaster?
3. In the end, people can NOT choose their own doctors, whatever the insurers promised.

Medicare Advantage scams the US government (which allowed it --I know) and will scam NY City as well.

Thank you,

Marion Kaplan (she/her)

Professor *Emerita* of Hebrew and Judaic Studies

New York University

Int 0874-2023

Written testimony for NYC City Council Hearing, Civil Service and Labor Committee-
City Council Hearing on Medicare Advantage plan
Concerning Preservation of Retiree Health Care
and ***amendment of administrative code 12-126.***

Good Day. I am a NYC Retiree with 32 years of service in the mayoral agency, A.C.S. There has been discussion of a proposal to Amend Section 12-126 of the Administrative Code. The 60,000 retirees from DC 37 are represented by the DC 37 Retirement Association. The MLC and the council itself, DC 37, may be stakeholders but do not necessarily advocate for the retirees.

There are attempts to force retirees into a Medicare Advantage plan. These M.A. plans have an inherent conflict of interest; their profits depend on denying care. Medicare Advantage Plans have been the subject of several investigations, newspaper exposes and lawsuits. If such a Medicare Advantage amendment were to be enacted, it would likely have a devastating impact on low income retirees, who are predominantly females and minorities. Many of the DC37 Retirees, as the council knows, are rather low income.

Additionally, those retirees with chronic health care needs would be subjected to numerous pre-approval requests and denials that will require an appeal process that would become bogged down in an insurance company's bureaucracy without assistance. Navigation through this bureaucracy is an almost impossible task for elderly, sick retirees.

We ask that the political action team at the DC37 Retirees Association have a seat at any negotiations affecting regulation 12-126 or municipal retiree health and drug coverage.

We seek to have the continuation of coverage for municipal employee retirees without undue financial hardship. It should be noted, yet again, that those who worked in City Service in NYC approached these careers without any expectation of wealth or unusual advantages for themselves.

When benefits that have been fought and worked for are eroded, they can be nearly impossible to be reinstated, even when political wind blows in another direction.

We hope to receive the support of the City Council to reject any modifications to 12-26.

Thank you

- Mark Casner
NYC Civil Service, retired

Member of DC37 Retirees Association

From: Mark Elbaum <markjelbaum@gmail.com>
Sent: Friday, January 6, 2023 4:24 AM
To: NYC Council Hearings
Subject: [EXTERNAL] AMENDING A.C. 12-126

DEAR HONORABLE COUNCILMEMBERS,

IN THE VERY NEAR FUTURE, YOU WILL HAVE AN OPPORTUNITY TO VOTE ON AMENDING THE NYC ADMINISTRATIVE CODE, AS IT RELATES TO THE MEDICAL BENEFITS OF CURRENT AND RETIRED NYC EMPLOYEES.

THE MEDICAL PLANS ESTABLISHED BY THE CITY, WERE IMPLEMENTED OVER FIVE DECADES AGO, TO PROVIDE AN INCENTIVE FOR NEW YORKERS TO SEEK CIVIL SERVICE CAREERS. BECAUSE GOVERNMENT ENTITIES GENERALLY PAY LESS THAN THE PRIVATE SECTOR FOR SIMILAR JOBS (WHERE APPLICABLE), IT WAS NECESSARY FOR LOCAL GOVERNMENTS TO BESTOW A PENSION, VACATION DAYS, SICK DAYS, PAID HOLIDAYS, AND DECENT MEDICAL PLANS.

CLEARLY, IT WOULD BE UNFAIR TO THOSE OF US WHO RELIED ON THESE BENEFITS, TO SUDDENLY HAVE THEM TAKEN AWAY. IN THE INTEREST OF FAIRNESS AND COMMON DECENCY, I APPEAL TO YOU TO REFRAIN FROM AMENDING 12-126 OF THE NYC ADMINISTRATIVE CODE.

THANK YOU FOR YOUR TIME AND CONSIDERATION IN THIS MATTER.

Members of NYC Council:

I am retired from NYC service after 35 years of service. I didn't accept my position to achieve riches but I most certainly expected my health benefits to be honored in my retirement. One of the major reasons to accept NYC employment is knowing that benefits are protected which is a major recruitment tool for a competitive workforce.

As I have a major health issue, altering 12-126 would allow the MLC and NYC to reduce those benefits and provide me with less care than I need. MA plans are notoriously inferior to my current traditional Medicare with supplemental gap coverage. Some of my current doctors will NOT accept coverage through MA! I am not in the position to seek out or change doctors now.

The MLC does not represent me as a retiree. As I am retired, my past union, UFT, can not speak for me yet they claim that authority. How convenient for the MLC to try to reduce my health benefits in order to provide funds to replenish the Health Stabilization Funds taken to provide raises for UFT active members. The contract was ill conceived and the UFT that negotiated this reduction should be held accountable- not retirees!

The MLC and NYC has enlisted the services of an arbitration firm, Scheinman Arbitration, as a cover to resolve the supposed "dispute" **The City Council has furthered this travesty by claiming the paper is an arbitration decision.**

The cover letter even refers to "Opinion and Award" when in fact it is signed off as a "Recommendation" and Scheinman has submitted a bill for services!

Usually, two parties in a dispute would offer opposing views in a dispute. However in this case both parties are in agreement to a solution as they both are seeking the same outcome, Medicare Advantage plan for retirees. The aggrieved party, NYC Organization of Public Service Retirees (For Benefit Preservation), is not represented. Instead this "award" is more of an endorsement of the Medicare Advantage Plan by the MLC and NYC written as an arbitration case.

Furthermore, the arbitrator is "acting pursuant to the parties' request to break their deadlock with my recommendation..." Once again there is no deadlock as both the MLC and NYC are striving for the same outcome which is to violate NYC Administrative Code 12-126 that ensures retirees benefits.

The arbitrator's piece is being used as a legal document to persuade public opinion so as to change 12-126 and to bypass Judge Frank's and NYS Appellate Court rulings. Newspapers and other outlets have mistakenly been stating that an arbitrator ruled in NYC's favor.

The reason NYC's Health Stabilization Fund has lowered reserves is the fact, conveniently omitted, that the UFT "borrowed" \$1.2 billion from the Fund to pay to raises that were supposed to be repaid by health savings. The Stabilization Fund is being used as a piggy bank by the City when needed, which of course isn't its function.

There are certainly many other avenues to reduce health care costs which the MLC and NYC refuse to entertain. NYC Organization of Public Service Retirees (For Benefit Preservation) has made many suggestions to reduce costs such as asking for bids for health services rather than accept no bid

contracts, combing health enrollment rolls for duplicates (I was once registered for 2 different carriers that took many years to resolve) as well as other ideas.

For these reasons, please do **NOT** change or alter 12-126 which has successfully protected NYC retirees since 1967.

Respectfully submitted,

Mark Klein

From: Marsha <marshahbr@gmail.com>
Sent: Wednesday, January 11, 2023 4:30 PM
To: NYC Council Hearings
Cc: marshahbr@gmail.com
Subject: [EXTERNAL] Proposal to amend section 12-126 of the Administrative Code of the City of New York in relation to health insurance coverage for city employees, city retirees, and their dependents

Honorable Council Members,

I am a seventy-four year old retired New York City teacher. I taught for twenty-five years in the New York City public schools in Brooklyn.

If the Council amends Administrative Code 12-126, as has been proposed by Council members De La Rosa and Ayala, on behalf of Mayor Adams, I and all other retirees will be forced to assume a sizable, and for many, a punishing economic burden, in order to keep the high quality, premium free health insurance we earned through our hard work and dedication. We all accepted lower salaries than our counterparts in the suburbs, knowing that we would be rewarded with a better retirement package than they had. They now not only earn more money than city workers, their retirement packages are better as well. There is currently a teacher shortage. This shortage will only increase in time. Why would anyone work for a city that not only offers paltry salaries and benefits, but also reneges on promises it makes.

Please do not listen to the rhetoric being spewed by the MLC and the Mayor. Medicare Advantage plans are NOT comparable to the plan we now have; they are rather Disadvantage plans. Report after report has stated that Medicare Advantage is an inferior program when compared to traditional Medicare and a secondary insurance program. Medicare Advantage plans are run by for-profit insurance companies. They are interested only in the profit they make. They are not interested in the health of their participants. Medicare Advantage plans require pre-authorization for almost everything. Many procedures are denied authorization—a decision made not by a medical professional, but by corporate health insurance personnel who are not medically trained, and are interested only in the profit made by the corporation. In addition, many doctors will not accept coverage by a Medicare Advantage plan. Is it fair that many retirees, some in their eighties and nineties, who have used the same doctors for years and years, will suddenly have to find new doctors?

When the Medicare Advantage plan was conceived, it sounded like a good alternative to traditional Medicare; however, it has failed, because the greed of the insurance companies has taken over.

We, the retirees, worked long and hard for the City of New York. We do not, ever, but especially at this time of our lives, deserve to be thrown under the bus. The MLC, and specifically the UFT, misappropriated money earmarked for retiree healthcare. Now they want to further punish retirees for the Union's shortfall.

I implore you to NOT AMEND ADMINISTRATIVE CODE 12-126. If you amend it, you are signing the death warrant for many retirees! Please allow us to live out our lives in good health, and in peace.

Respectfully yours,

Marsha Salzman
Retired NYC teacher

Sent from my iPad

From: Martha Bordman <mbordman@gmail.com>
Sent: Thursday, January 12, 2023 12:34 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Testimony against changing Admin Code 12-126

My name is Martha Bordman. My husband, Mark Karwowski and I are both New York City UFT retirees. I retired in 2014. Mark retired in 2008. We are both over 65 and have Medicare/ Senior Care for our health insurance.

The City, along with the MLC, has decided to save money on our aging backs by pulling the rug out from under us and trying to slip us into a privatized Medicare Advantage plan that is not accepted by many doctors and hospitals that accept US Government run Medicare. A private company will supervise our Medicare and certainly cut costs whenever and wherever possible to make the plan cost effective for the company and New York City, even if this cost effectively threatens our lives.

Retirees are fighting back against this Medicare Advantage switch. There have been a series protests and actions, along with lawsuits and testimony at this City Council hearing to try and stop it. City Councilmembers, we need you to understand the shortcomings of this MA plan as well as the irresponsibility and deception of the City to even come up with such a plan to sock to the hard-working municipal retirees of New York City. Voting to change Administrative Code 12-126 would not be protecting retirees and would just do the opposite. It would just be condoning the Medicare Advantage switch. It would just be buying into the farce that the so-called arbitrator, who was bought and paid for by the City, has the right to take away our Senior Care unless we pay for it out of our own pockets.

Retirees were promised a quality Medicare health package to see them through their aging years. Show your support by voting no against this code change.

My name is Martha Isaacs and I am a City worker at NYC DOT. I am writing in strong opposition to Intro 874. I urge the Council not to support the Mayor's and the Municipal Labor Committee's attempt to force City retirees into a Medicare Advantage plan and undermine the health benefits City workers have been legally entitled to for decades.

The campaign from the administration and the MLC has described this proposed change to administrative code 12-126 as a way to "preserve choice" for retirees in their health care. In fact, the premium that will be attached to traditional Medicare (Senior Care) if the change goes through will be out of reach for many retirees on their incomes and would make it infeasible for them to remain with their current standard of care. Medicare Advantage has also been the subject of much reporting regarding fraud with the program and I am very concerned that this will be functionally the only option for many retirees who have been legally guaranteed a certain standard of benefits for decades.

As active workers, we have been told by our union leadership that it is necessary to put the Medicare Advantage switch in place in order for the City to fund our raises, or that we will be forced into paying health care premiums if the switch does not go through. I strongly object to retirees and active workers being pitted against each other when the City and unions could pursue other options. Retirees and the Professional Staff Congress have identified several alternative approaches to lower healthcare spending such as the City creating a self-insurance plan or all City workers' union welfare funds being consolidated for better leverage and group purchasing. I urge the Council to meet with these groups and hear about their proposals. For other active workers like myself, this change to the administrative code opens the door for our own healthcare benefits to be altered or for more "classes" to be created with diminished health care benefits, such as new hires. The City is already hemorrhaging workers, and gutting benefits will make it even more impossible to hire and retain talent while our essential agencies are already dangerously understaffed.

The Council should not play into the Mayor's and the MLC's plan to get around their legal obligations to retirees and should not pass Intro 874.

Thank you,

Martha Isaacs
Transportation Specialist
NYC Department of Transportation
DC 37, Local 375

January 19, 2023

To members of the City Council and Municipal Retiree Colleagues,

My name is Marthe Gold. I am Professor Emerita of Community Health and Social Medicine at the CUNY SOM at City College. I am a physician whose career has been in primary care (and therefore understand why physicians are disinclined to enroll in a plan where prior authorization rules) and as a senior policy advisor in the federal Department of Health and Human Services where I served as the editor of an influential report entitled *Cost-Effectiveness in Health and Medicine*. I am a member of the National Academy of Science.

I know that your immediate charge is to decide whether or not to amend 12-126 and you will hear rationales today as to why it makes sense to let retiree litigation run its course (which I favor) without making changes. But I hope that the City Council will also make it its business to apply pressure wherever possible to undo the cynical plan to place municipal retirees in a Medicare Advantage plan. A recent survey found that fully 80% of Democrats support Medicare for All, a public option. Medicare Advantage is all about privatizing medical care. For the City of New York to place its municipal workers in a private for-profit plan is completely out of synch with the desires of the vast majority of its constituency. People will not forget.

My further remarks center on the weaknesses of Medicare Advantage programs for NYC municipal retirees, and more generally.

First, in last year's go around with the Alliance Medicare Advantage plan, the insurers were unable to assure that enrollees would have access to the range of medical services they had under the Medicare Fee-For-Service Senior care program. This worked badly enough in the NYC metro environment, but guaranteeing unfettered access to hospitals in more affordable regions of the US (where many municipal

workers spend their retirement to escape the unaffordability of New York City) is implausible.

Second. An April 2022 report on Medicare Advantage from the Office of the Inspector General of DHHS found that 13% of prior authorization denials were for service requests that MET Medicare coverage rules, thereby preventing or delaying medically necessary care for enrollees.

<https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf>

Third, an October 8th NY Times article details the large amount of fraud and overbilling that Medicare Advantage insurers have engaged in.

Fourth, and relevant to the City's presentation that the federal government will pick up much of the missing \$600 million tab, a December 7th Congressional Budget Office study reported that the federal government pays Medicare Advantage plans an average of 4 percent MORE than it would cost the Medicare fee-for-service program to cover a similar beneficiary. The CBO recommends that benchmark payments to US plans be REDUCED by 10% in 2025.

<https://www.cbo.gov/budget-options/58626>

I have to wonder how AETNA will manage that little problem of less money and find a way to satisfy its shareholders.

Enrolling municipal workers in Medicare Advantage is a Band-Aid solution to restraining long run cost growth. Requiring a premium to buy out of the Aetna Plan creates a two-tier system, deeply at odds with New York City's efforts to create more equity in its population. PSC CUNY has developed a proposal that is far more likely to accomplish the ends the city seeks in cost control while keeping faith with municipal workers.

Thank you for your holding this important information gathering session. It is much appreciated.

From: MHaber8643@aol.com
Sent: Wednesday, January 11, 2023 6:06 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Do Not Amend the Admin Code- Hands Off Traditional Medicare!

Dear NYC City Council:

I went to urge you to vote strongly against changing the Administrative Code, and to help us in this way hold on to the traditional Medicare that has served us perfectly well since retirement

I am a retired NYC DOE teacher with over 30 years in the system; the health care we were promised should not be taken away and replaced by an inferior Medicare Advantage Plan, by the very Union Leadership and Mayor who promised to keep Medicare free and public. The tenacity with which these entities have gone after the most vulnerable seniors is disgraceful!

Let us find another way to make up the city's shortfall- there is always a more equitable alternative, despite the union's propaganda!

Written testimony of:
Martin Haber
Retiree Advocate, UFT
Woodstock, NY resident

Testimony for NYC Council
From Martina Meijer, active UFT member

Subject: Do not change the administrative code

Dear City council members,

I am writing today to demand that my healthcare be protected. I stand fully opposed to any change to administrative code 12-126.

As a UFT member, I am aware the UFT leadership has presented the position of the union as the opposite to what I am articulating. This decision has been made without consultation of UFT membership. We have never voted on it, and we do not agree with it. As a member of the rank and file, I do not want to be pitted against the retirees. We do not want any change to the administrative code.

The UFT leadership is falsely claiming that the arbitrator has ruled on this issue, when in fact it is merely a suggestion. They have falsely claimed that 12-126 is taking away our collective bargaining rights. The lies and misinformation from UFT leadership is appalling and outrageous. As your constituent, I implore you to listen to the people. We do not want any change to administrative code 12-126.

Sincerely,
Martina Meijer

I am Marvin Ciporen, a CUNY retiree. Last week we rushed my gravely ill brother, Bill, to the hospital. We worried that he would die. But we did not fear that doctors would have to delay or not provide needed care because of what a private insurance employee might decide. Bill, like many children of immigrants, chose to work for New York City. Bill spent decades protecting vulnerable children. Thanks to the current retiree health benefits he received the best possible care without bankrupting our family.

Bill's story exemplifies why you should Vote to Preserve Admin. Code 12-126. Vote against any attempts to change it because you know that:

- On April 28, 2022, The New York Times reported, under the headline - ***“Medicare Advantage Plans Often Deny Needed Care, Federal Report Finds”*** – “Every year, tens of thousands of people enrolled in private Medicare Advantage plans are denied necessary care that should be covered under the program, federal investigators concluded”
- There is no way to ensure that private Insurance companies will save the City as much money as they promise when seeking contracts.
- Private insurance companies focus on maximizing profits, so they will provide worse coverage and care to sick people to increase earnings.
- The headline of another New York Times article (October 8, 2022)- ***“The Cash Monster Was Insatiable: How Insurers Exploited Medicare for Billions”*** – speaks for itself!
- Advocates for retirees and current City workers have suggested better ways to address the problem of healthcare costs. But the City has not studied them.
- Medicare Advantage Plans will make it harder to recruit City workers and will weaken municipal unions.
- It would be hypocritical to vote for the largest privatization of health care coverage in the U.S. after running for office with a pledge to expand government-funded health insurance.
- Retirees have long memories and vote in primary and general elections.

Please protect the health of the frontline and essential workers who made the City run by voting against any attempts to change or eliminate Admin. Code 12-126.

Thank you.

From: Mary Cherney <mary.cherney@gmail.com>
Sent: Monday, January 9, 2023 9:46 AM
To: Testimony
Subject: [EXTERNAL] Defend Senior Care

To the members of the City Council,

I am a constituent living in District 7, and I am writing to urge you, to beg you, to do everything in your power to ensure that city municipal worker retirees such as myself continue to have the option to pay into GHI SeniorCare Health insurance, and any other "pay-up" plans which now exist. These options are now threatened by efforts to mandate that retirees join a Medicare Advantage plan which is being pushed by the city, and to my dismay, it appears, by my union president, Michael Mulgrew.

The consequences of that action would be catastrophic for me. I have an auto-immune disease which requires me to get bi-monthly injections of a very expensive medication which is in the category of new drugs known as biologics. This new class of medication is very costly, and generic alternatives do not exist. I am now able to get my medication, which normally would cost me \$6,800 **with insurance**, only because I am eligible for extra assistance through a program offered by the drugs manufacturer, AbbVie. If I were forced into a Medicare Advantage Plan, or into Medicare Part D, I would automatically lose eligibility for the assistance, and I would no longer be able to afford to pay for my medication. The effects on my health would be dramatic, dire, and quite literally, possibly deadly. I am certain that I am not the only person amongst New York City retirees in this situation. Again, let me stress, **any Medicare Advantage Plan or Medicare Part D** would automatically disqualify me and anyone else in my situation from getting potentially life saving drugs. For us it's not an issue of fighting for the best Medicare Advantage Plan, as Mulgrew frames it, it must also be ensuring that all existing alternatives remain .

I was a New York City Public School teacher for 25 years. I loved my job and I worked hard for my students, colleagues and school community. I am now asking the City of New York to honor the promises that were made to me when I chose to become a New York City Public School teacher, specifically the promise of continued health insurance **of my choice** into my retirement years. Please **Vote NO to amend administrative code 12-126.**

Sincerely,
Mary Cherney
Retired from NYC DOE, 25 years of service

To:NYC Council

The city admin code 12-126 should not be changed so that, municipal workers' healthcare remains in place. I have been a NYC teacher for over 13 years and am entitled to quality healthcare with my choice of provider as we have had all along. Additionally, I am looking at retirement in the next few years and was grateful that I would have the supplemental insurance that I have worked so hard for all these years. To pull the rug out from so many dedicated workers, especially those who worked seamlessly during the pandemic to educate our students, is unconscionable.

Mary E Reichman

30Q002

I am a constituent of Councilmember Rita Joseph and a proud member of my union, PSC-CUNY.

I am 73 years old and served City College for 34 years before retiring during the pandemic. Throughout my service, both myself and my husband received health insurance coverage through my union, the Professional Staff Congress under its contract with New York City. Now we are both dependent upon and very satisfied with Medicare and our current retiree health benefits through the Union. I have multiple pre-existing conditions, including cancer, diabetes and asthma for which I receive excellent treatments and prescriptions covered by these benefits. It has not been easy to enroll with multiple providers who accept my insurance. If YOU and your Council colleagues disrupt the current arrangement previously negotiated and still under contract, you will undoubtedly shorten my life and the lives of other retirees. You are accountable to us and our survivors. We strongly oppose any administrative codes that weaken our benefits and gut our health insurance lifeline. Please vote NO on the code changes.

Thank you.

Mary E Lutz, Phd, MPH

Brooklyn, NY 11226

From: msmls@aol.com
Sent: Saturday, January 7, 2023 5:19 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Public Comment RE: Proposed Amendment to Administrative Code 12-126

Honorable Council Members:

My husband served as a New York City Police Officer for over 23 years. He retired over 20 years ago, collecting a small pension. That, combined with our social security benefits, gets us by. If the change to our medical insurance that the city is proposing were to take place, we would be hard pressed to pay our bills, medical and otherwise. It is sad to think that the city would renege on a promise made to retired employees, especially in their senior years. To say nothing of the upheaval that would result in having to research and locate new doctors to take care of our health needs. Keeping the current insurance plan is critical in retaining access to our doctors and ensuring continuity of care.

Thank you for your attention to this matter.

Mary Lyn Scalzo

***“Those who stand up for justice will
always be on the right side of history”***

The Rev. Dr. Martin Luther King, Jr.

January 8, 2023

Dear Members of the New York City Council:

Re: New York City’s Proposed Amendment to Administrative Code 12-126

My name is Mary Manuppella. I was employed with the City of New York for over 37 years, from July 1972 until I retired from the Mayor’s Office in March 2010.

PLEASE, I am appealing to your sense of human decency and ask that you vote against amending Administrative Code 12-126. PLEASE consider the vulnerable seniors who will be gravely harmed if Administrative Code 12-126 is amended.

During the 37 years that I worked for the City of New York, I paid into the Federal Medicare program. When I became Medicare eligible, I had the **CHOICE** of either enrolling into traditional Medicare or a Medicare Advantage plan. After extensively researching all the pros and cons of traditional Medicare vs Medicare Advantage, I chose to enroll in traditional Medicare. New York City now wants to amend the Administrative Code and provide retirees with only one choice of health care plans – a Medicare Advantage plan – thereby effectively **ELIMINATING MY RIGHT TO CHOOSE MY OWN HEALTH CARE PLAN!**

Once again finding itself in financial difficulty, New York City officials plotted and schemed on how to remedy their financial situation. They came up with a novel solution, to go after City’s most vulnerable citizens, the low hanging fruit – New York City retirees. **Clearly, in their mind, the retirees were defenseless since they had no union representation and no way of organizing and fighting this plan to take away their choice of health care. Retirees will have no recourse but to shut up and accept whatever plan that New York City was offering to them.** It was a done deal, a quick and painless solution for New York City’s financial woes, or so they thought. Thankfully, and to the City’s chagrin, retirees banded together and proved otherwise!

Now, through no fault of our own, we find ourselves trapped in a literal “David versus Goliath” battle against the City of New York. It is truly a matter of life and death for so many of us seniors, especially the most vulnerable who retired 10, 20, 30 years ago or more, and in particular those who are battling serious health issues.

Many cannot afford to pay out-of-pocket for a PRIVATE supplemental health plan and will be **FORCED** to join a Medicare Advantage Plan that New York City will now offer as opposed to what was promised to us when we began our civil service careers so many years ago – a Medicare Supplemental health care plan.

Please be mindful that there are **SIGNIFICANT DEFICIENCIES** in Medicare Advantage plans compared to traditional Medicare with a Medicare supplemental plan, many of which are well documented:

- Medicare Advantage plans often deny urgent and needed care to its members. Most notably, in April 2022, the Inspector General’s Office of the U.S. Department of Health and Human Services conducted a study which found that there are **“widespread and persistent problems related to inappropriate denials of services and payments”** and that **“MAOs [Medicare Advantage Organizations] sometimes delayed or denied Medicare Advantage beneficiaries access to services, even though the requests met Medicare coverage rules.”** (See April 27, 2022, U.S. Department of Health and Human Services, Office of the Inspector General report *“Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care.”*)
- According to a study published in the JAMA Health Forum, the **Medicare Advantage program reduces the use of hospitalization services and spending for beneficiaries as compared to traditional Medicare. In addition, one study found that Medicare Advantage plans create a racial disparity in the distribution of Medicare funds, largely affecting Black Medicare beneficiaries.**
- **There are greater racial disparities in Medicare Advantage plans than in traditional Medicare.** (See June 11, 2021, Brown University study *“Top-rated Medicare Advantage plans perform worse for minority, low-income enrollees, study finds.”* See also Reuters June 30, 2017 article *“African-Americans who buy Medicare Advantage fare worse.”*)
- **To lower costs, Medicare Advantage plans typically constrains the network of available physicians and implements prior authorization requirements.** (See December 20, 2022, JAMA Network editorial *“How Much of an ‘Advantage’ is Medicare Advantage?”*)

- Medicare Advantage plans have a limited network of doctors and high fees or no coverage for going out of the plan's network.
- Medicare Advantage plans can drop doctors and other health care providers from the plan in the middle of the plan year without much warning.
- Unreasonable cost-sharing copays: Medicare Advantage plans often have deductible, copay, and coinsurance amounts that are much higher than original Medicare with a Medicare supplemental plan (i.e., ambulance, hospital stay, radiology services, lab work copays, etc.).

These are just a handful of the voluminous studies and articles documenting the disadvantages and disparities of Medical Advantage plans, especially relating to end-of-life patients.

In light of these alarming details, I strongly urge you to please give your most careful consideration to this urgent matter and vote against amending Administrative Code 12-126.

Sincerely,

Mary C. Manuppella
Brooklyn, NY 11234
(Council District 46)

NYC Retiree, March 2010
Office of the Mayor

From: Clasina Mittiga <cmittiga@gmail.com>
Sent: Sunday, January 8, 2023 4:02 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Code 12-126, NYC retirees

Dear Speaker Adams,

Code 12-126 protects retirees' health coverage. By voting to amend, you are taking this protection away from us. We have paid into Medicare all of our working lives and continue to do so. Many retirees have been paying for Medicare since its inception in 1965 (57 years).

Medicare Advantage is a private insurance company whose sole purpose is profit. Traditional Medicare was created to provide healthcare security for all through payroll deductions. (Will the city refund us for all the years of contribution to traditional Medicare when they force us into Medicare Advantage?)

It should be our mission to protect, preserve, promote and insure the health and well-being of current and future generations of retirees. Traditional Medicare provides us with that security. We cannot afford to lose Medicare. Please VOTE NO to amend 12-126.

Thank you,

Maryanne Delgado, retired NYC teacher and former UFT chapter chair

Clasina Mittiga, retired teacher and former UFT delegate

Testimony for the Civil Service and Labor Committee against legislation to amend § 12-126 of the NYC Administrative Code (1/9/23)

Matt Shapiro
Retired (2001) New York City Teacher
matthew.shapiro@verizon.net

My name is Matt Shapiro, and I'm a 78 year old retired NYC teacher.

The Speaker and the committee chair issued a joint press release supporting a bill amending 12-126, which currently requires COST-FREE health insurance, saying the bill aligns with the courts and arbitrator's decisions.

First, the Arbitrator's report is not a decision. It's only a recommendation. And since retirees were not represented, it should be ignored.

Second, this proposed amendment does NOT align with the court decisions. The decision last March held that the city cannot force retirees to pay 191 a month for the Senior Care supplement. Their health insurance must have **no cost**.

There was no court holding about the city just having one dis-Advantage Plan. While there was something about that in the court's decision, it wasn't part of the court's holding. It was just talk – what's called "dicta" – speculation about what might be if the evidence didn't change.

Well, a month later, the Inspector General gave us a giant piece of new "evidence". His report proves that dis-Advantage Plans regularly DENY expensive medical care that Medicare ALLOWS.

So how does that relate? 12-126 guarantees COST-FREE health insurance. If we're forced into a dis-Advantage Plan, it won't be cost-free. Say a retiree needs a \$50,000 medical procedure. The dis-Advantage plan says it has to be pre-authorized, and then says, no, it's DENIED. If you want it, you're going to have to pay for it yourself. Is that not a cost to the retiree? Of course it is. Does that not violate 12-126? Of course it does.

So if the city forces us all onto one dis-Advantage Plan – there absolutely will be another lawsuit. And the new dis-Advantage Plan will be struck down.

And we'll get our Senior Care back without premiums or copays.

So PLEASE don't destroy this protection that you have given us since 1967. Don't amend 12-126!

January 12, 2023

Dear City Council Speaker Adams and Chair De La Rosa, Member:

Thank you for providing a forum for this discussion and exchange to take place. I have never attended a Council hearing and was very impressed with how you expertly handled a sometimes cantankerous room.

Thank you for accepting my testimony.

I am a retired NYC Fire Officer. I won't labor you with everything I saw in my 26 years but here are a couple. I was the first NYC First Responder into the WTC bombing on February 26, 1993. I worked September 10, 2001 in Ladder 10 on Liberty St. and went home. The next day changed the world and I spent almost all of the following 7 months on The Pile that turned into The Pit.

I have been diagnosed with total bilateral vestibular loss, GERD and Barrett's esophagus. I have overcome rectal cancer. This past December 30, 2022 I had a heart attack and had a stent installed. (That's why I couldn't be with you in person this past Monday, January 9th.)

In December of 2019 I got an email from the UFOA wishing me a happy 64th birthday and a timeline of things to have in place by my 65th birthday which would be my official entrance into the world of Medicare. I began my homework. It is one of the most arduous things I've ever done. After consuming hundreds of pages it was time to get some further information from the OLR HBP. (This was around June 2020). The Health Benefits Program was closed! How do you close the HBP during a pandemic?

FYI: The OLR and the MLC were meeting clandestinely through out this time.

I didn't approach selecting a plan with any bias. As I began to call the different insurers to compare the available offerings from the HBP to Medicare retirees, I either heard from the insurers "that's NYC, I can't help you" or "call your health benefits plan"... which was CLOSED. To summarize this part of my screed: I was left in a sea of internet debris trying to get facts. I discovered more about Medicare and how it works that I could ever imagine.

When I was done, the perfect fit for me was GHI Senior Care.

Some observations that are relevant to the issue at hand:

(If I footnote all my observations I'll never make the submittal deadline, but would be more than happy to supply them at your request).

- Medicare Advantage IS NOT Medicare at all. When you enter into an agreement with an insurance company you are OUT of Medicare.
- If you "join" an "advantage" plan and change your mind after, ACA protections do not apply to you. You are subject to medical underwriting before acceptance.
- People faced with end-of-life predicaments desperately seek to escape "Advantage" plans because they don't cover anything.
- In October of 2022, Rep. Mark Pocan (D-WI) with 4 co-sponsors, introduced H.R. 9187-The Save Medicare Act to stop insurance companies from using the word "Medicare" in their offerings.
- FYI: With this proposed contract Aetna will conservatively realize three billion five hundred million dollars (\$3,500,000,000) ANNUALLY!! Yes, \$3,500,000,00!! A great return on a few million invested in PR.

Observations related to the hearing:

I was an active union delegate as a firefighter (UFA) and as a Fire Officer (UFOA). I was a member of the Negotiations Advisory Committee for most of my time as an officer. That being said, I don't know everything, but I know what I know.

- My understanding is that for an arbitrator to be involved there has to be a dispute between parties. Mr. Schienmann sat with 2 agreeing entities (OLR and MLC) and drafted a for-pay opinion piece. He doesn't even sign-off on it as an "Award" but as an "Opinion".
- Has anyone seen as much as a draft of this Aetna "contract"? How can you possibly make an informed decision with that piece missing?
- The OLR reps and MLC reps frequently mentioned "consultants". Does anyone know who these "consultants" are? What are their qualifications? Who do they/did they work for?

- Before this hearing: Did anyone anywhere ask ANY retiree what they thought about this?
- In my humble opinion two of the people who testified, Mr. Wendell Potter and Prof. Barbara Caress are mountains of good information. I believe they would welcome your questions.

To close:

As I said in a previous communiqué: On January 9, 1982 I swore an oath to the City of New York. I kept my end of the bargain and have the scars to prove it. I don't really know how we got here. Legally, I believe there are 55 years of past-practice defending what was promised me. Ethically and morally, I feel what is being attempted is a betrayal and a stab in the back.

At the very least, can we pump the brakes on this? I heard a lot of very bright people speak in the Chamber Monday. Where there is a will there is a way. Legislate the right thing if you need to.

That's just one mans opinion.

Thanks again for accepting my testimony. Stay safe.

Sincerely,
Matthew J. Donachie
Lieutenant, FDNY Retired
26 Years of service
Retired in 2007

Thank you for this opportunity to testify in regards to proposed changes to NYC 12-126.

I am writing on behalf of Judith, a nearly 97-year-old retired NCY public school teacher currently residing in a senior care facility in South Central PA near Harrisburg. Judith taught for 26 years at PS 241 during which time she cared for and nurtured students, actively supported parents and mentored young adults who expressed an interest in a teaching career. Judith dedicated a significant portion of her best years in life to helping others. Having considerable professional experience and a Master's degree, Judith easily could have enjoyed a more lucrative career in private industry; however, Judith purposefully chose to work in an impoverished community with the desire to make a meaningful difference for many.

When it came to her personal stability, Judith trusted NYC OLR and the UFT representatives who assured her, and subsequently reassured her numerous times, that when her turn came to retire that she would enjoy uninterrupted, premium free, traditional Medicare Supplemental health insurance for life-these reassurances allowed Judith to remain laser focused on fulfilling students, parents and mentees' needs.

As other NYC retirees have experienced, in recent years Judith's health has declined precipitously. Regardless of how hard one tries, the natural aging process coupled with seemingly unavoidable significant illnesses, accidents and injuries cropping up, recuperation never results in a return to one's prior psychological or physiological state. Not by choice, formerly vibrant, caring people like Judith are now at the mercy of others; including specifically, the NYC City Council. Judith needs and deserves continuity of her healthcare with providers she is familiar with, clinicians who are knowledgeable about her clinical history and needs; and are an integral part of her healthcare delivery team. Judith also needs access to affordable care at her Senior care facility and in the nearby community.

The above backdrop is intended to ground City Council members' decision making around the fact that 250,000 Judith's have given selflessly to make "The Big Apple" the biggest and best city one can achieve. Retirees earned their current benefits, were promised these benefits time and time again by the same organizations that are now working to diminish the benefits after knowingly depleting the NYC Healthcare Stabilization fund. Shame on the OLR and the MLC leadership for doing this to the multitude of human beings who responded to fires, accidents, protected people and valuables, taught, picked up trash and made the city a desirable place to live, work and visit. On behalf of Judith, I implore the City Council to do the following:

- 1. Place an immediate moratorium on the MLC and OLR from making any changes to existing retiree healthcare benefits.**

2. **Investigate the objectivity, accuracy and thoroughness of information contained within the Arbitrator’s opinion report** and the potential that material errors and omissions may have occurred within the report. Determine if the opinion report has been misconstrued or misrepresented to the Council and others as a binding ruling and question if a conflict of interest exists between the author of the report and one or more organizations, entities or individuals.
3. **Solicit from the MLC Chair a written attestation explaining precisely how the objective assessment of combining 100+ self-governing NYC Municipal Employee Welfare funds was conducted and why a consolidation of welfare funds was not aggressively pursued.** Seek clarity in regard to how disparate Welfare funds can possibly negotiate better benefits and lower costs than if the Welfare funds were consolidated and seek clarification if Welfare fund recurring operating costs such as rent, utilities and insurance were taken into account when assessing a consolidation of administrative offices.
4. **Require a written attestation from the MLC Chair and Director of the NYC OLR that each of the National Cancer Institute (NCI) Designated Cancer Centers will FULLY PARTICIPATE, IN-NETWORK, in *any* medical plan sponsored by NYC.** These Centers are located in 36 states and DC, are funded by the NCI to deliver cutting-edge cancer treatments to patients; only 11 Cancer Centers are recognized with this distinction. **Sloan Kettering** enjoys this distinction – the Council must ensure retirees have ongoing access to all of these Institutes.
5. **Require a written attestation from the MLC Chair and Director of the NYC OLR that each of the Nationally recognized Ophthalmic institutes** such as Duke University Hospital, Stein and Doheny Eye Institute, Massachusetts Eye and Ear, Wilmer Eye Institute at John Hopkins Hospital, Wills Eye Hospital in PA., Bascom Palmer Eye institute Florida, **will FULLY PARTICIPATE, IN-NETWORK, in *any* medical plan sponsored by NYC.** New York Eye and Ear Infirmary enjoys this distinction – the Council must ensure retirees have ongoing access to all of these Institutes.
6. **Authorize a Forensic audit of the Municipal Labor Committee’s accounts, administrative policies and procedures to ensure that sufficient “Checks and Balances” exist within the MLC, to ensure transparency and instill a resounding sense of accountability.**
7. **Engage well credentialed objective subject matter experts to validate ANYTHING that the MLC. OLR or Aetna represent as factual.**

8. Slight inaccuracies, errors, omissions and/or embellishments in representations made by for profit entities such as Medicare Advantage insurance companies can have profound permanent impacts upon the insured/member population. **The Alliance Plus contract apparently failed to address critical design, implementation and operational requirements. The Council should investigate how these material oversights occurred and determine if adequate controls and accountability models are in place to guarantee expected outcomes are met and sustained.**
9. **Star ratings are the Federally recognized metric for evaluating Medicare Advantage plans.** Following the Alliance Plus implementation debacle, representatives of **the MLC committed to only supporting and implementing a Medicare Advantage plan that earned and sustained a 4 (four) Star CMS rating. City Council Members should determine if Aetna has in fact earned an overall CMS 4 star rating** for the most recent reporting period, and if Aetna did not meet the criteria set by the MLC, why Aetna's Medicare Advantage is being considered at all.

Council member pledged to protect people when running for office and in particular elderly, low income and frail individuals. Please do not change the law that has protected Municipal workers for decades. Instead, compel the MLC and OLR to create a 'Blue Ribbon' panel comprised of individuals who will take an oath of allegiance to the Council to remain, objective and professional in seeking practical, respectful, sustainable solutions to maintaining premium free access to original Medicare Supplemental insurance. Thank you.

Note: Bold text are highlights to be shared during spoken testimony.

From: Matthew Weber <mwebs123@gmail.com>
Sent: Thursday, January 12, 2023 1:21 AM
To: Testimony
Subject: [EXTERNAL] Hearing on NYC 12-126 January 2023

In Ms Claire Levit's (OLR) testimony at or around the 32 minute mark on Monday she offered comparisons between Aetna's MA plan and the standard features in original coupled with Medicare Senior Care. Near this time stamp Ms. Levit highlighted new value added benefits not available with the current SeniorCare program. For example, Ms. Levit spoke of Aetna offering Retirees a Life Alert type system for home use. One may have inferred from her testimony that the Life Alert system was a fully functional system with zero initial or recurring costs for the retiree- but we do not know if this is factually accurate.

My initial research on Aetna Lif Alert program in suggests the program may be more akin to a discount program, NOT a cost free program. Perhaps Aetna would provide a base station and / or initial setup and activation of a pendant at no cost to the member..but the member may be liable for expensive, monthly recurring support / connection / service fees. Facts matter. Details matter. Completeness matters. Potential consumers (retirees) deserve sufficient data to make well informed decisions.

Please for each new 'value added' benefit Ms C. Levit referenced in her testimony; including meals and transportation, demand to know all relevant caviots, exclusions, limitation, pass along costs, and extent of availability on a National basis.

Group Medicare Advantage plans are typically unique within a vendir from one another by somewhat discrete changes to existing underlying contract templates. Tweaking just one attribute of a group MA contract can literally make that contract eligible to be touted as new, unique and never offered before...yet in reality a near identical plan has been marketed for years. The number of free meals, the quantity of free transportation trips or milage limitation might be the distinguishing attribute that permits such representations. There are infinite changes that can be ' manipulated' during contract negotiations to give the corporate sponsor or union freedom necessary to claim their MA program is completely unique from all others and the best ever. As a way of illustrating this point, the undercarriage of a 2023 Honda Civic is highly likely to be the same regardless of a unique pin strip placed on the exterior pannels of another 2023 Honda Civic...yet the owner of the striped Honda can tout theirs as new, unique, never offered before and resulting from the absolutely best negotiated contract and a wonder value proposition.

Following the above line of thinking / questioning will afford the Council the opportunity to "set the table" to probe more deeply into CMS star ratings. Meanjng, how could a 'New, Unique, Exclusive, Never offered before' NYC Aetna Group MA plan possibly have earned a CMS four star rating when CMS rating have a 12 month publication delay due data collection, analysis and drafting?

Facts matter. Transparency matters. Potential material gaps in details (omissions) can have profound implications on people's decision making and wellbeing. Council Members and Retirees deserve clear, full and unambiguous facts.

Thank you for your hard work and dedicated service and to your staff, for their excellent work and dedicated service.

Matthew Weber

From: Maura SJ <maurasobocinski@gmail.com>
Sent: Tuesday, January 10, 2023 3:27 PM
To: Testimony
Subject: [EXTERNAL] Do Not Amend Administrative Code 12-126

Hello,

I am writing as a city worker and public librarian to voice my opposition to the current effort to amend Administrative Code 12-126. Amending this code would only harm city workers and set a dangerous precedent for stripping away more of our protections and benefits as workers and retirees.

The city should have never agreed to UFT pay increases that were basically illegally funded by taking away retirees' health benefits options. Amending the city administrative code is not a fix and is not something city workers want.

Our unions may be pushing for this, but so many of my fellow city workers do not agree with union leadership on this. Please know that our unions are not speaking for the majority of workers, and many of us are deeply disappointed in our union leadership in their support of this effort.

I love my job as a public librarian for Brooklyn Public Library. It can be an incredibly challenging job working with the public during a pandemic and at a time of deep economic inequality. The pay is low, the hours can be tough and we struggle to fund our programs. But I do know that so many of my colleagues continue to show up and work hard to meet the needs of our patrons each and every day. As city workers, we deserve our city to work hard and show up for us.

Please listen to the workers and keep administrative code 12-126 in place. Amending it will only harm the city workers who keep NYC running each day. I may only be at the start of my career as a city employee, but I know that all of us deserve quality health care when we retire. We voted in one of the most progressive and diverse city councils in NYC history for a reason -- to stand up for progressive causes, support workers and be a voice for the people. I urge your members to not become an accomplice in stripping city retirees of their rights and benefits. Please vote no!

Kind Regards,
Maura Johnson, Librarian, Brooklyn Public Library's Flatbush Branch

--

Maura Sobocinski Johnson
(she/her)
maurasobocinski@gmail.com

I attended the city council committee hearing on ADVANTAGE health care on Monday, January 9, 2022.

I spent over 7 hours listening to members of the city agency responsible for paying the 20% of the civil servants insurance bills [essentially city accountants] claim the city's medical budget is 600 million dollars over budget, but, were unaware they were responsible for auditing the fund they administer, or responsible for questioning the medical institutions' billing. I listened as they suddenly became vague about future costs of ADVANTAGE insurance for the retirees.

I listened to the heads of the city unions insist retired civil servants accept Medical ADVANTAGE, but, when pressed were unable to describe what was in the policy because they hadn't written [negotiated] it yet.

I listened as city councilmen bumbled around for an hour or two before realizing the 'experts' didn't know what was going on and were hoping they could dump the mess on the councilmen.

I did learn a few things. The council chair is easily intimidated. While we were required to be physically in attendance; Michael Mulgrew got to attend in the comfort of his office two blocks away where his minions could coach him through the tough stuff. Everyone should be in attendance for hearings unless we have a pandemic curfew. The council kids need to grow a pair. Also, there is apparently a specific code written regarding how medical insurance was supposed to be designed for city retirees. The last time it was renewed was in 1982 rendering it moot in today's world. The other thing I learned is ADVANTAGE plan will managed by AETNA. Aetna's beginnings were as a insurance company that offered policies to slave owners to protect them in cases where their slaves died.

Those two points should have been enough for all in a position of power to drop the whole idea of ADVANTAGE managed by Aetna or anyone else for that matter.

All of this took place in a musty, relatively tiny, dimly lit room grandly titled The Chamber with retirees crammed in together; an environment best described as a potential covid event. The head

of the committee determined we didn't need breaks or lunch. We were not allowed to drink water in The Chamber or eat snacks to stave off diabetic shock. If we wanted to show our approval we had to 'library wave' and disapproval 'thumbs down'. And the bathrooms were unique. While there was a handicap accessible chamber in the bathroom, it would have been impossible for someone who used a wheelchair to get to it. As for access to City Hall...don't ask. When you hear a retiree say, 'Old people are invisible', this is what they mean.

My companion and I had to leave by 3. The hearing ended at 9. Twelve hours listening to incompetent, ill-informed, 'leaders in their field', who will be voting on this bill on January 19th.

We will be there on the 19th. There will be no library waving. No thumbs down. But there will be snacks.

My testimony submitted electronically since I couldn't handle anymore faux democracy.

I am a proud member of the United Federation of Teachers and I stand to protest the present decision to force retirees to accept a ADVANTAGE medical plan.

We are in the worse medical crisis this planet has experienced in a very long time. Our economy is struggling to recover. Our people are weak with sorrow. Nothing will ever be the same.

The purpose of capitalism is to prosper economically. When we all prosper, capitalism works smoothly. When we do not prosper, capitalism fails.

These past three years remind us when we are sick we cannot work. If we cannot work, we do not prosper. The only way we can stay healthy, so that we can work, and prosper, is if we have reasonably affordable health care. Only then can capitalism can work smoothly. Only then can we flourish and prosper.

Maureen Boler

Brooklyn, NY 11249

Dear City Councilmembers,

I am a UFT retiree with over twenty years of service, having taught half my career in District 5 at PS 125 and half in District 11 at PS 19.

If Section 12-126 is changed and I am placed into any plan that does not include Traditional Medicare, I will be forced to forfeit my Medicare Part B reimbursement from The City of New York and I will be forced to purchase a wrap-around policy because my doctor at the Mayo Clinic ONLY accepts Traditional Medicare. Without his care, I will only live 5 years, at the most!

I feel like my Union has failed me and The City of New York has failed me.

I question why the MLC and The City of New York are presenting a "Recommendation" by Hon. Martin Scheinman as a Court Order or Decision? Apparently, it is completely non-binding and is out of order due to being 2.5 years late.

Section 12-126 only became a problem to the MLC, Unions, and The City of New York when it prevented retirees from having to pay the \$194 each month for Senior Care. Even without the litigation, Senior Care would have no longer been free to retirees once the new Medicare Advantage Plan was implemented. It would have cost \$194 per month. The UFT should NOT make it sound like the litigation is the cause of senior care no longer being free to retirees.

I implore The City Council to reject any amendments to Section 12-126 because, as I said earlier, it will create an unavoidable and incredible financial burden on me.

Yours truly,

Maureen Hughes

Please do not alter the administrative code. Section 12-126 is there to protect City workers and it apparently has been written very effectively since we have had excellent health benefits thus far. Three previous mayors have tried and failed to change it thanks to the City Council. Don't allow yourselves to be used against workers. Hold firm the way your predecessors did. Say NO to Mayor Adams.

Clearly we have to work on bringing healthcare costs down, but let's work on it. We are asking that the issue be confronted, not sidestepped by punting the debt elsewhere and pushing us into healthcare that has been proven to be actually harmful in some cases.* As others have noted there are other means of saving money, and once 12-126 is gone we, including you, have no protections.

I believe this is a watershed moment. This is not just about retirees in NYC. This is about privatizing healthcare in this country. This is a big giveaway to private insurance. If you give Mayor Adams what he wants it will be another nail in the coffin of original Medicare. Original Medicare's primary goal is comprehensive healthcare. MA's primary goal is profit; Insurance companies are corporate entities beholden to their shareholders, not their policyholders.

I've heard you've been threatened with the loss of the backing of the UFT unless you vote to amend the code, but believe me if this passes, you will lose the backing of the retirees. We DO vote in large numbers. We will not accept Medicare Advantage which you know very well is no advantage. Mayor Adams will be a one-term mayor for sure.

That code was put there for a reason. Getting rid of something that was designed to protect workers because it's in the way is foolhardy. It's like turning off the water sprinklers in your home because they interfere with your interior design plans. I hope a word to the wise is sufficient.

Maureen McDermott,
UFT retiree

NYC 10027

*<https://www.nytimes.com/2022/10/08/upshot/medicare-advantage-fraud-allegations.html>

*<https://www.nytimes.com/2022/04/28/health/medicare-advantage-plans-report.html>

Headline: Medicare Advantage Plans Often Deny Needed Care, Federal Report Finds

Investigators urged increased oversight of the program, saying that insurers deny tens of thousands of authorization requests annually

From: Maureen Miller <maureenmill@gmail.com>
Sent: Tuesday, January 17, 2023 1:04 PM
To: Testimony
Subject: [EXTERNAL] Re: Amending Administrative Code 12-126 (OPPOSE)

To Members of the Committee on Civil Service and Labor:

I am a physician and former NYC public school teacher writing to urge you to oppose amending Administrative Code 12-126 and voice my concerns about the City Council's proposal to amend the Administrative Code to change the benchmarks by which quality of care is guaranteed

The City purports that the amendment would allow them to save money at employees' expense by reducing healthcare benefits to ALL workers and retirees on NYC's medical coverage. Amending City Administrative Code 12-126 would change the City's responsibility to provide healthcare benefits to its workers. The code they are attempting to change has protected NYC workers for over fifty years, and this amendment is a direct attack to undermine the hard-earned benefits promised to City employees and retirees.

I support the many people who are calling our City Councilpeople to tell them to protect City workers' right to the quality care that they have been promised.

In summary, I support NYC municipal workers and retirees in the ongoing fight to protect their right to keep their Traditional Medicare plans. When the City Council meets on January 19th, I ask you to oppose this amendment.

Maureen Miller, MD MPH (views own)
Member, Physicians for a National Health Program
UFT Member, 2006-2007
NYU Langone Health Trainee, 2009-2018

Dear City Council representative,

My name is Max Stappler. I am a retired, NYC teacher. I started working for the NYC DOE in 1965 and retired in 1997.

Next week the City Council is about to call for a vote on whether or not to amend ADMINISTRATIVE CODE 12-126 a code which has protected City workers health insurance since 1967.

WE URGE YOU TO VOTE NO TO AMEND THIS CODE.

First let's make clear that the Scheinman report is NOT a ruling. It's an opinion. IT IS NOT BINDING. It is paid propaganda. There was no arbitration that Mr. Scheinman was called upon to weigh in on. This is not the first time a City Council has been called upon to protect Code 12-126. Even in times of greater financial strife than now, the Council managed to uphold this protection. They did so in 1977, 1984, 1986 and 1997. When Republican Mayor Rudy Giuliani voted against the City Council upholding this protection, the City Council shot back by overriding his veto. Make no mistake, we're in the same fight now with a Democratic mayor and overwhelmingly Democratic Council.

Battle lines are being drawn in the fight for a Comprehensive Healthcare System. What a monumental historic error it would be for the New York City Council to come out on the wrong side of this significant directional policy change.

We also urge you as City Council members to ask the Municipal Labor Council and the City administration to go back to the negotiating table to pursue a long term solution, heeding the advice of experts on ways to create real, long term healthcare savings. We urge you to work with all parties to find the necessary financial resources in the city budget, to provide the municipal retirees what they were promised when hired, and earned during their years of service to the City. Like Council Member Gale Brewer stated: "A promise is a promise."

We urge you to do the right thing!

Vote NO to amend administrative code 12-126.

We are counting on you.

Sincerely,

Max Stappler

My name is Maxine Wolfe and I am a NYC retiree. If 12-126 is changed according to what the Mayor wants retirees like myself will be forced into a Medicare Advantage plan or have to pay \$200 per month for our healthcare in order to remain on Traditional Medicare and a Senior Care back up, a move that 12-126 currently would not allow and that a court ruled was not acceptable.

And, in case you are unaware, for older retirees, like myself (I am 82) Traditional Medicare is considered far superior to the Medicare Advantage plans that exist according to many Health Care organizations, for e.g., AARP. Furthermore, none of my doctors will accept Medicare Advantage Plans so I would be forced to find new doctors to replace ones I have had for 25 years and who know me and my health issues really well. Forced onto those plans would provide me with inferior health care on that basis alone.

The MLC does not represent us. We are in this situation because the two largest unions in the MLC control the most votes because of the number of members. Yet, they did not consult with their members about this decision. They did it to cover up the mistakes they made in administering their health care. They made a deal with Bill DeBlasio that these unions would lower their healthcare costs in exchange for raises for their active members. Now they want to get those savings by depriving us of the healthcare coverage we have been promised and have always had. Also, the change in the code will allow them in the future to charge active members for their health care something they have not done yet but might if they decide they have to. Yet, they have not told their members about this aspect of the change. Instead they have told them lies about the entire situation. And, clearly, they do not have their retirees interests at heart since many of their retirees, whose median income is \$24,000 (and some only get \$10,000 or less) will have to pay \$2400/year to keep Medicare+Senior Care rather than go into a Medicare Advantage plan.

No one is against finding healthcare savings. And, contrary to what certain union leaders are saying, we are not anti-union! I came from a union family and have always supported unions. Furthermore, we, the retirees, have suggestions for a way to move forward without taking away our health care. We have identified at least \$300 million in recurring annual savings that can be used to make up the \$ they stole from us. The OMB knows about these savings and has NOT implemented them NOR informed the city council about them or these other ways of saving we have identified

We have been asking for a meeting with the city and the mayor to discuss several proposals. They have made appointments and then have not shown up. My union, the Professional Staff Congress/CUNY has put forward one proposal for an alternative to resolving this issue that takes a longer-term view while protecting vulnerable retirees from the many dangers of Medicare Advantage plans. You can read it here: <https://psc-cuny.org/news-events/psc-cuny-proposal-for-nyc-employee-health-benefits-program/> The proposal is 2+ pages but boils down to a few key steps that the Adams administration and the City Council can take: (a) Redirect funds the City holds three years, (b) Create a stakeholders commission charged with finding a path to control health care spending, with hospital pricing as a priority, and (c) Develop a sustainable mechanism for funding City health insurance. We are sure if all sides could get together we could come up with other ideas and work this out.

As we begin the new year, please remember that we need the health care we have now and are entitled to continue receiving, that many of us cannot afford what is being proposed and that any change which affects us will allow the same change for active workers.

I URGE YOU: DO NOT SUPPORT THE BILL. Don't amend the code. Protect it like every City Council before you. Protect 12-126.

PROTECT US FROM FINANCIAL PERIL AND LOSING OUR HEALTH CARE.

PROTECT FUTURE RETIREES AND CURRENT ACTIVE WORKERS.

Thank you,
Maxine Wolfe
Retiree since 1996
CUNY
33 years of service

Hi!

My name is Maya V. Shenoy and I am active employee working for the NYCHA for the past 7 years.

The ADMINISTRATIVE CODE 12-126 guaranteed that we will get our health insurance coverage that will be carried with us in retirement.

The reason people determine to work for NYC agencies for a much less salary than in private industry is, because of the health and other benefits that are provided.

It is unfair to the retirees and the employees to be deprived of our health insurance. If breaking the contract did not work in the court of law, the city is trying to find innovative ways to fool us by attempting to go even further.

We want you to know the Scheinman report is NOT a "ruling", it's an opinion and IS NOT BINDING! It's paid propaganda and they're hoping the city council falls for it. It is not a decision, it is not a ruling, it is not an award!!

The retirees have identified at least \$300 million in savings.

OMB knows about some of these savings options, and has NOT implemented them NOR informed the city council.

And OMB is unaware of others! Which is worse? HOW CAN THE MAYOR OR THE COUNCIL MAKE A DECISION IF THEY ARE NOT BEING PROPERLY INFORMED BY OMB?

DO NOT MAKE ANY CHANGE TO THE ADMINISTRATIVE CODE!

Please reach out to the NYC Organization of Public Service Retirees for real facts!

The MLC doesn't want you to know they sold off ALL of our healthcare for raises!

Yes, that includes you!

Please remember this as we go into the New Year.

Happy New Year!

PLEASE DO NOT AMEND THE ADMINISTRATIVE CODE 12-126!

Regards,

Maya V. Shenoy

NYCHA Employee since 2015.

Re: Int 0874-2023

To the City Council:

I'm a 20-year employee of Brooklyn Public Library (DC 37, Local 1482). I am writing in opposition to Intro 874. I urge the Council to reject the call to amend administrative code 12-126, which among other ramifications will force City retirees into a Medicare Advantage plan and undermine the health benefits we have been legally entitled to for decades.

As an active worker, I want my retired colleagues to have access to the same providers and quality of care, and I also want the City Council to ensure that our union leadership and the Municipal Labor Committee can't open the door for our own healthcare benefits to be altered or for more "classes" to be created with diminished health care benefits, such as new hires.

I strongly object to retirees and active workers being pitted against each other when the City and unions could pursue other options, and I urge the City Council to oppose Intro 874 and demand that exploration into alternative ways to increase funding for workers' benefits.

Thank you,
Melissa Morrone
Brooklyn, NY

Testimony for the City Council hearing on the 12-126 proposed changes
to our medical coverage 1-9-23

I am Merritt Gelfand Claude, a member of the DC 37 Retirees Association, a life-long New Yorker, a graduate of Hunter College, and a constituent of Councilman Eric Dinowitz (11th district). I retired from the City as a supervisor in the Agency for Child Development after 34 years of service.

Please do not approve the 12-126 measure. Please allow us to keep our Medicare and GHI (Emblem Health).

MAP (Medicare Advantage Programs), notoriously and intentionally limit, impede, bar, and deny our needed medical services that are legally and contractually free.

As we age we develop a variety of medical issues which can necessitate medical intervention. I have had serious cardiac surgery, brain tumor and breast cancer that require immediate and continual medical services for these critical issues. For over 20 years, I have chosen to utilize doctors, hospitals and medical facilities within the city and Long Island for various necessary ongoing diagnostic services (MRI's, CT scans, further surgeries, biopsies, sonograms, etc.) needed for my medical conditions. It is imperative that I continue to have the **CHOICE** of my doctors. It is imperative that I be allowed to use these services without being subjected to prior approvals, denials and appeals, which can allow a cancer to spread. Life-threatening medical nightmares require appropriate measures that cannot wait for approvals or dealing with denials and appeals.

I implore you to keep our GHI/Emblem **CHOICE plan which allows us to choose** medical providers without the restrictive

time delays of gaining authorizations from a MAP bureaucrat for our **urgently needed life-saving tests and** interventions.

Thank you for your time and any efforts you may make in consideration of my situation and the similar situations of most of the retirees of City services.

Respectfully submitted,

Merritt Gelfand Claude,

Bx., NY 10471

Additional Notes:

- 1) **Breast cancer** 1994-2000 after radiation, in conjunction with a local Brooklyn doctor and the U. S. NIH- NCI- National Institute of Health, National Cancer Institute- trials for Tamoxephen in Bethesda, Md.) Continued periodic follow up with Long Island Jewish doctors including subsequent - out of hospital and in LIJ hospital for biopsies, etc.
- 2) **Brain Tumor: Craniopharyngioma**-sits on the auditory and visual stems; presently non-cancerous, but with potential loss of hearing and sight-requires constant periodic monitoring and scans.
- 3) **Cardiac** issues including surgery, getting stents, a Pacemaker, related and continued periodic tests, treatment for **atrial fibrillation**, etc. mostly through at Einstein and related clinics/doctors in private practice and the Pacemaker is also remotely electronically monitored in Maryland, and billed as such.
- 4) **COPD** first diagnosed by Einstein doctors and followed up in private practice under from Columbia Presbyterian.
- 5) **Scoliosis and sacroiliac** orthopedic issues with reduced bone density - under care of a doctor in private practice from Long Island Jewish Hospital and another specialist in private practice from North Shore Hospital.
- 6) **Optical** issues/surgeries for **cataracts**, and an inherited condition called "**Convergence Disorder.**"

7) **ELIPESY** treated at Montefiore Hospital clinics and Long Island private practices including various and repeated tests, etc.

8) **Diverticulosis and diverticulitis** with carious studies and tests, depending on the severity at the time, treated by doctors at Long Island Jewish hospital's private clinics.

9) **Other ancillary and non-related issues/accidents as necessary from time to time.**

Graduate of **Christopher Columbus High School** (1965), (11th District Bd. Of Ed.) and **Hunter College** (1968).

Lived in the Bronx, Queens, and Manhattan - lifelong New Yorker.

Worked covering all of Queens, Staten Island and Manhattan and part of Brooklyn.

From: mad415@aol.com
Sent: Tuesday, January 10, 2023 4:12 PM
To: NYC Council Hearings
Subject: [EXTERNAL] medicare issues

1/10/23

To The NYC Council Members,

I write in complete and utter disbelief that the members of your council would violate the trust and NEGOTIATED contract terms of dedicated city workers without so much as perfunctory attempt to hold to the word and integrity of all our predecessors.

Having been a member and leader within the NYC Public Schools and then onto other educational leadership positions, I cannot imagine ever to have ABANDONED my reputation for being a man of my word.

There is not even a semblance of trying to protect those of us who are most at risk, because we are the easy target. You have done more to prove the need and value of union protection than anyone could have projected.

Stop this loss of trust and historical cooperation while you can and find a real solution.

Michael A. Davino
NYC Chief School Administrator, retired

My name is Micahel Antwerp.

I taught in NYC public schools for 6 years, and then taught and administrated in NY State public schools for 20 more years. I am married to a NYC teacher retiree, and receive my healthcare plan under her.

I'd like to make these 8 summarized points:

1. Martin Scheinman's participation in this situation was not arbitration, and his opinion has no legal or jurisdictional authority whatsoever in this matter. The City Council will **not** be violating any laws if they leave 12-126 alone! Michael Mulgrew of the UFT, Randi Weinagerten of the AFT, and several attorneys have confirmed this about Mr. Scheinman's point of view.
2. The City's obligation was determined by NYS Supreme Court and Appellate court, such that retirees should not be paying for their supplemental premium if they chose not to engage in the MAP. In addition, this premium is only 6/10 of one percent of the city operational budget, which is extremely cost effective, yet yields a popular and highly effective benefit.
3. Viable solutions as recommended by the Professional Staff Congress, healthcare economist Barbara Caress, Barbara Bowen, and measures like self insurance, welfare fund consolidation, and placing all union members into the same drug plan to achieve dramatic buying power can save the City at least \$500 million dollars a year. Medicare Advantage does not and should not have to be an option at all. Please reach out and have a formalized meeting with Marianne Pizzitola, and she and respective parties will show you how this can be done.
4. Medicare Advantage plans are allowed to deny and delay treatment, which puts elderly patients in harm's way, increases their risks, and has resulted in increased illness and even death. This is a trademark

difference between Medicare Advantage and traditional Medicare. Please don't allow these two unions, the Mayor, and the MLC to subject retirees to this heinous stress and risk! Remember that Advantage plans are out to make money, even if it means putting patients' health at risk. That's not the kind of so-called morality City Council should be supporting.

5. Advantage plans are fraudulently rated. They puff up their star rating system by finding illnesses and conditions that do not clinically exist, such as occasional garden variety depression or headaches. Then, they inflate their rating system when the symptoms lessen or disappear, claiming that their health insurance was a factor. MAPS also do not pay out to doctors in a timely manner. As reported by the federal government, 13% of all MAP claims from doctors have been denied payment from insurance companies. And MAPs are a way to further privatize this federal public common.
6. Retirees took lower paying jobs, and have sacrificed their time, labor, health and in some cases, even their lives. This is a slap in the face to 911 responders, their spouses and partners, and their widows and widowers, who rely on solid healthcare at this point in their lives. A MAP will not deliver that reliable healthcare.
7. The draconian measure of altering 12-126 will affect hundreds of thousands of retirees who have small pensions, such as \$35,000, \$25,000, \$15,000 or less a year. It will affect women and retirees of color. There are tens of thousands of retirees who live on a small pension and cannot afford the choice of paying almost \$200 a month plus copays to keep themselves safe in traditional Medicare.
8. 12-126 was designed in the 1960s to protect and has done so for 55+ years! It is an institutionalized signature piece of legislation that has upheld safety, security, cost-effectiveness, and morality for hundreds of thousands of retirees. To change it would devastate its original and still relevant, indispensable vision and mission of

providing dignified healthcare to City municipal retirees. These retirees built this city, maintained it, protected it, made it run and function properly and on time, and were the backbone of making New York City one of the greatest destinations in the world. Let us not forget them and their critical contribution in their time of need now.

I look to the City Council as one of the last bastions of protections for civil services and retirees, who have acted in none other than good faith, and who are now being deceived and abused by the Mayor, the MLC, the OLC, Michael Mulgrew, Robert Linn, Renee Campione, Claire Levitt Henry Guarido, and Harry Nespoli,

Remember that this will also be your legacy as a City Council, and it will have far reaching consequences for elections and civil servants in this cohort and for generations to come.

I beseech all of you to leave 12-126 alone! Do the right thing!

Best,
Michael Antwerp

Michael J. Brocoun

New York, N.Y. 10011

1. New York City is abrogating its responsibility to retirees. Cost to NYC for retiree healthcare is approximately 1/2 of 1 percent! This shows utter contempt for the retirees if NYC/unions with attempts to cut retiree healthcare benefits.
2. Aetna Medicare Advantage is always available.
3. 12-126 is ironclad. The purpose is to avoid negotiations and subjectivity going forward.
4. The City Council protected retiree benefits during the city's bankruptcy!
5. The UFT and other unions fought against Medicare Advantage in the past. Told prospective retirees to avoid Medicare Advantage.
6. Numerous articles in the NY Times & the AARP how Medicare Advantage harms retirees.
7. Mayor Adams > "bait & switch". Later called Michael Mulgrew "my good friend". See below.
8. Mayor de Blasio's response to Beto O'Rourke's support of Medicare Advantage during primary battle in 2019 for Democratic presidential nominee: "private insurance is not working for 10's of millions of Americans. Talk about the copays, the deductibles, the premiums, the out of pocket expenses. It's not working. How can you defend a system that is not working? You have to acknowledge that the system is not working for people. Why are you defending private insurance?"
9. Covid saved us from the sudden implementation of Medicare Advantage
10. ***NYC adoption of Medicare Advantage > eventual destruction of traditional Medicare and the ultimate return to the conditions that led to the creation of Medicare in the first place.***

De Blasio link on YouTube: <https://www.youtube.com/watch?v=DRw8VpF02Nk>

Mayor Adams Statement on healthcare when campaigning for Mayor:

YOU DON'T BECOME A CIVIL SERVANT TO BECOME A BILLIONAIRE. YOU BECOME A CIVIL SERVANT TO HAVE STABLE HEALTH CARE, A STABLE PENSION AND A STABLE LIFE, AND WE CANNOT DESTABILIZE IT AFTER THEY RETIRE," ADAMS SAID. "RIGHT NOW, AFTER SERVING YOUR CITY, WE SHOULD NOT DO ANY TYPE OF BAIT AND SWITCH. WHEN YOU RETIRE, YOU RETIRE WITH AN UNDERSTANDING, AND WE NEED TO MAKE SURE WE LIVE UP TO THAT AGREEMENT.

Councilor Member De La Rosa made an outrageous statement when questioning Marianne about the misuse of Stabilization funds. Carmen De La Rosa stated the funds were the city's funds. NOT TRUE! The funds are the tax payer's money and we tax payers expect the money to be used properly and as intended. Health stabilization funds should be used for healthcare, not for in-service member raises paid for by cutting retiree healthcare benefits!

From: Michael Cruz <michaelcruz@bns146.org>
Sent: Wednesday, January 11, 2023 4:43 PM
To: Testimony
Subject: [EXTERNAL] Vote NO to Admin Code 12-126

Dear Council Persons,

As a public school teacher, I am appalled that NYC officials and my union, the UFT, are attempting to strip the retirees of this city of the healthcare that they worked for as city employees. Choosing to work for NYC should be rewarded with what was promised—the same healthcare coverage that we have as current workers. That was the deal. It's used as a recruitment tool—that when you work long and hard for this city, you'll be taken care of. That when you retire, you will keep the healthcare you received when you became a city employee; the city's healthcare coverage gives city workers stability that should continue into retirement.

Stripping those who worked long and hard for this city—from teachers, to firemen to DC 37 workers—of their long-promised healthcare coverage is shameful. Medicare coverage is national healthcare that all people over 65 enjoy. Privatizing the healthcare of seniors will lead to unwanted health outcomes and ultimately will not save the city money.

As a teacher who is still working, I also know that once this administrative code, 12-126, is amended, active teacher's health benefits (as well as all city workers') will begin to be chipped away. The door will be opened for weakening of our healthcare and benefits. There will always be those in power who will work to dismantle the NYC workers' health coverage, (unless we stand up and fight back...)

As your constituent, I want you to stand with our New York City retirees in opposing changes to the City's **administrative code 12-126**.

Vote no! Thank you.

Sincerely,
Michael

Michael Cruz

COMMENT ON THE PROPOSED CHANGE TO ADMINISTRATIVE CODE 12-126

Michael E Green, Professor Emeritus, City University of New York

I am writing to oppose the proposed change to Administrative Code 12-126, which would force retirees like me into a Medicare Advantage plan that would make proper care, especially for older individuals, very difficult. "Older individuals" includes practically all retirees. Delaying or denying necessary medical treatments can be a death sentence, and the unavailability of specialized care can make this unavoidable; my understanding of the MA plan is that delay would be inevitable as more layers of review are required, and with many specialists removed from the list of those on the medical panels accepting the insurance, competent treatment may not be available at all. This is a cruel way to treat people who have spent many years serving the people of the city; I am one. I taught for 52 years at City University, and, when I retired, it was with the understanding that my health care would be adequately covered (already at least one specialist I have gone to has stopped accepting even the present insurance). At this point I need more medical services than I did years ago, even if less than many people my age; presumably as I get older, this will not improve. Aside from the cruelty of the policy, I doubt that it will save money for long, unless it produces enough early death to cut short the need for services. However, using my own case as an example, I suspect that I may become more expensive if forced to use either a less competent medical provider and facility, or to forgo care altogether, for my present health issue. If I do not get the surgery that I need within the next couple of months, my condition will deteriorate; I would find myself with increasingly greater needs, and starting sooner rather than later; probably I would only die after several years, meaning I would become a more expensive case. I am not sure whether the expected saving takes such considerations into account.

There is an alternative, proposed by the Professional Staff Congress, representing the employees and retirees of the City University, which would allow the city to find a more reasonable policy. This policy would make it possible to meet the needs of the retirees while allowing the city to make the budgetary adjustments that it needs to make now.

The policy that the city administration wants may be not merely cruel, but useless for its stated purpose. I ask therefore that the City Council not allow the alteration of the city administrative code to allow the imposition of a policy that is so damaging and misguided.

Michael E Green

New York NY 10011

Dear city council members,

When I took the firefighter job 38 years ago, the promise from the city was a pension and healthcare when I retired. I risked life and limb, through blood sweat and tears for 30 years protecting the people of NYC. Now that I am old and beat up physically from my efforts, I need health care more than ever. I ask you not to amend the statute 12-126 that protects my health care coverage. I did my end of the bargain. My hope is that the city keeps its promise.

Respectfully,
Michael F Donohue
ladder 13 retired
30 years service

From: MICHAEL CULLEN <mikesea411@bellsouth.net>
Sent: Friday, January 6, 2023 8:13 AM
To: NYC Council Hearings
Subject: [EXTERNAL] I will keep ORIGINAL MEDICARE, My Doctors refuse M.A. P. Please, dont amend 12-126

Sent from my iPhone Sent from my iPhone I Michael J Cullen , Retired FDNY Firefighter, oppose amending 12-126.

While working as a Firefighter, I voted for contracts approved in Collective Bargaining with the City Of New York. As a member of Uniformed Firefighters Association, I was in agreement , and understood the healthcare benefits negotiated with the City Of New York, of which, were negotiated in good faith, OFTEN, overlooking a greater pay raise, for healthcare benefits , both as a WORKING EMPLOYEE, and MORE IMPORTANTLY as a RETIREE. I am now 65 years of age and will not allow MY ORIGINAL MEDICARE, I contributed into long before my employment in FDNY, as well as after to be traded off.

From the day I was hired by City Of New York, I was assured I would have Healthcare as a benefit , PAID FOR, by The City Of New York. Comes now , the Mayor of NY along with others , whom are hoping to unfaithfully take not ONLY MY NYC, healthcare , negotiated for and promised at hiring, yet STEAL the Federal , ORIGINAL MEDICARE BENEFIT, I started contributing into since I made my first 1.65\$ a hour. The very THOUGHT, that current NYC employees would think of, changing benefits THEY THEMSELVES , will appreciate, as they too were promised, leaves myself and others baffled. I urge every party involved in this theft , hijacking, and snub to FAITHFUL COLLECTIVE BARGAINING NEGOTIATIONS, to do a full evaluation of ones conscience. Amending 12-126 would not only be an insult to a great many UNIONS, (perhaps evidence NYC fails to bargain in good faith) but also perhaps A DEADLY WOUND, to the very people looking to amend. IT WAS AN OPINION, not an Order. Thank you

Michael J Cullen

From: MICHAEL CULLEN <mikesea411@bellsouth.net>
Sent: Saturday, January 7, 2023 8:27 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Please dont amend 12-126. I will keep my ORIGINAL MEDICARE

I Michael J Cullen , Retired FDNY Firefighter, oppose amending 12-126.

While working as a Firefighter, I voted for contracts approved in Collective Bargaining with the City Of New York. As a member of Uniformed Firefighters Association, I was in agreement , and understood the healthcare benefits negotiated with the City Of New York, of which, were negotiated in good faith, OFTEN, overlooking a greater pay raise, for healthcare benefits , both as a WORKING EMPLOYEE, and MORE IMPORTANTLY as a RETIREE. I am now 65 years of age and will not allow MY ORIGINAL MEDICARE, I contributed into long before my employment in FDNY, as well as after to be traded off.

From the day I was hired by City Of New York, I was assured I would have Healthcare as a benefit , PAID FOR, by The City Of New York. Comes now , the Mayor of NY along with others , whom are hoping to unfaithfully take not ONLY MY NYC, healthcare , negotiated for and promised at hiring, yet STEAL the Federal , ORIGINAL MEDICARE BENEFIT, I started contributing into since I made my first 1.65\$ a hour. The very THOUGHT, that current NYC employees would think of, changing benefits THEY THEMSELVES , will appreciate, as they too were promised, leaves myself and others baffled. I urge every party involved in this theft , hijacking, and snub to FAITHFUL COLLECTIVE BARGAINING NEGOTIATIONS, to do a full evaluation of ones conscience. Amending 12-126 would not only be an insult to a great many UNIONS, (perhaps evidence NYC fails to bargain in good faith) but also perhaps A DEADLY WOUND, to the very people looking to amend. IT WAS AN OPINION, not an Order. Thank you

Michael J Cullen

CITY COUNCIL TESTIMONY SUBMISSION

Re: COMMITTEE ON CIVIL SERVICE AND LABOR HEARING HELD 1/9/23

Please accept this as my formal testimony and respectfully request the Council does NOT amend Administrative Code 12-126.

First and foremost, it is imperative that the Council does not do the dirty work for OLR/City. As you should know a newly formed group of retirees banded together and through personal contributions hired legal counsel to prevent the implementation of a monthly per person charge in order to keep traditional Medicare along with GHI/EMBLEM senior care. The case was heard with a favorable decision for the retirees. The City appealed this and the Judge's ruling was upheld. Now trying to get a second bite of the apple the City is requesting the Council to amend 12-126 which would allow them to charge an exorbitant rate which most retirees cannot afford. The City claims they have the right to do this on their own but left the car running and wants the Council to step on the accelerator and carry the weight. The Council should Not be myopic regarding their ploy. The Council should refuse to amend and let the City implement their threatened one plan only option making them the villain and would afford retirees their day in Court if legally feasible.

Please don't believe the hype that Scheinman's consultant like opinion holds any water. The Council is NOT mandated to comply with any of his non-binding recommendations despite what was told to you by OLR.

Please don't believe the hype that the Aetna or any other MAP is better than Traditional Medicare coupled with GHI/Emblem Senior Care because it is unequivocally not true. Indisputable fact is that ANY medical provider throughout the country who accepts Medicare is also compensated by Senior Care whether or not the provider is in-network with GHI/Emblem. This in itself makes it a superior plan for members. The City is selling the uproar as a fear of the unknown but it is really a fear of the known of having Senior Care replaced by an inferior health plan. Common sense will tell you if the MAP was better than

what we already have everyone and I mean everyone would be clamoring for it which is Not the case. I must remind you as much as the City is telling you the Aetna Plan is the best thing since sliced bread that the City rejected Aetna in favor of the Emblem based Alliance. That speaks volumes. During his sworn oral Zoom testimony Mulgrew clearly stated that Aetna was not the definite winning choice and may Not be the one actually selected although they are all shouting, Aetna, Aetna, Aetna.

On a personal note, in 2020 I was diagnosed with a Meningioma brain tumor which after consultation with two top neurosurgeons it was determined that surgery would be necessary. The surgery was performed by one of the best surgeons in the country at Weill Cornell Hospital. Needless to say, he accepts Medicare and very limited other plans but none of which were in the MAP category. I also had numerous MRI's and other testing prior to and after the surgery with absolutely NO preauthorization's or waiting periods. Remnants of the tumor which could not be removed due to being close to some blood vessels required radiation treatments as the cells came back atypical. Same scenario as previously described only now with one of the best radiologists who again accepts Medicare and I was covered with no preapprovals and/or waiting periods. My next MRI follow-up is scheduled for April 2023. If I had the MAP instead of Senior Care I would have been forced to use less caliber different doctors and God only knows how that would have turned out.

In closing, I truly believe you know what the right course of action is and that's to leave 12-126 as is. Please do the right thing and don't become a political chip in the City's medical plan poker game.

Very truly yours,

Michael L. Ryder

Age 71

NYPD Retired in 1998 after serving for 25 years.

From: Michael Levine <scubamike44@aol.com>
Sent: Tuesday, January 10, 2023 12:26 PM
To: NYC Council Hearings
Subject: [EXTERNAL] STOP! DON'T CHANGE CODE 12-126

Dear Council Members,

STOP!!!

The City Council is being threatened that if they don't amend the statute to force retirees into the Medicare Advantage, the Mayor will do that on his own. Amending the statute does the SAME thing! Why should the City Council amend the law if the Mayor will do this anyway? Why do his dirty work? Let the Mayor' take the political hit for hurting retirees and remove City Council Members from the ire of retirees and constituents in their next election. If the Mayor does this act, the Retirees will be able to challenge and win this in court where we have been successful because the City has violated the law and this is his way around it. If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing us from winning this in Court. Don't prevent us from winning again in court. We served our time as employees and have a right to enjoy our time as retirees with proper care that we earned and paid for.

STOP!!!

Don't buy the Big Lie. Don't amend the Code, protect it like every City Council before you has against a greedy Mayor. Protect 12-126. Scheinman has no jurisdiction over the City Council nor the Retirees.

We request that you do NOT support the bill being introduced on January 9th by Civil Service and Labor Chair DeLaRosa.

Thank you for protecting us from financial peril and losing our healthcare.

Respectfully Yours,
Michael Levine, Retiree
Teacher in District 11 for 33 years
Retired in 1995

From: Michael Milliken <mcmilliken@me.com>
Sent: Wednesday, January 11, 2023 9:38 PM
To: Testimony
Subject: [EXTERNAL] Administrative Code 12-126

Dear Council Persons,

As a public school teacher, I am appalled that NYC officials and my union, the UFT, are attempting to strip the retirees of this city of the healthcare that they worked for as city employees. Choosing to work for NYC should be rewarded with what was promised—the same healthcare coverage that we have as current workers. That was the deal. It's used as a recruitment tool—that when you work long and hard for this city, you'll be taken care of. That when you retire, you will keep the healthcare you received when you became a city employee; the city's healthcare coverage gives city workers stability that should continue into retirement.

Removing promised healthcare coverage is shameful. Medicare coverage is national healthcare that all people over 65 enjoy. Privatizing the healthcare of seniors will lead to unwanted health outcomes and ultimately will not save the city money.

As a teacher, I also know that once this administrative code, 12-126, is amended, my own health coverage will be in danger.

As your constituent, I want you to stand with our New York City retirees in opposing changes to the City's **administrative code 12-126**.

Sincerely,

Michael Milliken

My name is Mike O'Keeffe. I retired as a Deputy Chief with the FDNY in 2009 after 27 years of service. I reside in Bellerose, Queens.

I am testifying to oppose changes to the City Charter Sect 12-126. Clearly, cost savings must be achieved in medical care, both for retirees and active employees. Rather than imposing Medicare Advantage, all parties should first work together to achieve cost savings.

I also am concerned that this puts my Council Member and others in an impossible situation.

Something this important should not be done under duress.

Thank you for your consideration.

Mike O'Keeffe

JANUARY 8, 2023
TESTIMONY SUBMITTED
BY

Michael Salvatore

TO

THE NEW YORK CITY COUNCIL
COMMITTEE ON CIVIL SERVICE AND LABOR
HON. CARMEN DE LA ROSA, CHAIRPERSON
REGARDING
INT. NO. 874

A LOCAL LAW TO AMEND SECTION 12-126 OF THE ADMINISTRATIVE
CODE OF THE CITY OF NEW YORK IN RELATION TO HEALTH
INSURANCE COVERAGE FOR
CITY EMPLOYEES, CITY RETIREES, AND THEIR DEPENDENTS

I am almost an old man - but I am still lucky to have my health.

I retired from the Department of Education in July of 2007.

I worked an additional 8 years as a part time teacher at University Heights High School.

To protect me, my wife, and my fellow retirees and their families, I implore you to vote against amending the NYC Administrative Code Section 12-126 Council Members De La Rosa and Ayala have proposed on behalf of the Mayor and to put an end to forcing retirees into a Medicare Advantage plan. I feel betrayed, disrespected, and even abused by the call to pull my seriously needed current health plan out from under me.

As repeated reporting has been in the news over the past few years, it is absolutely clear that reducing health insurance costs by moving retirees into Medicare Advantage is a terrible option that would harm retirees and place their health, welfare and lives at risk. Government audit reports, professional organizations and investigative journalists have documented that: seniors are receiving less and poorer health care than under traditional Medicare; doctors are being forced to delay needed treatments and place their patients in danger until they can secure prior authorizations or negotiate the reversal of decisions to deny treatments they consider necessary and; the Federal government is spending more per capita on Medicare Advantage than on traditional Medicare. Furthermore, eight of the ten largest insurance companies offering Medicare Advantage plans have been or are now defendants in False Claims Act lawsuits brought by whistleblowers and the Department of Justice over billions in payments fraudulently requested and received. Clearly, Medicare Advantage, as it is

now, is a health insurance model that places profits before care and fosters corruption.

There is significant misinformation being proffered by my own union, the Municipal Labor Committee, and City Hall. The report issued by Arbitrator Scheinman on December 15, 2022 does not obligate you to vote for changing 12-126. Scheinman's report is not a decision, ruling or award and no retirees or retiree advocates were involved in the 'arbitration process' that led to its creation. The Scheinman report is a one-sided non-binding propaganda document brought to you by the Administration and the MLC and is being used to mislead you into believing changing 12-126 is the only option for addressing rising health insurance costs. That is not true!

The NYC Organization of Public Service Retirees has identified at least \$300 million in savings that can be achieved without changing 12-126.

OMB has been informed about some of these savings options and has not informed the Council about them. Furthermore, OMB has refused to hear about or explore other real opportunities for savings. How can you and the Council make a decision on the best way forward if you are not being fully and honestly informed of all the options available? Wouldn't it be prudent to delay changing 12-126 until a truly impartial Blue-Ribbon Commission of experts was convened to define the true nature of the problem and design better and fairer solutions?

Like every retiree, I am sympathetic to the goal of better controlling the cost of healthcare benefits. But I do not believe the pursuit of that goal should fall so directly and heavily upon retirees. That our well-earned and justly awarded benefits are being regarded as a burden the City must shed is unfair and wrong. We did what we were asked to earn what was offered. We deserve to be respected, to have the commitments made to us honored, to keep the traditional Medicare and free supplemental health insurance we now have, to continue having our critical healthcare decisions made by doctors instead of administrators, and to be left alone to enjoy what time we have left.

PLEASE PROTECT THE HEALTH INSURANCE BENEFITS OF RETIREES.

PLEASE DEMAND OTHER OPTIONS BE EXPLORED.

PLEASE VOTE AGAINST CHANGING NYC ADMINISTRATIVE CODE SECTION 12-126!

Again, I thank you for affording me the opportunity to testify and I very much hope I have convinced you to oppose changing 12-126.

From: MICHAEL TOMBASCO <tambose@verizon.net>
Sent: Thursday, January 12, 2023 4:33 PM
To: NYC Council Hearings
Subject: [EXTERNAL] NYC Retiree Health benefits

Dear NYC Council Members

I'm a NYC retiree with 36 years of previous city service, I'm writing to you in your capacity as a sitting members of the New York City Council. Soon, the Mayor and the MLC will petition the City Council to alter NYC Administrative code section 12-126 so the retiree health benefits can be altered from which they had been enshrined for decades. Previous to my City career I was holding a higher paying position in the Airline industry, with an eye toward stability and health benefits in advanced years I opted for a lower salary in exchange.

The current retiree healthcare structure (Original Medicare supplemented by GHI Senior Care) is the result of many years of collective bargaining, sacrifices by myself and co workers during my career. We waited years to achieve raises, Money was not taken from my fathers retirement health fund!

The genesis is the misappropriation of \$1000000000(one billion) which was earmarked in the Stabilization fund to protect these very benefits that are under attack.

I implore you to consider this unfolding travesty.

Thankyou for your time,

Mr Michael Tombasco

From: Michele Harris <netsmbh@gmail.com>
Sent: Monday, January 9, 2023 11:02 AM
To: Adams, Adrienne; De La Rosa, Carmen; Bottcher, Erik; Menin, Julie; Dinowitz, Eric; Feliz, Oswald; Moya, Francisco; Nurse, Sandy; Joseph, Rita; Hanks, Kamillah; NYC Council Hearings
Subject: [EXTERNAL] PROTECT Admin Code 12-126

Dear Council Members of the Civil Service and Labor Committee,

The City Council is being threatened that if they do not amend the statute to force retirees into the Medicare Advantage Plan, the Mayor will do that on his own. Amending the statute does the same thing! Why should the City Council amend the law if the Mayor will do this anyway? Why do his dirty work? Let the Mayor take the political hit for hurting retirees and remove City Council Members from the ire of retirees and constituents in their next election. If the Mayor does this act, the retirees will be able to challenge and win this in court where they have been successful because the City has violated the law and this is the City's way around it. If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing them from winning this in Court - and the unions want you to do this, so they can pin blame on you when things don't go the way they planned. Don't prevent the retirees from winning again in court. They served their time as employees and have a right to enjoy their time as retirees with proper healthcare that they earned and paid for.

Don't buy the Big Lie. Don't amend the code, protect it like every City Council before you. Protect 12-126. Martin Scheinman has no jurisdiction over the City Council nor the retirees. His recommendation is just that, a recommendation, it is NOT binding, and NO arbitrator can order a legislative body to change the law. He is not arbitrating a dispute because there is NO dispute between the City and the Unions, their dispute is with the retirees and the court. Don't fall victim to their lies.

I request that you do NOT support any amendment to 12-126. Protect the law and employees and retirees !! Thank you for protecting retirees from financial peril and losing their healthcare. Thank you for protecting my future benefits as I am an active member of service, a retiree in training.

Regards,
Michele Harris
Active member of City Service
33 years
Retiree in training

From: MICHELE MASUCCI <masucci8@aol.com>
Sent: Saturday, January 7, 2023 11:43 PM
To: NYC Council Hearings
Subject: [EXTERNAL] JANUARY 9th CIVIL SERVICE and LABOR COMMITTEE HEARING TESTIMONY

> My name is Michele Masucci and I am a NYC retiree. I began my career in the private sector and after 20+ years, I decided to join NYC HRA/MIS in 1989 as an Associate Staff Analyst, where I implemented a PEG project for more expeditious communication between NYC agencies and their clients. In 1997, I transferred to NYC Financial Services Agency, (as a Human Resources Manager) which is responsible for the NYC employee payroll operation as well as payments to those companies, e.g, Consultants, supply providers, etc. doing official city business with NYC Govt. I retired in 2015 after 25-1/2 years of service.

>

> About midway through my city govt career, I thought about returning to the private sector, but the future value of city retiree benefits seemed to outweigh the present value of a higher private sector salary and I turned down a very tempting offer at a discretionary brokerage firm, to remain with the city.

>

> Enduring some years without a salary increase, I often told employees that in the end, they would be comfortable with free medical coverage, a critically important benefit that would outweigh sacrifices in the present. Many of them reconsidered, agreed and continued their city employment.

>

> Fast forward to the present, when we are being told that we may lose our current retiree coverage, be billed \$191/mo., or forced into an inferior medical I plan that will not properly serve those of us who depend on the coverage promised to us when we began city employment.

>

> In fairness, all parties, including the retiree associations, should be meeting to discuss options to this radical, unfair plan. We have heard that there are ways to accomplish the required savings without diminishing the coverage of retirees and/or attaching premiums which may be unaffordable to retirees who calculated their retirement plans, assuming that the City would be true to their word.

>

> Time to take a deep breath, examine the cost savings that have been identified but not allowed to be presented in this process.

>

> Michele A. Masucci
City Council District 4

My name is Michele Rayvid. I am a retired educator and a member of the United Federation of Teachers.

I am here today to urge the entire City Council to vote NO to amending Administrative Code 12-126. This law has equally protected the healthcare of municipal workers like myself since 1967. It is the only healthcare protection that retirees have. If the City forces retirees into a Medicare Advantage Plan, retirees will, indeed, have legal recourse to challenge this action in court and they will win. However, once this Code is amended, legal action will be difficult.

I worked for the City of New York for nearly forty years with the understanding that I would be entitled to Traditional Medicare once I turned 65 years old, and that the City would bear the cost of my Medigap plan, less than 20% of my total healthcare costs. Now the City wants to renege on that promise. However, a promise is a promise. Why should more than 200,000 retirees, like myself, be coerced into abandoning our excellent health coverage for a substandard Medicare Advantage Plan, valued at \$7.50 a month, because of a misused Health Insurance Stabilization Fund, that was supposed to be there for our medical needs, but was used for purposes other than the healthcare of its workers?

Furthermore, we all know about Medicare Advantage. The press has certainly exposed the corruption, the upcoding and the fraud that these private for-profit insurance companies have gotten away with, due to the powerful insurance lobbyists that have strong support in Congress. It is a known fact that Medicare Advantage plans deny care in order to reap profit. Medicare Advantage represents a diminution of my present medical benefits. Furthermore, most of my healthcare providers have stated that they have no intention of accepting any Medicare Advantage plan.

It is unconscionable that the City would choose to put a greater priority on union raises and contracts than on the health and well-being of the thousands of vulnerable retirees who spent most of their lives working tirelessly for the City. This is especially unconscionable since the City presently has 8.3 billion dollars in reserves, the highest level in its history, representing 11.2% of the City funded expense budget. Moreover, the City has a variety of budget reserve sources including 4.5 billion dollars in its Retiree Health Benefit Trust fund, which supports healthcare benefit obligations to retirees and their beneficiaries.

Surely, this 4.5 billion dollars in the Retiree Health Benefit Trust fund can help finance the Municipal Labor Health Insurance Stabilization fund for the next few years. Furthermore, the City Council should work with the Controller's Office to establish an oversight committee to monitor both funds because there needs to be some oversight. There also has to be more equity in the Municipal Labor Committee, in which two unions, the UFT and DC 37 have a weighted vote and make the decisions for the other nearly 100 unions.

I am calling on you, the City Council, to use your voice and your power to do what is right. I am calling on you, the City Council, not to succumb to the intimidation and threats made by the leader of DC-37, the leader of the UFT, as well as Mayor Adams.

I urge you, City Council members, to stand up for those disenfranchised retirees who have no voice. Let your voice speak for them. Vote NO to any changes to Administrative Code 12-126. Do not let the fate of more than 200,000 retirees be decided by two union leaders and a Mayor who all refuse to explore any other cost savings options.

A promise is a promise. Do the right thing.

Thank you.

My name is Michele Stromer, I am a constituent of Council Member Caban.

In 2003 I was forced into retirement because of a line of duty brain injury. I was an NYPD Sergeant with a promising career. In an instant my life changed for the worst. My career was cut short. I have never been able to work again.

I was weak and had difficulty walking, talking, thinking. I was unable to read or comprehend words on a page. Bright lights and loud noises would bother me. I couldn't walk down a hallway without feeling like the floor and walls were distorted. I was unable to understand people if more than one person was speaking. I would feel like I was on a rollercoaster despite standing still. I suffered from excruciating headaches. Years of various therapies have helped me get to where I am but I still suffer from cognitive deficits, auditory processing problems and vestibular dysfunction.

I graduated from college with a double major and a minor in English. With a little more than 3 years on the job, I was number 49 on the Sergeant's promotional exam. Because of my injury, I was unable to take the Lieutenant's test that I had spent time and money to study for. Prior to my injury I was studying to get my doctorate in naturopathy. I went from being an independent woman living alone to moving back with my parents for the first 2 years after my injury.

I am currently on social security disability. I still seek out therapy because, even after all these years, I do continue to improve and at the very least, I want to maintain the gains that I have fought so hard to achieve. I do not want to have a for-profit agency having a clerk dictate or limit what coverage I may be entitled to. And, I certainly don't think I should have to pay for any treatments related to my line of duty injury.

After sustaining the brain injury, I was diagnosed with an autoimmune disease. My doctors suspected that the stress I had endured from the sudden life altering event may have been the cause. They put me on an injectable drug.

My union, the SBA, doesn't cover injectable drugs. PICA didn't cover it because I was on Medicare. The drug started out \$19,000 year and soon rose to \$26,000 a year. The drug manufacturer refused to offer me any discounts. I was forced to go onto a Medicare Part D prescription plan to help pay for the cost of the medication. If I were to be on a MAP plan, I would not be able to go to an outside drug plan. Trying to enroll in one would have disenrolled me from MAP and I would have ended up without any health insurance coverage.

My pension isn't padded with overtime or night diff. I risked my life to help the citizens of NY. In return I was promised a pension and lifetime medical benefits that would not be reduced. I don't want to think about one day having to eat cat food because I won't be able to afford the medical coverage I was promised or being forced to ration medications so I can afford my bills.

I think this whole debacle is shameful. It all seems poorly planned and rushed. Why is the city council even thinking about endangering the most vulnerable among us?

When you hear how detrimental changing 12-126 will be, I hope that you will be touched by your better angels.

Sincerely,

Michele Stromer

Testimony by Michelle Fouks

Committee on Civil Service and Labor Committee

January 9, 2023 – Amending Admin Code 12-126 – Changing Employee Health Care

I can't believe 47 years have passed since I began working for NYC in 1975. I was fresh out of Brooklyn College and starting a career in Accounting with the Agency for Child Development (ACD) . At the time, ACD was under the Human Resources Administration (HRA) umbrella and offered a premier day care service.

I gravitated to government as it offered a decent starting salary and terrific benefits. I worked my way up the ladder and fast forward 37 years later I retired as Executive Deputy Commissioner of Finance at HRA. Because I went through many cost savings exercises in my various positions, I understand that you must balance shortfalls. However, there are many approaches to obtain that goal. Together with my colleagues, I trusted and believed that the agreements the City made with employees would be honored when we retired. I believed this as that was how it was sold to us, and because it was that way for years before we started working for the City.

As many of my colleagues will testify, we bought into the fact that although we may not have been earning top dollar as City employees, we were satisfied because we had great benefits then and after we retired.

When I retired in 2012 and started working elsewhere, I could not believe the salary that I had forgone to give my best years to this City. Now when I will need my health insurance the most, many of the City's powerbrokers are trying to force me and other retirees into a Medicare Advantage plan that is not only inferior to what we have now, but it is also not accepted by many of the City's premier hospitals. Federal Auditors have found quality of care problems with Medicare Advantage plans, and state that these plans do not save government funds as was expected. This is so short sighted of our City to think it will save the dollars needed in the long term., as Federal dollars may not be there to sustain or they can pull the plug on the Advantage program.

Many of you call yourselves progressives and say you care about the City workforce. If true, instead of diminishing healthcare for vulnerable, elderly and disabled retirees to save money , you may want to investigate how and why the City and some unions collaborated to misuse the Health Stabilization Fund. Once you investigate, I'm certain you will ask the culprits to find a way to restore the funds they used to give teacher raises without hurting those who are most vulnerable and ensure that this doesn't happen again.

I hope you take the democratic approach to meet with the various interested parties, including retirees, and find a way to reduce the City's healthcare costs. There are suggestions on the table that are feasible and will assist the City in saving funds and preserve our and future generations of workers' health benefits.

Thank you for reading this testimony. I hope that you do right by your constituents. If you do, I'm sure they will vote for you in future elections.

Michelle Fouks – Retired from the Human Resources Administration in 2012
Fresh Meadows, NY
fouksm@gmail.com

Administrative Code 12-126 CITY COUNCIL HEARING
January 9, 2023

Good Morning, my distinguished SISTERS AND BROTHERS,
of the **NEW YORK CITY COUNCIL**.

Thank you for inviting the [RETIRED] workers into this space.
My name is **Michelle Keller** serving my Union and my Community. I
am a **District Council 37 Retiree** (43 years of illustrious public service). I
am also the President of the **NYC COALITION OF LABOR UNION**
WOMEN AFL-CIO, all fields of labor, essential workers active and
retired. *DC37 PAC*

PROTECT/DO NOT/DON'T AMMEND Administrative Code 12-126,
everything else will make you sick!! We know that all things done in the
dark will always come to the light.

It has been more than two years now that this very madness, remains
unresolved even with the positive intervention of our judicial system. No
monies being saved here! Why have those who use the service been “shut-
out” of the meeting room? The Retirees and their family use the service but
have been turned away from the meeting room on several occasions. No
vote, no voice. Retirees utilizing the service are documenting their
dangerous diminished care. Those who opted early on to accept this
experimentation the (Dis)Advantage care are now trying, pleading to return
to their Senior Care. We have heard directly from government sources,
Doctors, Hospital Professionals, and patients that choice, portability and the
quality of care will be minimized, and we cannot knowing be complicit with
this dis-functional resolve at **our cost!**

What happened to all of the monies in OUR Stabilization fund set up
expressly for the adjustments and financial offsets of healthcare costs, to
cover Actives, Retirees, and our families?
Has there been a published audit for transparency, to offer security and a
reassurance to the members and the public at large that the drainage of our
funds will not happen again?

Admin. Code 12-126, (more then 50 years old) sets a bench-mark
obligation for the HIP-HMO rate that protects all workers Actives, Retirees,
and their Dependents....**NO PREMIUMS, NO COPAYMENTS !!**

We cannot **UNION**, be a part of any **PRIVATIZED, FOR-PROFIT. HEALTHCARE resolution, We are the UNION!!**

This lack of dignity for our elders (age, gender of color) is on the line. Pensions even subsidized by social security payments remain limited and will not survive this additional expense, so is this retirement security or insecurity? We are all essential workers.

Sisters and Brothers, New York is known to set the bar, lead by example for others to follow, is this our leadership forward after 50 years?

We are aggressively trying to assist and attract a new and fearless Organizing generation. The entitlement of quality healthcare has been our signature commitment for the strength of our collective bargaining, so what's happening??

Construct other ways to save money, without peeling away from the Retirees that have delivered their worth, 10-fold think of our disasters that have shut the City down over the years. Who has been responsible to reset the business?

So think progressively,

- a. A City-run self insurance plan using the leverage of the many, pool the interest of over a million [covered] Retirees, Actives and their dependents, to organize, optimize and demand reduced hospital fees,
- b. Union welfare funds can cooperatively purchase our drugs, continue the on-going legislation to put pressure on our Legislators for more of a priority on working peoples freedoms, by extension all in our communities.

NEW YORK CITY COUNCIL, for yourself, for us, and for your CONSTITUENTS,

Whose side are you on??

Healthcare Is A Public Good, don't imperil our service.

Thank you, for having me.

Michelle L. Robbins, former NYC resident and NYC FDNY EMS Lieutenant employee. I became an EMT in 1990 and wanted to work for the City. I got caught in the hiring freeze of the 90's. I worked as an EMT for the private sector and, in 1993, I was called by HHC and wanted to know if I wanted to know if I wanted to work for the greatest city of NY. Even though I was making more money, I knew having a small child and being a single parent I needed a pension and health benefits during my tenure. I knew after I retired, I would get benefits for life.

During my 20 years I received excellent training, I became a hazmat technician, I became a paramedic, I became a rescue medic, I was a rescuer at the twin towers, spent 9 months in the pit. I've been to numerous funerals, I still remember that day like it was yesterday. I still have flashbacks and issues that I really don't like to discuss because I do have mental anguish and physical issues.

Five years before retiring and 2 months before being promoted to Captain, I got hurt on the job and had to retire with a ¾ pension. Knowing I was retiring on a ¾ pension, I knew I could no longer find any work on my skillset. I ended up being on Medicare and I had to move out of the city because it was too expensive being on the pension that I earned. I live upstate and I now have numerous medical conditions, including undiagnosed issues that I know are probably 9-11 related but no one can tell me what they are. I suffer from severe back pain, joint pain and in all I've had 14 surgeries because of the job so I'm consistently seeing doctors all year long, at least 4 times a month and because I have to travel 4 hours to get good medical care, I still come to the city.

I just don't understand how I worked for zero raises during numerous collective bargaining knowing that my health benefits would remain the same when I retired so how is it that the MLC and unions, at this point in the game, can just take these benefits and just throw them out the window. Why have collective bargaining and in 20 years you're just going to throw them away. What's the point of having collective bargaining, then just get rid of the MLC and unions because this seems to be an issue. When I retired, I retired without a contract, I was in between bargaining periods. My contract was the first contract that refused to give retirees retro pay, so I lost out on 2 ½ years of retro pay, which is a decent amount of money. So, again I ask, why have collective bargaining when 15-20 years from now, you're just going to throw it out the window. And how can a union just do these things to people.

I understand that there are people that are worse than me and I am on a fixed budget but I can tell you that if they take away my benefit that I deserve and I earned, I'm going to probably have to move out of NYS because I can't afford to live here, or downsize my little home that I live in now. I mean this is disgusting.....who does this to people. We were for the greatest city of NY, we rebuilt this city twice and you can't tell me there ain't going to be another attack. So again, the people that are working now, that are going to rebuild this city.....

I saved lives for the City of New York. Now I'm trying to save my life and that of hundreds of thousands of others.

January 9, 2023

Re: Administrative Code 12-126

New York City Council
City Hall
250 Broadway
NY NY 10007

Dear Councilmembers,

My name is Migdalia Acevedo and I am the Technical Guild Chapter 3 President for NYC Health & Hospitals. I was unable to attend today's Hearing on the amending of Administrative Code 12-126 but I do want to submit written testimony urging you not to amend Administrative Code 12-126.

Public employees face greater work-related dangers than most city workers because our contract obligates us to respond to "every" single city emergency. Mayor John V. Lindsey recognized that fact in 1967 when he guaranteed public workers the right to health care by codifying Administrative code 12-126. In fact, in 1967 when Mayor Lindsey codified the right to health care for city employees, the nation was facing many of the same challenges we are facing today. President Lyndon Johnson had created a civil disorder committee to deal with these challenges and he appointed then Mayor John V. Lindsey as Vice Chair of said committee. Both President Johnson and Mayor Lindsey recognized that it would be the government/city workers responding to these challenges and that, as such, they would be more likely than the average American to be injured in the line of duty. Therefore, Mayor Lindsey did what any responsible leader would: he ensured those workers had guaranteed health coverage and he ensured the city did its part by contributing to that coverage. He took care of the city's workforce because the city's workforce takes care of everyone else.

Not much has changed since 1967. For all our advances, our nation's democracy is still under attack and we are still dealing with civil disorder. City/government workers are still the ones responding to those challenges. They still face increased risk of injury as a byproduct of their job tasks and contractual obligations. It is, therefore, unthinkable that anyone should consider undoing Administrative Code 12-126.

We are always going to face increased costs. Cutting our health benefits is not the answer. In fact, it would be disastrous. It would send a very clear message: *It does not pay to be a public worker and you cannot depend on your union or the officials you elect to represent you.*

Already we are seeing a significant drop in school enrollment for public sector careers. We have seen a massive shift in the labor market, people changing career tracks in record numbers. Taking away our choice in health care providers (and I say "our" because active employees are the future retirees) and further limiting the health care benefits of active employees will have life altering repercussions for all involved.

Public workers are already suffering from those limits and amendments the powers that be keep making in "our best interest". Take Workers Comp, which was created to help the injured worker. Our city/state have hobbled us by limiting workers comp leave to a maximum of one year of leave for any one injury. Many of us have sustained multiple injuries from one single event and because of that stipulation we cannot obtain leave for needed surgeries or care because we have already used up the year treating our most critical injuries. To make matters worse, agencies can separate the employee from employment if they exceed that maximum year of

leave. On top of that, we are prohibited from using our health care benefits for work related injuries. Therefore, we are stuck with the workers comp doctors who continue to decline in quality because the WC reimbursement rates (like those of GHI/Emblem Health for active employees) are so low that every competent physician jumps ship as soon as he/she can. Furthermore, changes to the workers comp law, under the Bloomberg administration (Section 29C of the workers comp law), now obligates employees who obtain an injury award to spend 66-67% of that award on future treatment (the remaining 33-34% is spent on legal fees to workers comp attorneys fighting to get the employee that 33-34% reimbursement and in health care incidentals not covered like transportation, assistive devices and preventive care). Only after the award has been spent down can the employee regain workers comp coverage. Additionally, Section 29C also gives workers comp the right to recoup any monies spent on treatment for the employee. So now, in addition to the employee being irreparably harmed for life they are also destitute because “the powers that be” found a way to strip them of compensation for their injuries. The system has been “amended” to our detriment, just like amending Administrative Code 12-126 will be to our eternal detriment. What kind of doctors will medicare advantage “for profit” plans attract? Well, we already know the answer to that because the FEDS have already studied these medicare advantage plans and found them guilty of denying patients needed and lifesaving care.

On a final note, the health stabilization fund has been repeatedly used for things other than our health care. In 2014 , the DeBlasio administration convinced our then union leaders to withdraw 1.1 billion dollars to give UFT teachers raises. This was done without the members’ consent. We still do not know what the criteria for the utilization of this fund is, nor the conditions that trigger its utilization. We have asked DC 37 for an audit of the fund. We were told it was done but the report has yet to be made available to us. I would think that any plan to restructure our health benefits (and you do not need to undo AC 12-126 to do that) would include establishing accountability and a clear path for the utilization of the health stabilization fund.

In closing, I want to share with you all that DC 37 recently made the arbitrary decision to deny members access to their delegates meetings. These meetings have always been open to the membership. It is how we remain informed of what is happening and what the union is doing to remedy the situation. Well, those meetings are now only open to the elected delegates. This is not democracy at work. Neither does it convince any of us that the union is acting in our best interests. We are all (active employees and retired employees) of one mind here: “No” to amending administrative code 12 -126. If the union and the city want to engage in health savings they should engage the members. Many of us work in health insurance services and know which areas need restructuring and how. We are being stripped of our health and our guarantees. This is no way to treat the city’s heroes, as Senator Chuck Schumer has called us on more than one occasion. We should be enhancing healthcare for public workers and retirees, not tearing it down. Please do not be a party to this travesty. Do Not Amend Administrative Code 12-126.

Thank You. In Solidarity, M. Acevedo, Chapter 3 President, Local 375 Technical Guild – DC 37,

AFSCME- AFL-CIO.

Email: acevedo.migdalia@gmail.com

From: Chen Mingqin <MChen20@schools.nyc.gov>
Sent: Tuesday, January 10, 2023 10:58 AM
To: NYC Council Hearings
Subject: NO to AMENDING CODE 12-126

To Whom it May Concern,

I am writing to express my wish, No to Amending Code 12-126.

Best,
Mingqin Chen

DOE Paraprofessional

We retirees are old. That makes it easy for insurance companies to take advantage of us. To deny us the treatments and tests that we need to stay healthy. To say that we didn't get all the prior approvals that we needed, so that they don't have to pay the bills.

We are old and not working any more. So that makes it easy for the big unions and the city government to take advantage of us. To make us pay for the salary raises of those that are still working. To pay for the financial mistakes and swaps that others made in the past.

We are old, but our City Council should want to protect us. To make sure that at our age we have access to the health care that most old Americans have; traditional Medicare. The best health plan there is.

And at our age, even if it's sometimes difficult, we use the only power left to us. We vote.

Mitchell Friedman

From: Mujeeb Khan <mujeebk99@gmail.com>
Sent: Saturday, January 7, 2023 10:20 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Do not amend the administrative code 12-126

Hi! My name is _____ Mujeeb khan _____ and I am a retiree We want you to know the Scheinman report is NOT a “ruling”, it’s an opinion and IS NOT BINDING! It’s paid propaganda and they’re hoping the city council falls for it... it is not a decision, it is not a ruling, it is not an award!! The retirees have identified at least \$300 million in savings. OMB knows about some of these savings options, and has NOT implemented them NOR informed the city council... and OMB is unaware of others! Which is worse? HOW CAN THE MAYOR OR THE COUNCIL MAKE A DECISION IF THEY ARE NOT BEING PROPERLY INFORMED BY OMB? DO NOT MAKE ANY CHANGE TO THE AMINISTRATIVE CODE! Please reach out to the NYC Organization of Public Service Retirees for real facts! The MLC doesn't want you to know they sold off ALL of our healthcare for raises! Yes, that includes you! Please remember this as we go into the New Year. Happy New Year! AND DO NOT AMEND THE ADMINISTRATIVE CODE 12-126!

Thank you
NYC retiree
Mujeeb Khan
Flushing NY 11354.

Sent from my iPhone

January 8, 2023

Dear Council Members:

I am a New York City Department of Education retiree. I was a teacher at PS 145 in Brooklyn for 31 years.

I am writing to urge you NOT to change Administrative Code 12-126. This code has protected and preserved the benefits of public service employees since its inception—benefits we were promised in place of higher pay in the private sector. Amending this code will pave the way to pushing us into a privatized Medicare Advantage plan with its limited physician network and onerous pre-authorizations.

Martin Scheinman's recommendation is merely that – a recommendation. And despite what the City Council is being told, it is non-binding. Mayor Adams is pushing the City Council to do his dirty work to get around the court's decision. Let the Mayor try to change our healthcare himself. Then we can fight it legally (again!) in court.

I am a breast cancer survivor on traditional Medicare primary and Emblem Health Senior Care (premium free as promised). My treatment—surgery, chemotherapy, and radiation with its accompanying scans, MRI's, etc. was seamless. There were no delays waiting for approvals. However, I'm sure this would not be the case if I was forced into a Medicare Advantage plan.

And how am I sure? I work in a primary care physician's office. I have seen first-hand the delay tactics used by advantage plans – including the Aetna Medicare Advantage plan the city is negotiating with now. I have heard my PCP literally arguing with representatives as they deny needed tests. I have heard him tell patients to call their insurance company to voice their complaints. However, this is delaying treatment which can be fatal. I have also heard my doctor, after being denied (all taking days to get to this point) to tell patients that maybe their insurance would approve if they go to

a specialist for a test. So now the patient has to make an appointment with a specialist purely to get a test. But sometimes that specialist is either not seeing new patients, has a several month wait for an appointment, or more often, isn't in the patient's network. So the process of finding another doctor begins again. And this is within the 5 boroughs of NYC. How much more difficult it will be to find a doctor in network for a patient who lives out of the NYC area.

In fact, at work yesterday, I was on the phone with a patient's daughter whose father needed to change back to traditional Medicare because the facility he was going to be admitted to would not accept Medicare Advantage patients. And luckily, this patient had a family member who could advocate for him. Not all seniors are so lucky.

I personally cannot believe we have become a society that turns on its old, infirm, and disabled. Please DO NOT amend Administrative Code 12-126 whose entire intent at its 1967 inception was to protect us.

Thank you for your
consideration.

Sincerely,

Myra Kaminsky

Brooklyn, NY 11229
mybill@optonline.net

From: M K <myra531@gmail.com>
Sent: Saturday, January 7, 2023 3:19 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Retiree health benefits

Dear Council Members,

1/6/23

I am writing to ask you to VOTE NO on the proposition to amend 12-126.

I am married to a UFT Retiree who was in active service with the NYC Board of Education for 21 years and has been retired for 8. **My husband wants to retain his Medicare health benefits as promised as a term of his employment with NYC and we He does not want to be forced into a Medicare Advantage Plan.** When he became a NYC teacher, salaries were much lower than other localities, but the trade off was the promised benefits. How can these benefits now be stripped away at the expense of vulnerable retirees???

After a recent colonoscopy, he was diagnosed with colon cancer. He was referred to a surgeon for removal of the tumor and then an oncologist who is now in charge of his treatment and ongoing care. **He is currently undergoing chemotherapy for colon cancer and does not want to risk not being able to get the quality of care he is now receiving.**

A recent visit (bi-weekly) included::

A meeting with a genetics counselor

A blood test

A chemotherapy infusion

An electrocardiogram and

Appointments with two specialists.

He is now getting all treatments and testing needed without any prior authorizations. I am grateful that his doctors are able to perform the tests and treatments that are best for his recovery without having to wait for an insurance company' to decide if the test or treatment is necessary. **This can now be a matter of life and death for him!!!** Two of his doctors have already informed him they will not accept a MAP.

I AM TERRIFIED thinking that a forced change in his health care plan could result in an inferior quality of health care moving forward. As a result, I was recently diagnosed with high blood pressure due to the stress of his disease and the possibility losing the health care services he is now receiving as prescribed. We are talking about peoples' lives here!!!

I implore you to do what is right for retirees who have dedicated years of service to NYC!!! I am furious that NYC and its unions would turn their backs on vulnerable retirees in order to help balance a budget shortfall that they have created. I am asking that you vote AGAINST any changes to 12-126 which keeps retirees current health benefits as is

With hopes and prayers that you will do the right thing and VOTE NO TO AMEND 12-126. . Remember, you will be a retiree too one day.

Myra Kennett

Baldwin, NY 11510

A humble request to NYC Council

I have worked as a teacher in Queens and am now retired and living in PA due to rising cost of living in NY. I moved because traditional Medicare is accepted all over the country and I didn't have to worry about health care. Even at all our retirement consultations the uft Kept stressing this .On talking to my doctors here most have told me that they don't take Many of the MA plans.Even the govt is looking into the hiw bad these plans are.and how poorly they are implemented

Most are for profit and do not care for the patient well-being. On our small pension it would be very difficult for us .

The City Council should not participate in the illegal effort to force Medicare Advantage

Let the Mayor be the one to strip retirees of these hard-earned benefits. The retirees will challenge him in court, and they will win.

Martin Scheinman issued a 31-page document that has no force of law. As the signature page at the end explains, it is just a "Recommendation." Scheinman has no authority to order the City and the MLC to force retirees into Medicare Advantage, which is far worse than the traditional Medicare benefits that retirees have long received.

As he admits, Scheinman's limited authority comes from a 2018 Agreement between the City and the MLC. Under Section 5 of that Agreement, he and two others member of the "Tripartite Health Insurance Policy Committee" are authorized to "make recommendations to be considered by the MLC and the City." The Agreement does not allow the Committee, let alone Scheinman alone, to order anyone to do anything. Moreover, the Agreement requires the Committee to make "recommend[at]ions] for implementation as soon as practicable during the term of this

Agreement but no later than June 30, 2020." Thus, not only are recommendations non-binding, they are now two-and-a-half years too late.

Some have attempted to make Scheinman's document seem more consequential than it really is by calling it a "decision" or "order" or "award." However, it is none of those things. It is just a non-binding (and untimely) recommendation, as the document itself makes clear.

Although the 2018 Agreement allows Scheinman to arbitrate certain disputes between the City and the MLC, there was no dispute between the City and the MLC here – both are aligned with respect to forcing Medicare Advantage on

retirees. Thus, Scheinman was not acting as an arbitrator and was not issuing a ruling, decision, or award on anything.

Scheinman's document is a transparent and futile attempt to make it seem like the

City is being ordered to take away traditional Medicare from Retirees. The document does not—and cannot—require the City, or anyone else, to do anything. If the Mayor wants to take away the healthcare rights of elderly and disabled retirees, he should not pretend that anyone is making him do it. And the City Council should not assist him in this charade by amending Section 12-126.

on Retirees, which are entitled to the traditional Medicare benefits they were promised and they desperately need. Again. But if the City Council amends Section 12-126, the path to victory in court

becomes much harder. Give retirees the chance to fight and win in court with the current version of Section 12-126, which has existed for over half a century. If they lose, the City Council can always amend the statute later.

Nalini shyam

From: Nancy A Newkirk <nancyanewkirk@gmail.com>
Sent: Wednesday, January 11, 2023 2:53 PM
To: NYC Council Hearings
Subject: [EXTERNAL] City Council Amendment

City Council Amendment

Thank you to Speaker Adams and Council Member de la Rosa for this opportunity to comment on the proposed legislation to amend administrative code 12-126 regarding health insurance coverage for NYC retirees.

First of all, since once again the City and certain leaders of NYC unions met secretly to formulate a new health plan for NYC retirees, most of these retirees currently have little or no knowledge of this impending change. For this reason, most had no knowledge of the Council's hearing today. If they did, you would be hearing from many, many more of the over 50,000 retirees who opted out of the previously offered Medicare Advantage Plan and instead chose to remain in Medicare and Senior Care.

I served the children of the City of New York for 34 years as a teacher and supervisor with the Board of Education. I was never paid a salary commensurate with the value of my work. Instead, I was told that I would be rewarded when I retired with the benefit of a wonderful health plan. Now the City wants to take this health plan away. Why?

Unbeknownst to City workers and retirees, previous mayors working with certain union leaders and the Municipal Labor Council raided our Health Stabilization Fund to pay for raises. This happened more than once. Now they want to recoup that money off the backs of retirees by substituting our excellent health insurance program with an inferior, cheaper Medicare Advantage one. The City and the unions have betrayed our trust.

I am against the City imposing a Medicare Advantage Plan on us. This plan will force us to choose from Aetna's network of doctors. It will also force us to be subject to Aetna's panel of arbiters who do not have our best interests at heart and often delay and deny doctor prescribed tests, physical therapy, and other necessary medical interventions.

I have read Administrative Code 12-126. It states that the City must offer free health coverage to NYC workers and retirees. Unfortunately, it does not state that the City must offer the best health plan available or a choice of health plans. That's the problem that now confronts us given the City's determination to impose a Medicare Advantage program on us.

The amendment before the City Council offers choice. I do not want to pay for health care that has always been free to me. But I do not want to lose the ability to have regular Medicare and EmblemHealth Senior Care at a

time in my life when I most need them. I have doctors at Memorial Sloan Kettering and the Hospital for Special Surgery who surely will not be part of the Advantage network.

Therefore I ask you to support the amendment to Code 12-126.

Thank you.

Nancy Newkirk Quintanilla

CSA

Sent from my iPad

Testimony on Defeating Changes to the NYC Administrative Code Section 12-126

Nancy Romer, Ph.D., Professor Emerita, Brooklyn College, elected member of the PSC-CUNY Executive Council, AFT #2334, representing 30,000 members and voters.

We elected a progressive City Council and a mayor who campaigned as a friend of the working class. Do you really want to support a change to the City Administrative Code that would lead to more degradation of benefits for ALL City Workers

I was hired by the Brooklyn College psychology department in the fall of 1973. My first contract promised me healthcare upon retirement that would be Medicare plus the solid provision of GHI-level (or better) secondary insurance. Those decent benefits and our great students made up for the sub-par salaries and working conditions.

I've been retired for over 6 years and am extremely healthy and lucky. But I am getting less able to navigate complex internet interactions. With Medicare-DisAdvantage, more of our healthcare will require preauthorization and navigating complex internet interactions. Some of us will simply give up, not get services and die. And the medical care we *do* obtain will be subpar: you can't give better services, save money and have massive management salaries and profits. Face it: Medicare DisAdvantage will provide less for less. You promised us one thing and are giving us the cheap imitation.

There *is* money in the stabilization fund to last for at least two years, time enough to come up with a more equitable and honest plan. So why support this Code change? Do you like exorbitant management salaries in the health insurance industry or the massive fraud within Medicare Disadvantage plans? Are you afraid to tax the rich to cover our costs? Are you protecting the rich instead of NYC workers? I really don't think you want to do that.

Elected by your constituents to help workers, if you vote for changing 12-126, you will be doing the opposite. Please be *our* advocates *not* our enemies. While *all* the unions may not be opposed, the vast majority of union *retirees* will realize the true decline in their medical coverage and be very angry. Our numbers will grow every year and we vote!!

As an elder, I get lots of potential scams to steal my personal and financial information. You are perpetrating a *scam* on NYC retirees and future retirees. Stop Scamming us and start representing us. Elected, as you were, to take the City toward greater care and equity, why would you open Pandora's box and allow a precedent for changing the City Charter in order to cut the benefits of workers healthcare?

Thank you.

Brooklyn, NY 11215

Dear Council Persons,

As a public school teacher, I am appalled that NYC officials and my union, the UFT, are attempting to strip the retirees of this city of the healthcare that they worked for as city employees. Choosing to work for NYC should be rewarded with what was promised—the same healthcare coverage that we have as current workers. That was the deal. It's used as a recruitment tool—that when you work long and hard for this city, you'll be taken care of. That when you retire, you will keep the healthcare you received when you became a city employee; the city's healthcare coverage gives city workers stability that should continue into retirement.

Stripping those who worked long and hard for this city—from teachers, to firemen to DC 37 workers—of their long-promised healthcare coverage is shameful. Medicare coverage is national healthcare that all people over 65 enjoy. Privatizing the healthcare of seniors will lead to unwanted health outcomes and ultimately will not save the city money.

As a teacher who is still working, I also know that once this administrative code, 12-126, is amended, active teacher's health benefits (as well as all city workers') will begin to be chipped away. The door will be opened for weakening of our healthcare and benefits. There will always be those in power who will work to dismantle the NYC workers' health coverage, (unless we stand up and fight back...)

As your constituent, I want you to stand with our New York City retirees in opposing changes to the City's **administrative code 12-126**.

Sincerely,
Nancy Salomon Miranda

Written testimony from :
Nancy Swaybill
Brooklyn NY 11215
2018 Retiree from DOE

I am submitting my testimony as a Retiree of the Dept. Of Education after 25 years of service to New York City's children and families.

After dedicated service, I have been able to rely upon Medicare coverage with Emblem Health as my supplemental plan. It has been disturbing, unsettling and stressful to learn that the city is now willing to force us into an inferior Medicare Advantage plan; a private plan that will have no obligation to continue to provide a certain level of care and ease of care.

This is truly unacceptable to myself and all the retirees I know. Do not amend NYC Administrative Code Section 12-126. The courts have agreed with our position; allow us to continue battling this in court. This should be our right. I expect my representation on the council to protect seniors; not abandon them!

Thank you,

Nancy Swaybill

From: Simcha Waisman <swpapagai@gmail.com>
Sent: Sunday, January 8, 2023 1:53 PM
To: NYC Council Hearings
Subject: [EXTERNAL] PROTECTING ADMIN. CODE 12-126

Dear Councilmembers:

I urge you to vote NO to amending Admin. Code 12-126, otherwise you will be victimizing the very people you're supposed to protect. When it's easy, everyone says honor those who are first responders and serve the people, well now is your chance to protect those who have protected you and your families.

As a NYC teacher, I was honored to work in a profession that educated the city's children for a pitiful salary (\$5200./year in 1965), but with the hope of good health insurance & a pension. I have dedicated my entire career to NYC public school children and have been proud of my work.

The teachers in NYC have been used, over the years, to lend money to the city government when needed and, now, are expected to accept an inferior health insurance plan because the city raided their health insurance fund to pay for raises. We have worked very hard for our benefits &, at this stage in life, should not be victimized by the same government that's supposed to protect us. We did not cause this mismanagement & should not be the ones to correct it at the risk of our health.

I opted out of a Medicare Advantage plan when I learned all my doctors and the hospital with which they are associated did not accept the plan. At my age, am I to be forced to change not only the hospital I have confidence in, but also all my doctors?

I will not do that. I will also not be able to afford \$400.00/month extra to keep my current plan for my husband and myself.

Good, experienced doctors are not going to accept plans that give their medical decisions over to a business rep. sitting at a desk deciding what's best for a patient they don't know.

I'm sure you are aware of the events leading up to this disaster of wanting to present this amendment and the cause brought on by the previous administration's dealings with the unions.

If you reject amending 12-126, it will be a win for all of us. Please honor the work of the city's teachers over decades by NOT supporting the bill to amend 12-126.

Nancy Waisman, Retiree, Dept. of Education
27+ years of service, retired 2007

Written Testimony from Naomi Aaronson Regarding Public Law 12-126

Hello!

I am a 70 y.o. retired occupational therapist from the NYC Department of Education. When I retired in 2016, I was promised health care for the rest of my life. This gives one a sense of security especially after giving up a more lucrative job in the private sector. Occupational therapists were in much demand at that time. When I retired, I was diagnosed with a liver disease that requires a specific test called a fibroscan to diagnose the condition properly.

I am urging you not to amend PL 12-126. This law guarantees to us our Senior Care which is an essential part of our health care. I have auto immune diseases which effect the entire body. Thus, it effects organs including my liver, cardiovascular system, eyes, gastrointestinal system, and skin. My doctors are able to order the necessary tests and medications to both diagnose and help prevent my body from declining any further. If this is taken away, this will have catastrophic effects upon my body. Already, we are paying more for our Emblem drugs and co-pays. My pension is very minimal and it is forcing me to find other means to pay. In addition, having to pay for original Medicare will be untenable as well. Many of my doctors have already told me that they will not accept a Medicare Advantage plan. Why are you trying to take away my health by forcing me into a Medicare Advantage Plan?

Please do not take away PL 12-126 which ensures that the city provides us with our Emblem Health Care and which we pay for. Help us convene a Blue Ribbon panel that can explore other ways for the city to save money on health care. When we were originally told about the Medicare Advantage plan, there were no health care professionals or lawyers who represented the retirees allowed to examine it. It was a fait accompli. Is that a good way to implement changes to retirees health care who need good health care desperately? Again, I urge you not to change PL 12-126. Thank you for your consideration.

Naomi Aaronson

From: Naomi Harris <naomih7277@gmail.com>
Sent: Wednesday, January 11, 2023 8:00 PM
To: Testimony
Subject: [EXTERNAL] Fwd:

Sent from my iPhone

Begin forwarded message:

From: Naomi Harris <naomih7277@gmail.com>
Date: January 11, 2023 at 7:35:20 PM EST
To: Testimony@council.nyc.gov
Subject: Fwd:

Sent from my iPhone

Begin

To: cdelarosa@council.nyc.gov, aeadams@council.nyc.gov, cmarte@council.nyc.gov, clrivera@council.nyc.gov, ebottcher@council.nyc.gov, powers@council.nyc.gov, jmenin@council.nyc.gov, gbrewer@council.nyc.gov, sabreu@council.nyc.gov, dayala@council.nyc.gov, krichardson@council.nyc.gov, edinowitz@council.nyc.gov, kriley@council.nyc.gov, mvelazquez@council.nyc.gov, psanchez@council.nyc.gov, ofeliz@council.nyc.gov, astevens@council.nyc.gov, rsalamanca@council.nyc.gov, afarias@council.nyc.gov, vpaladino@council.nyc.gov, sung@council.nyc.gov, fmoya@council.nyc.gov, tcaban@council.nyc.gov, llee@council.nyc.gov, jgennaro@council.nyc.gov, skrishnan@council.nyc.gov, jwon@council.nyc.gov, nwilliams@council.nyc.gov, lschulman@council.nyc.gov, rholden@council.nyc.gov, sbrooks-powers@council.nyc.gov, jariola@council.nyc.gov, lrestler@council.nyc.gov, jgutierrez@council.nyc.gov, chudson@council.nyc.gov, cosse@council.nyc.gov, snurse@council.nyc.gov, aaviles@council.nyc.gov, shanif@council.nyc.gov, rjoseph@council.nyc.gov, dmealy@council.nyc.gov, cbarron@council.nyc.gov, jbrannan@council.nyc.gov, kyeger@council.nyc.gov, flouis@council.nyc.gov, mnarcisse@council.nyc.gov, akagan@council.nyc.gov, ivernikov@council.nyc.gov, khanks@council.nyc.gov, dcarr@council.nyc.gov, jborelli@council.nyc.gov
Reply-To: kaufman618@verizon.net

Dear Honorable City Council Member,

My name is Naomi Harris . I worked for the Dept. of Education for 25 years and retired on July 31, 2021. My husband and I have medical conditions that require us to see our doctors on a regular basis. I loved teaching! At my final UFT consultation before retirement, I was told about the medical coverage that the city promised and provided retirees and their spouses. I am upset that the city wants to change what I was promised to a Medicare Advantage plan. I did my due diligence and did research and spoke to my doctors about MAPs. I read articles about MAPs in AARP magazine and the NY Times. There is financial mismanagement in some MAPs, including Aetna, the plan the city is considering. The plan we have now gives the doctors more flexibility in treating elderly patients. All my doctors indicated that they take traditional Medicare and do not participate in the MAPs. I don't want a for-profit company to dictate what procedures my doctors may or may not perform. There are so many procedures that need pre-authorizations in MAPs. I never thought my peaceful retirement years would be so stressful. I don't want to be forced into a plan that is inferior to the one which was promised to me and that I have now.

Mr. Sheinman was chosen and paid by the MLC to give his opinion, it is only his opinion and not binding. There wasn't any dialog between all parties involved.

Many NYC retirees, are the same age as your parents, grandparents or even great grandparents. We worked hard our whole lives to make NYC the great city it is now. We deserve the best medical care possible determined by our physicians not determined by strangers who work for a profit making company. One day, you could possibly be in our shoes. What plan would you choose for yourself or your aging family members. A plan that meets your needs (what we have now) or a mediocre plan such as Medical Advantage. Please make your decision based on what you would do when you get to be in the late 70's or 80's?

The unions, City, and the Organization of NYC Retirees should work with each other to see how we, retirees, could hold on to the plan we have now. The City and unions (MLC) talks about doing the right thing for the retirees. Their words say one thing—their actions show another. Shame on them!

There is a lot of misinformation out there that came from the City and the unions (MLC) Please be open minded. Get all the information about the plan we have now and the MAP plan. Please do your due diligence before voting. A promise made by the City and the unions, should be a promise kept.

It is despicable that the City and MLC has turned their backs on the most vulnerable, aging retirees—all who have worked for many years as loyal employees and only expected what they were told in retirement. Thank you for your time and consideration on this very important issue.

From: Nate Franco <natefranco@riseup.net>
Sent: Tuesday, January 10, 2023 10:17 PM
To: Testimony
Subject: [EXTERNAL] Int 0874-2023: Submitting testimony in opposition to this legislation

Dear Committee on Civil Service and Labor Chairperson De La Rosa,

I am a constituent of City Council District 7. I am also a City employee with 12 years of service as a Social Worker for Health+Hospitals and a member of DC37, Local 768.

I am contacting you to express my opposition to Intro 0874-2023. I am familiar with Arbitrator Martin Scheinman's recent ruling, and fully expect it to be implemented regardless of the City Council's passage or rejection of Intro 0874-2023. However, **if the purpose of the amendment is just to give retirees the option of "paying-up" \$191/month to retain Senior Care, the MLC could propose a narrower amendment, to only apply to Medicare-eligible retirees (instead of the extremely broad "any class" of ppl).**

Instead, the broadly written language in the [proposed amendment](#) opens up the possibility of unlimited changes to any group of City employees or retirees, and could also be based on any grouping that the MLC and City decide upon (such as "Uniformed Services" vs "non-uniformed" or even individuals represented one union vs another. For any of these 'classes', a new benchmark plan (with accompanying premium dollar amount) could be established, beyond which the City would not be required to pay. As a result, the proposed amendment to Admin Code 12-126 will enable the City's Office of Labor Relations to pressure our unions — particularly the smallest or weakest unions — to accept ever worsening insurance plans (presumably in return for the routine wage increases standard).

In sum, my concern is that the **true impact of Intro 0874-2023 is to fracture the foundation of our unified municipal workforce health insurance system**, triggering a 'race to the bottom' for active workers as well as various groups of retirees (such as the pre-medicare retirees), well beyond the medicare-eligible retirees who have been featured by the proponents of this legislation.

Sincerely,

Nate Franco
H+H / Harlem employee (12 yrs service)
Local 768, DC37 member
[Email: natefranco@riseup.net](mailto:natefranco@riseup.net)

NY NY 10032

From: The Frumps <frumps@msn.com>
Sent: Monday, January 9, 2023 1:00 PM
Cc: NYC Council Hearings
Subject: [EXTERNAL] Fwd: Testimony

Submitted by
Neal Frumkin

Brooklyn, NY 11225

Sent from my iPhone

Begin forwarded message:

From: The Frumps <Frumps@msn.com>
Date: January 7, 2023 at 4:56:23 PM EST
To: neal frumkin <nealrr@outlook.com>
Subject: Testimony

Good morning, my name is Neal Frumkin. I retired after working for NYC for 34 1/2 years. I am an officer of the DC37 Retirees Association which speaks for over 60,000 retired workers. I am speaking in opposition to changes in the administrative code 12-126. We must preserve its guarantee of premium free health care for both active and retired city workers.

You will hear the the health stabilization fund is broke and changing the code is needed to restore its fiscal health. We think that its funds must be replenished by the city and used only for the purposes it was established for over fifty years ago. Real and transparent oversight of the fund must be mandated.

You will hear that for profit medicare advantage plans are "as good or better" than traditional medicare. Studies by the federal government's general accounting office show this is not true. They show that MA plans often used pre-approval rules to deny medically necessary procedures and tests which were later allowed after appeals. Such delays may be disastrous and older retirees may not be in a position to file appeals.

You will hear that changing the code preserves choice in health plans. For lower income retirees "buying up" coverage is not a real option. You will hear testimony from retirees who already make terrible choices of spending money on rent, food or medical costs. A disproportionate number of these low income retirees are women of color!

We stand ready to discuss how to bring down the costs of medical coverage. We want our voices to be heard before changes are made. In the past, the council has protected our health benefits. We ask you to stand with us again today.

Nelly Rodriguez: Amend Administrative Code 12-126

My name is Nelly Rodriguez, I'm a retired member of DC 37 and Local 1549.

I served as a timekeeper at the Department of Social Services for 40 years.

I was hired by the City of New York in 1977 and retired in 2017.

I'm here to ask you to vote to update the administrative code as soon as possible.

I don't want to lose my medical coverage. I've had HIP VIP my entire career, and I want to stay with the same doctors I've had for the last 40 years.

I should be able to make choices about my own healthcare, which is what DC 37 is fighting for.

And I definitely don't want to pay premiums— I can't afford that on retirement, and it wasn't what I was promised when I started working for the City of New York.

My colleagues and friends are scared. We don't want to lose what we have. We want to keep our healthcare— I need to keep HIP VIP and that should be my choice to make.

We need your leadership to protect retirees and active employees with this vote. Forget the noise...look at the facts.

And when you vote, please protect those of us who rely on these benefits and can't afford to lose them.

This is my healthcare we're talking about, and I need you to amend the code in order to protect it.

Thank you.

Name: Neme Alperstein

Forest Hills, NY 11375
alperstein@hotmail.com

Jan. 9, 2023

To the members of the City Council:

First, allow me to thank you for hearing testimony on this serious issue.

I implore you not to amend Administrative Code 12-126. To do so will allow the MLC and New York City to diminish NYC retiree healthcare by removing us from Medicare. Their effort to place us on a Medicare Advantage plan will diminish our healthcare for corporate profit. The excuse to do so has been to have the Medicare Advantage Plan pay into the Stabilization Fund using part of their profit gleaned from monies taken from Medicare. Privatizing for profit in an effort to allow NYC to renege on its agreements with municipal unions can only be successfully achieved by cutting medical services that reduce their costs.

We have heard that various hospitals might agree to take an MAP plan. The hospital might agree but my doctors will not and I would be forced to find other doctors. They would not be the doctors of my choice and my healthcare could suffer. This is a dangerous proposition. MAP found a way to monetize retirees at retiree expense while MAP pockets federal dollars.

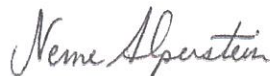
I have always been an advocate of my union, and it is unconscionable that my own UFT sold me out. Who will help me when various procedures are denied?

Please do not allow the administrative code to be amended. To do so is a ploy for profit on the backs of retirees. Others are watching what is being done. Every time the city doesn't want to make good on a contract/obligation, will it then change the rules? The city is going into contract negotiations with the UFT and my warning is, the city and my own union could avoid meeting obligations of a contract. In service city workers have to honor contracts, but not the city? Others around the country are watching.

We already have new copays and those of you who work for the City of New York who have healthcare, you will be next.

Please stand with the retirees and do not amend 12-126. Invite us to help you find savings instead of diminishing our care.

Thank you.



Neme Alperstein

Good morning members of the City Council. My name is Nestor Danyluk. I live in The Bronx, in City Council District 11, represented by Eric Dinowitz. I retired from the Department of City Planning in 2013 after 31 years of service. I was also active in the Union and served as a delegate from Chapter 28, Local 375, District Council 37 for about 20 years. I am scheduled to go on Medicare next month.

At the time I retired, I believed that my health coverage would be available for the rest of my life. Unfortunately, the legislation that is before you may have serious implications for the health coverage and well-being of myself and fellow retirees. I call to your attention the numerous reports prepared by the Office of Inspector General at the Department of Health and Human Services in Washington DC, especially those addressing what were termed “inappropriate denials.” While most of these were ultimately resolved in the patient’s favor, the time that is lost during the appeals process can have severe consequences.

A case in point: several years ago, a routine eye exam revealed that I had a condition which required immediate laser surgery in order to repair a severe retinal detachment, which up until that point had not exhibited any symptoms. A few hours later, my surgeon told me that had I waited even a few days longer, I probably would have lost the vision in my left eye. Waiting for an approval, or worse – waiting for the resolution of an appeal would have had dire consequences.

Members of the City Council, the health of thousands of retirees is in your hands. Please do not sell us out and vote AGAINST an amendment to Administrative Code Section 12-126.

Thank you and remember that one day, you too will need quality healthcare.

Nestor Danyluk

Bronx, NY 10463

Dear Council Members,

My name is Nick Bacon. I'm a constituent of District 7. I'm also a teacher and a member of the UFT Executive Board. I understand that the leadership of my organization (the UFT) has been lobbying the City Council to change Administrative Code 12-126. Please understand that they never consulted membership on taking this position. There was never a vote. Many informed members, such as myself, strongly disagree with the UFT leadership's move here. Indeed, Administrative Code 12-126 *protects* both in-service and retired members from paying premiums on healthcare that we and our families need. No matter what rhetoric UFT leadership is using, there's only one reason to change the code: so that the City can put retirees onto a low quality Medicare Advantage plan just to save a few bucks. This will open a Pandora's Box of cutbacks both for in-service and retiree healthcare. **If we amend the code today to facilitate this change, we're permanently removing legal protections for in-service and retiree healthcare.** We have to draw a line in the sand here and say no. Our retirees and future retirees deserve the high quality healthcare they earned.

Please do the right thing here. Please **vote NO on amending the code.**

Sincerely,

Nicholas Arthur Bacon

New York, NY 10031

From: Nicholas Beza <nickyb134@gmail.com>
Sent: Saturday, January 7, 2023 5:22 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Protect NYC Retirees / Protect Admin Code 12-126

Dear Council Members,

As a NYC retiree who dedicated my entire career serving the City of New York, in the NYPD Traffic Enforcement Division from 1986 through 2011, I ask you to represent my interest and protect the health benefits that I worked for and was promised in retirement. Vote NO to proposed amendments to Administrative Code 12-126. Admin Code 12-126 protects my health benefits as well as active employees benefits and that includes yours too.

Retirees should not be forced into a Medicare Advantage Plan that is not equivalent to our current health benefits. I should not have to stress out over the possibility of losing my traditional Medicare and supplemental GHI Senior Care plan. A plan that my doctors accept, a plan where my doctors manage my care not a for profit company. I can't afford to pay upwards of \$191 a month for my current Senior Care supplemental plan, my retirement pension is not a substantial amount of money, I'm just barely getting by. I deserve the benefits I was promised, the benefits that I earned. I implore you to protect Administrative Code 12-126 which was enacted to protect NYC employees, retirees and dependents health benefits. Don't let the Mayor and the MLC to get away with mismanaging funds that were in place for retiree health benefit premiums. Hold them accountable and instead vote for oversight of expenditures from the Health Stabilization Fund. The MLC doesn't not represent retirees we are their scapegoats for savings. Don't believe the lies the MLC and the Mayor are spreading regarding the Administrative Code. Do your due diligence and find the truth. The City and MLC are selling out all municipal workers because of their mistakes and mismanagement of funds. Do not allow amendments to the Admin Code 12-126, please protect retirees benefits, don't allow the City to pass costs on to us.

Stand for what's right, for what's moral, stand with municipal employees and retirees. We are fighting for our lives, our healthcare. Don't allow the City to force us into bankruptcy. Most of us live out of state where traditional Medicare is accepted, don't take that away from us. Don't believe the MLC and Mayor's lies do your due diligence.

Regards,
Nicholas Beza
NYC Retiree / Civilian NYPD Member 25 years

From: Nicholas Beza <nickyb134@gmail.com>
Sent: Monday, January 9, 2023 10:36 AM
To: Adams, Adrienne; De La Rosa, Carmen; Bottcher, Erik; Menin, Julie; Dinowitz, Eric; Feliz, Oswald; Moya, Francisco; Nurse, Sandy; Joseph, Rita; Hanks, Kamillah; NYC Council Hearings
Subject: [EXTERNAL] PROTECT Admin Code 12-126 - NO Amendments

Dear Council Members of the Civil Service & Labor Committee:

Please do not rush into making amendments to Administrative Code 12-126, you are not under any alleged deadline which was imposed by Martin Scheinman. His report on page one (1) and thirty-two (32) both say this is my recommendation. He is an arbitrator by trade, but when he wrote this recommendation he was not acting from the result of an arbitration. That's why he signed it as chair of the tripartite committee.

This recommendation/order is NOT binding, and NO arbitrator can order a legislative body to change the law. His impact is not timely, accordingly he is only to mediate disputes between the parties and there is NO dispute between the City and the MLC, their dispute is with retirees and the court.

Do not change 12-126. They are using you to do this because if you do, they will blame you later, for putting them in the position that they are going to be in, Look the City Council did it!

The retirees always knew we had the City Council to protect us over the decades every time something like this happened. It's because by law, our former unions can no longer represent us.

Let the Mayor and the MLC do their own dirty work. City Council members, I am asking you to continue to PROTECT retirees and vote NO to amendments to 12-126.

Regards,
Nicholas Beza
NYC Retiree - NYPD
Retired in 2011
Served 25 years

From: Nicholas Beza <nickyb134@gmail.com>
Sent: Tuesday, January 10, 2023 3:29 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Protect Admin Code 12-126

Dear Council Members and Members the of the Civil Service and Labor Committee,

Yesterday, January 9, 2023, you heard the pleas of NYC retirees and active service members to protect our health benefits and not create a two tier system. I will be on the losing end if you make changes to code 12-126, I can't afford to pay for the Senior Care Supplemental Insurance that I am now afforded through my many years of service to the City of New York. My traditional medicare, that I paid for, and my supplemental plan, that I was promised and earned, is what I should continue to have at no cost to me. I am not interested in being forced into a fictitious MAP that the City is touting as better than what I currently have. Deminished heathcare is not what I signed up for when dedicated my career to the City.

Don't allow the City to step on their senior retired service members. 12 -126 in its original form since 1967 has created an equal system do not change it - the City and Unions are trying to force this on you just like they are trying to force a MAP plan on us. Give retirees the option to fight this in court if need be. I am confident that we will win and I am willing to take my chances even if the City takes away my additional choices. I believe the Mayor and Unions are liars, you saw them in action yesterday. They were unprepared, couldn't answer simple questions about this so called fantastic MAP that they are trying to force upon us and didn't even have a copy of the contract to share. Then the unions spewing their lies trying to cover thier asses because they need to achieve the healthcare cost savings that they promised the City, on the backs of the retirees that they no longer represent. Do not feel pressured into making any quick decisions that could potentially hurt all municipal employees, retired and active. Let the City take the next steps, let the Mayor make these decisions so that lashback is directed toward him. Scare tactics is how they all operate. Don't fall victim to thier deceitfulness.

Demand that the City and Unions negotiate costs saving in other ways. Do not allow them to hold our heathcare and us hostage, and that incudes you, to their fictions deadlines. Do not allow the Unions to continue to deceive the actives into thinking they are going to lose options if the code isn't changed. The judge never ruled on this like they're trying to get you to believe and their arbitrator who is providing a recommendation not an order with deadlines, like they're trying to get you to believe. A rushed deadline that's all this is. Demand transparency before you make decisions that will impact the everyday lives of retirees and current and future municipal workers.

Remember all the of the Judith's out there when you make your decision. If you were listening to the virtual testimony then you know what I mean.

Regards,
Nicholas Beza
Retired 2011
Served 25 yrs.- NYPD Civilian

JANUARY 8, 2023

TESTIMONY SUBMITTED

BY Nina Jody

TO THE NEW YORK CITY COUNCIL

COMMITTEE ON CIVIL SERVICE AND LABOR

HON. CARMEN DE LA ROSA, CHAIRPERSON

REGARDING INT. NO. 874

A LOCAL LAW TO AMEND SECTION 12-126 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK IN RELATION TO HEALTH INSURANCE COVERAGE FOR CITY EMPLOYEES, CITY RETIREES, AND THEIR DEPENDENTS

Dear Council Members -

I am writing to raise my voice in protest over the efforts to take away my Medicare health insurance. I worked for the City of New York in the Law Department for over 34 years. My position paid less than I might have earned in the private sector, but this was made up for by the benefits I received and the gratification of the work. I was at my post on the day the WTC was attacked and I was back again two days later, helping to put the city back on its feet. I never doubted the decision that I made to work for our city despite having gotten two illnesses related to the WTC calamity. When I retired, I was promised benefits from the city for myself and my domestic partner; that was part of the deal I made with the City of New York in 1983: Hard work at low pay in return for a rewarding job, a decent pension, and good health care FOR THE REST OF MY LIFE. As a result of poor management, unsavory practices by unions that do not represent me, and fraud in taking funds from the healthcare stabilization fund to pay for raises for active workers, the city in which I lived and worked for my whole professional life, is seeking to make up for the poor management, unsavory practices, and fraud by taking away my earned health insurance when I am old and sick and vulnerable. Does that seem fair to any of you?

I urge you to vote NO on the bill to amend AC 12-126 which Council Members De La Rosa and Ayala have proposed on behalf of the mayor and to put an end to the plan the Mayor and the Municipal Labor Committee (MLC) have concocted to force retirees into a Medicare Advantage plan This is a brazen effort to take away our Medicare and substitute a subpar Medicare Advantage plan (MAP). Why should the city balance its budget on the backs of retired workers? And why should the forward-thinking City Council agree to substitute a private insurance company with a profit motive for our promised Medicare?

Here's what makes any Medicare Advantage plan subpar:

1. Beneficiaries spend more out-of-pocket on a Medicare Advantage plan than they would on a Medicare Supplement plan.
2. Coverage does not travel with you – if you like to travel when you are retired you are out of luck with a MAP.
3. There is a much smaller networks of doctors who accept MAP making getting appropriate care more difficult if not impossible.
4. Plan benefits change annually so you never know what will or will not be covered.

5. There is a constant need for referrals and prior approvals.
6. Higher out-of-pocket costs.
7. Doctors in general don't like MAP and say they find it difficult to provide adequate care and to get paid.
8. And, finally, the Federal government is spending more per capita on Medicare Advantage than on traditional Medicare; something that should concern all of us.

Do not believe what you are hearing about Arbitrator Scheinman's report: It is a report and not a decision. It does not obligate you to vote for changing 12-126 and no retirees or retiree advocates were involved in the 'arbitration process. Do not believe what you are hearing from administration officials, union leaders, or the MLC either; amending AC 12-126 is not the only way to save on health insurance. Wouldn't it be prudent for the City Council to delay changing 12-126 until a truly impartial Blue-Ribbon Commission of experts was convened to define the true nature of the problem and design better and fairer solutions?

NYC retirees deserve to keep the traditional Medicare and free supplemental health insurance we earned and which we were promised and, as a last resort, to have our day in court if the mayor should decide to take action that results in such an amendment; allowing us put our arguments in front of a judge, something we will not be able to do if the City Council takes this despicable step to undermine our benefits.

PLEASE PROTECT THE HEALTH INSURANCE BENEFITS OF RETIREES.
PLEASE DEMAND OTHER OPTIONS BE EXPLORED.
PLEASE VOTE AGAINST CHANGING NYC ADMINISTRATIVE CODE SECTION 12-126!

Sincerely,

Nina Jody

New York, NY 10003
nbslj@aol.com

From: Noralfunaro <noralfunaro@gmail.com>
Sent: Friday, January 6, 2023 3:18 PM
To: NYC Council Hearings
Subject: [EXTERNAL] TESTIMONY TO THE NYC CITY COUNCIL AGAINST AMENDING NYC ADMINISTRATIVE CODE SECTION 12-126

Dear City Council members:

I retired from the Department of Citywide Administrative Services in September 2017 after 14 years of City service. Since turning 65, I have had traditional Medicare supplemented by Senior Care and have found this option to be very satisfactory.

Since my retirement I have had major surgery. My history illustrates how essential reliable healthcare is for retirees and I am just one out of 250,000 to whom its retention is a vital personal matter that affects our daily lives.

The attempt on the part of the Mayor, the Municipal Labor Committee (MLC) and the unions to eliminate traditional Medicare/Senior Care and force retirees to be covered by Medicare Advantage is unconscionable for the following reasons:

1. Section 12-126 of the NYC Administrative Code has guaranteed traditional Medicare/Senior Care for decades and this guarantee has been affirmed in court. Any amendment of 12-126 would be a despicable end run around long standing law.
2. The Scheinman Recommendation has no legal authority to order the City or the MLC to do anything. It is instead a cowardly pretext to give cover to those who want to force Medicare Advantage on retirees but not take responsibility for their actions. Please refer to the NYC Organization of Public Service Retirees (NYCOPSR) January 2, 2022 Message to the City Council that you have already received for details.
3. The City Council has a moral obligation to do all due diligence necessary to seriously consider the options for saving \$300 million that the NYCOPSR has already identified and shared with the Office of Management and Budget (OMB).
4. The essential affordable healthcare option that retirees earned through working in good faith for decades and on which they now rely is now being threatened through no fault of their own. A vote to amend 12-126 would be a grievous breach of such faith. It would deny the coverage long promised to retirees when they need it most and unfairly shift an additional financial burden to vulnerable individuals living on a fixed income. It would also set an unsavory precedent that would undermine the credibility and sully the reputation of the City Council.
5. Unlike traditional Medicare available directly through the federal government, Medicare Advantage is private for-profit insurance in business to make money. To that end it requires in-network participation and prior approval for certain procedures. There have already been court cases against it as claims routinely approved by traditional Medicare have been delayed and/or denied. None of this serves the best interests of ailing retirees living on a pension.

Retirees are counting on you to honor the City's longstanding commitment to 12-126 and preserve the earned healthcare benefit on which we increasingly rely as each day passes. I am praying you will do the right thing and not sacrifice deserving retirees, including police and firemen who risked their lives, to political expediency.

Thank you.
Nora Funaro

Sent from my iPhone

Councilwoman Adrienne Adams
speakeradams@council.nyc.gov

Council member Julie Menin
District5@council.nyc.gov

I am asking you to not let the city council to make changes to the NYC Administrative code 12-126. My name is Norman Penchina, I am 77 years old and a retiree that has worked for the city for over 25 years. When I started working for the city, I took the job with a with \$15,000 cut in pay for the promise of a pension, job security and continued health insurance benefits for life when retired. If changes are made It would leave the door open to circumvent the judgement of Supreme Court Judge Lyle Frank not to let the city force retirees into the medicare advantage plan or have to pay a penalty premium of \$194 a month for supplemental insurance (Senior Care).

The medicare advantage plan is inferior compared to medicare. Doctors and hospitals that accept Medicare are not required to accept this plan. The medicare advantage plan requires advanced pre-authorization for many procedures and medications that my doctor has deemed necessary. This is time sensitive. The time waiting for authorization could be catastrophic and life threatening, while waiting for a committee to make the approval. Medicare advantage plans do not allow for the insured to have additional health insurance in conjunction with the advantage plan. I have a catastrophic health insurance plan that I consider critical and would have to drop in order to accept the advantage plan. I am not willing to give this plan up and would not be allowed to join the medicare plan.

In short it would be devastating for me for the city to go back on its promise. PLEASE do not make changes to the NYC Administrative code 12-126.

Norman Penchina
E 89th Street
New York, NY 10128

Norman_pen@hotmail.com

Norm Scott Testimony regarding changing administrative code 12-126

Jan. 9, 2023

My name is Norman Scott. I support keeping 12-126 intact while we continue to negotiate for quality healthcare, and savings. 12-126 ensures an equal subsidy for all city employees and has done so for over half a century, no matter the vicissitudes of city finances and has done so by a defined price threshold set in a city law. If insurance costs less than the threshold we are covered. If it's more than the threshold, we pay the difference. Changing the code allows the city to reduce this threshold. Keeping 12-126 allows the most vulnerable among us remain in publicly run Medicare and doesn't force anyone into the private, regional, for-profit Medicare Advantage ecosystem.

My union's (the UFT) attempts to lobby the city council to change the administrative code comes from the top leadership, not the rank-and-file working members or retirees. At no point have we had a vote or any say in the decision.

I retired from the NYC Department of Education 20 years ago after 35 years of service as a teacher. I've been on traditional Medicare for almost 13 years I attribute my relatively good health to having a solid, supportive medical plan. Medicare pays 80% and my supplemental 20% has been paid for by my city managed Senior care. So far, I've had no denials of medical service and every doctor I go to accepts my current plan.

Amending the code would give me the "choice" to pay almost \$400 a month for my wife and I for the same plan we've had. I understand the desire to save money but why on the backs of retirees? Working to cut healthcare costs should be the goal. Attempting to change the admin code is being sold as offering retirees an option, for a fee, but also taking away any option for the numerous retirees who cannot afford the fee to opt out of a Medicare Advantage plan: In essence, not having an option at all, but only an option for the well-off, turning the delivery of healthcare services into a means test: Medicare Advantage for the disadvantaged who would have no real choice at all. A two-class system.

In addition to having the security of a strong healthcare safety net through traditional government managed Medicare, I also support the concept of traditional Medicare as one of the few public options available, unfortunately, only to retirees. Medicare is a government run program like social security and is supported by taxes we pay into both plans throughout our lives. Medicare has much lower administrative costs compared to private plans and a professional civil servant unionized workforce that can focus on addressing the needs of patients. Medicare sets standards of payments to control costs.

The advantages of Medicare for higher efficiency and control over rising costs should be extended to all Americans. Every month I get a statement where a physician or hospital might input an enormous charge and Medicare only pays a fraction. Yet almost every doctor and hospital accept what Medicare pays. Medicare is one of the best ways to control runaway healthcare costs.

Medicare Advantage plans are privately owned and managed profit-making operations, with much higher administrative costs than Medicare and with shareholder value being of higher value than patient care. We see expensive and extensive advertising with highly paid spokespeople for these plans and exorbitant executive salaries, dividends, and stock buybacks, often at the expense of patient care though denial of certain procedures and creating delays in gaining access to some procedures. Add the massive cost of lobbying politicians and even union leaders.

Recently, the mainstream press, led by the New York Times, has taken up the cudgel of exposing Medicare Advantage plans. The City Council is urged to reject all attempts to expand privatized Medicare Advantage plans and shrink highly successful traditional Medicare.

Testimony of Oliver Fein, M.D.

before the NYC City Council Committee on Civil Service and Labor

January 9, 2023

I am Dr. Oliver Fein. I am Professor Emeritus of Clinical Medicine at Weill Cornell Medical College and the Chair of the Board of the NY Metro Chapter of Physicians for a National Health Program. I have been in active medical practice as a primary care, general internal medicine clinician at Weill Cornell Internal Medicine Associates for 25 years and recently retired.

When I heard that all 250,000 New York City retirees were going to be forced to drop their Senior Care Insurance, which is based on Traditional Medicare plus coverage of Gap Insurance and forced to accept a Medicare (dis)Advantage program, run by a private, for-profit Health insurance company like Aetna, I was shocked. Medicare (dis) Advantage places a middle-man between Medicare and the doctor and patient. Medicare (dis)Advantage requires prior approvals, which results in denial of coverage of care. Hospitals refuse to take Medicare (dis)Advantage. Because of increased administrative costs and the need to pay dividends, economists estimate that Medicare (dis)Advantage will have 24% less money available to care for patients compared to traditional Medicare. There will be less access to care. More illness because of delayed care. People will die so the City can save money and private for-profit insurers like Aetna can enjoy growing profits and paychecks.

If the City needs to save money, it should advocate for a real payment reform, such as the state-based New York Health Act. This proposal would create a state-wide single payer insurance that would cover every New Yorker and would save costs overall by eliminating the administrative costs of running our present system and take the middlemen who profit out of the system. It would be based on an improved version of Traditional Medicare. By adopting a Medicare (dis)Advantage plan, the City is turning backwards and going in the wrong direction. City Council must not change the present administrative-code to permit such a change.

Thank you for the opportunity to present my views.

Dear Speaker Adams and Honorable City Council Representatives,

1. My name is Ona Nierenberg and I am fortunate to be represented by the Honorable Gale Brewer in District 6.

2. I am a clinical psychologist who served the city for 22 years at Bellevue Hospital Center and retired in 2018 for medical reasons. Through Hurricanes Irene and Sandy, 9/11 and innumerable other challenges, I was proud and privileged to care for the city's most vulnerable – of which I am now one.

3. I am not sure I can convey how deeply distressing it is to find myself living in a topsy-turvy world where those who I trusted to protect and serve the marginalized and the needy do not acknowledge that amending 12-126 is equivalent to giving away retirees' incredibly hard-earned, hard won, long-promised benefits. How could it be that those of us who labored throughout our working lives to serve the *public* are now threatened with being coerced into healthcare run by a *private* entity? Isn't this an obvious contradiction in terms as well as an ethical breach of the gravest order?

4. I personally worked for over two decades with pride and honor serving the public at a lesser salary than I could have made in the private sector, a mission that no doubt you must share. During my tenure at Bellevue, we city workers went many years without raises, forced to be grateful for the 1% raise that one negotiation yielded. This livelihood was only sustainable in light of the confidence my fellow civil servants and I held that we had secured the future benefit of traditional Medicare with the GHI supplement for our retirements, given the paucity of our pensions.

5. It is unquestionable that as a direct consequence of my proud choice to be a NYC civil servant, I would now be unable to afford to pay to sustain the benefit that I *already earned* through my years of dedicated labor and paying union dues. Yet, as a person living with a chronic illness, I could also not afford NOT to have traditional Medicare with a supplement given my health issues (which frankly, have been exacerbated by all the stress of this issue).

6. I am saddened, shocked and terrified that the City Council is even entertaining amending Administrative Code 12-126. To change the code at this point is a blatant attempt to circumvent the Retirees' legal victories both in court and upon appeal. Administrative Code 12-126 has been the foundation of all NYC active workers and retirees' healthcare rights for decades, and *nothing has changed regarding this*.

7. Hopefully you understand that the Scheinman report *is not a "ruling"*; it is a non-binding opinion, not an award or a legal decision in any way, shape or form. It is part of the ongoing pattern of disinformation by the unions (who terrifyingly have been all-too-willing to sell their retirees down the river) to try to gaslight the City Council, as they have been assiduously doing with their active members since the retirees prevailed in court, pitting them against their elders on fixed incomes who are also often dealing with precarious health.

8. To vote to amend the code is to participate in an underhanded attempt to railroad the retired NYC public servants into so-called Medicare "Advantage", which is neither truly Medicare nor advantageous to anyone except the profit-making insurance companies. It is well documented that the restricted networks, gatekeeping practices, and preapproval mandates of Medicare Advantage Plans have resulted in the proliferation of dangerous situations for those in need of treatment, and even deaths. Furthermore, the United States government has reported that MAP plans are rampant with fraud and abuse, all in the name of increasing profits by way of decreasing care while overbilling. I witnessed firsthand the struggles my elderly parents suffered with Medicare Advantage Plans. The circumstances became so dire that we had to make a heartbreaking Sophie's choice in the context of limited finance resources: Switch my mother, who was in poorer health, to traditional Medicare with a supplement, and hold our collective breaths that my father's relatively good health would continue, abandoning him to struggle with MAP. I saw with my own eyes how my ill mother was able to receive the care her doctors deemed appropriate without the kind of bureaucratic difficulties and delays that plagued my father's care even for the most routine procedures.

9. The New York City Organization of Public Service Retirees has identified at least \$300 MILLION dollars in savings. Isn't it worth discussing and investigating all the options with all parties represented (including the retirees who have not been permitted representation in any negotiations) before taking such Draconian action as amending the code? Moving to amend the code strips us all of the foundation that allowed retirees to prevail in court and appeal. This Council is the last bulwark to protect our rights (including your own).

10. Honorable Speaker and Council Members, Please, please do not allow your names to be associated in perpetuity with this shameful giveback engineered by the very union whose dues I gladly paid for many years as the daughter of a staunch unionist. I implore you to honor your commitment to protect and defend all citizens of our city, especially the most vulnerable. I beseech you to please continue the City Council tradition of *sustaining the code as is* and **to vote NO** to amending 12-26! Please allow your elders, the Retirees who are your brothers and sisters, to live the rest of their lives with the grace and dignity they worked so hard for.

Thank you so much for your time, attention, and consideration.

Sincerely,

Ona Nierenberg, Ph.D.

, New York, NY 10024

onierenberg@gmail.com

January 6, 2023

Committee on Civil Service and Labor

Dear City Council Committee on Civil Service and Labor

I am speaking in opposition to changing retirees' health benefits to Medicare Advantage.

I retired with the expectation that I had Medicare **and** Emblem Health, for which I pay no premiums. I am fully satisfied with this medical arrangement, which is what I understood was my plan for the future, and I oppose the continued privatization of our health benefits—along with the 1200\$ a year it will cost me, living on a fixed income, to keep my present supplemental insurance.

I sadly found myself diagnosed last January with a serious health issue – which requires numerous tests, scans, etc., along with frequent blood tests and doctors' visits. Then the scans uncover secondary findings – so I have more tests! I have no desire to venture into a new plan where services and support are not as effective and available.

I see the alternative not as an alternative at all, but as a drastic grab back of what I and my PSC-CUNY brothers and sisters had thought had been promised to us upon retirement. Apparently, running for office Adams took this position, and now, under the stamp of his mayorship, has changed it. I am not sure of the logic of some of my fellow unions supporting the shift to Medicare advantage, except being taken in by "let's save money" or "there is no money." Enough. Money for health care is a priority.

I encourage you to vote to do the right thing, and keep the promise you made to city workers who retired with the expectation that they had decent health coverage. Don't send us into the abyss of privatization and vague, frail, limited benefits.

Sincerely

Page Dougherty Delano
Bay St
City Island, Bronx, NY 10464

pagedelano@gmail.com

From: pamela booth <pamjbooth@icloud.com>
Sent: Saturday, January 7, 2023 12:53 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Health Plan for NYC Retirees

I started my almost 40 year career as a NYC teacher in 1968 and worked in some of the most challenging situations during the city's most fiscally difficult years. I never regretted my choice to remain a NYC teacher. I loved my career.

Though I had several friends who worked in surrounding counties who made considerably higher salaries thus retiring on higher pensions, I never abandoned my commitment to my city. I'm not complaining.

I always felt confident of my health plan. Now in my 77th year, Medicare, one of the best programs offered by our government for seniors will no longer be available to me and my other senior retired colleagues in NYC. Now more than ever, I need the security and consistency of my medical plan, with Medicare as primary and GHI secondary. To change at this point to a corporate, for profit insurance plan, Medicare Advantage is unfair and unacceptable. NYC should not abandon its retirees.

We need the option to continue with Medicare as our primary. The health of senior retirees requires maintaining our existing health plans.

Thank you for your attention.

Pamela Booth

Sent from my iPhone

From: Pam Vera <verapam45@yahoo.com>
Sent: Friday, January 6, 2023 4:43 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Medicare advantage

Dear Sir or Madam,
I am a retired NYC teacher. I am not in favor of amending 12-129. I be would like to keep traditional Medicare, just like past NYC employees have done.
I do not want Medicare Advantage to be my insurance.
Thank You,
Ms. Pamela Geissler- Vera

Dear Council Members,

This is why I need you to vote NO on amending Administrative Code 12-126.

I need traditional Medicare to meet the health needs of my family. I was promised great healthcare when I took my first job as a paraprofessional and when I retired as a teacher. I have read horror stories from all across this country about people being delayed and denied tests, services, and medications from Medicare Advantage plans leading to the worst possible outcomes such as amputations and death.

My husband needs an injection of a biologic drug for Crohn's Disease every 8 weeks. The cost of Stelara is out of control! The pre-loaded injectable pen costs \$25,000 every eight weeks. Medicare covers \$23,000 of this and we are responsible for a copay of \$2000.

Could you even imagine that a privatized health insurance plan from a ***for-profit*** company would pay for any part of this?

Thank you so much for doing the honorable thing.

Pamela Nable

Retired Special Education Teacher

January 9, 2023

To whom it may concern:

NYC Council must not change 12-126 and leave healthcare for municipal workers as is. NYC cannot solve its financial woes on the backs of retirees and municipal workers.

Sincerely,

Paraskevi Karabelas

From: Patrice Norell <patricenorell@gmail.com>
Sent: Friday, January 6, 2023 9:07 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Insurance for NYC retirees

Good morning,

The current health coverage for NYC retirees needs to continue to be offered. I have lupus and my personal physicians have been my key to managing my illness. Please keep in mind that limiting and forcing retirees at this stage to find other doctors who also connect to different hospitals is going to cause a tremendous stress and downturn for everyone. I need to be able to continue with the same doctors. I need access to premium hospitals. The insurance we have is working for everyone so please leave it in place. 28 years of service.

Thank you,

Patrice Norell

UFT and Union rep

From: Patricia Dobosz <pdobosz5@aol.com>
Sent: Tuesday, January 10, 2023 3:26 PM
To: Testimony
Subject: [EXTERNAL] Administrative Code 12-126

Dear City Council Members,

My name is Patricia Dobosz. I am a Constituent of Jennifer Gutierrez in District 34. I am a retired NYC teacher.

I am writing to ask that Administrative Code 12-126 not be amended. This code had been in affect since 1967. It has protected the healthcare equally of in-service and retirees all these years.

The City Council is being threatened that if they don't amend the statute to force retirees into Medicare Advantage, the Mayor will do that on his own. Amending the code does the same thing! Why should the City Council amend the law if the Mayor will do this anyway? Why do his dirty work? Let the Mayor take the political hit for hurting retirees and remove City Council Members from the ire of retirees and constituents in their next election. If the Mayor does this act, the Retirees will be able to challenge and win this in court where we have been successful because the City has violated the law, and this is his way around it. If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing us from winning this in Court. Don't prevent us from winning again in court. Retirees served our time as civil service employees and have a right to enjoy the proper health care that we were promised, earned and paid for.

The Scheinman decision is his *opinion*. The City does not have to act upon it. Any Medicare Advantage plan the City and MLC decide upon...at present Aetna...is taking away our traditional Medicare and putting us into a privatized pla;, a for profit plan that deeply has no concern for retiree healthcare needs. Also, many of the Medicare Advantage plans, including Aetna, are under investigation.

The City and the MLC unions pushing this change say there will be choice. Not true! It is not a “choice” for those retired workers who can’t afford to pay the premiums for the senior care we get free right now. If folks do “choose” an alternate plan to MA, they will no longer be reimbursed for Medicare Part B as we do currently with Senior Care/GHI, Emblem or any other plan offered by the City currently.

You heard at the hearing on Monday, Jan 9 many alternatives NYC can use to pay for the traditional Medicare/Senior care retirees currently have and were promised to us for taking less pay and serving this City. The Stabilization Fund was meant for healthcare. It was not meant to be misused for employees salaries. Let the City and the MLC find alternative funding sources.

Again, I ask, do not amend Code 12-126. Protect the healthcare of retirees for you will all be retirees one day too. If this code is changed, it will never be given back. Medicare is the closest thing we have to national health care right now. We don’t need or want private companies overseeing our healthcare.

Thank you for listening.

Dear City Council Member,

I am writing to urge you to vote against the proposed changes to NYC Administrative Code Section 12-126 that will soon be brought before you for a vote. City retirees' healthcare has been enshrined in the aforementioned code for decades and many retirees entered City service with an eye toward security in advanced years by opting for lower salaries in exchange. I am one of those retirees.

The current retiree healthcare structure (Original Medicare supplemented by GHI Senior Care) is the result of many years of collective bargaining by workers and financial assistance to the City by our former unions. This structure nearly collapsed last year when the NYC tried to force retirees into an inferior Medicare Advantage Plan by imposing a premium of \$191 per person to remain in Senior Care. The impetus for this attempt to derail the original healthcare structure was the loss of funding due to one billion dollars that was earmarked for these benefits but inappropriately used instead to fund raises for active employees.

NYC was sued by a group of retirees who won in court. Probably fearing a future loss, the City chose a new tack by attempting to alter the Administrative Code 12-126 which protects our long-held healthcare structure. Without the code in place, the City can freely impose costs on our supplemental insurance that may be out of the reach of most retirees.

Changing the rules now to take away a benefit I earned is unfair and unethical.

Yours truly,
Patricia Lobosco

From: patricia luce <patricialu123@yahoo.com>
Sent: Thursday, January 5, 2023 2:21 PM
To: Testimony
Subject: [EXTERNAL] Please do not change or add to AC 12-126

Dear Council Member:

I am a NYC retiree who is an advocate for the retirees on low pensions many in DC37, many of whom are minorities and women who will be most adversely affected by a change to 12-126. The MLC soldout healthcare for raises. 92% of retirees have chosen Senior Care which may be eliminated. Mr. Scheiman's opinion is paid propaganda which is only to influence council members and not legally binding. The OMB could access \$300 million in savings that have been identified by PSC. See the real facts on the NYC Organization of Public Service Retirees website. Please read UFT delegate Mr. Arthur Goldstein's article in gotham gazette.com on how the delegates were lied to and misinformed, "Who's To Blame for Our NYC Teacher Health Care Debacle?" Nov. 15, 2022 .

The MLC and UFT have colluded in backroom deals to shift retirees to inferior Medicare Advantage to cover their usurping billions from the Stabilization Fund. Please resist being drawn into their ill-founded schemes for the sake of your own reputation for integrity.

Thank you for your interest in this matter.

Patricia Luce
Department of Education Retiree, 2002

From: patricia luce <patricialu123@yahoo.com>
Sent: Wednesday, January 11, 2023 2:55 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Please do not amend 12-126

I am very grateful to each of you for allowing me to be the voice of the most vulnerable retirees in your districts who are unable to to the research that I have done over the past year.

My due diligence has led me to the conclusion that replacing Traditional Medicare is an immense disservice to your districts' current and future retirees especially those on low pensions, minorities and

the very elderly whom research has demonstrated are denied care at greater percentages by Advantage programs with their troublesome prior approval requirements.

My union, the UFT, has historically been vehemently opposed to privatization as evidenced by the Resolution, "Stop the Privatization of Medicare" and the article, "Preserve Medicare

as We Know It". They have done a complete about face due to back room deals that were made involving the most powerful unions and the MLC to usurp billions from the Stabilization

Fund for non healthcare purposes. One billion went for raises in 2014, with the promise to find health cost savings. The plan is to serve up 250,000 retirees to an inferior MA private "for profit"

insurer to get the very federal "kick back" subsidy that the union decried in its " Stop the Privatization of Medicare" Resolution.

Denying traditional Medicare to your most vulnerable constituents will not solve the problem of spiraling healthcare costs which is a separate issue entirely. It will allow the deceitful, ill founded

schemes of backroom dealings, by a few that negatively affect so many, to continue.

Thank you.

Patricia Luce

From: patricia luce <patricialu123@yahoo.com>
Sent: Wednesday, January 11, 2023 4:36 PM
To: Testimony
Subject: [EXTERNAL] Please do not amend 12-126

- Source: <https://www.uft.org/chapters/retired-teachers-chapter/retired-teacher-chapter-resolutions/stop-privatization-medicare>

Stop the privatization of Medicare

The UFT has traditionally been vehemently opposed to the privatization of Medicare

as evidenced by this resolution below and other articles on the subject. Since this resolution was passed, many federal and private studies have been conducted that underscore that Medicare Advantage programs are substandard to Traditional Medicare. Please consider the excellent suggestions made by PSC and CUNY Professors on ways to get funds (300 million) so Traditional Medicare may be offered free of charge to retirees. 92% currently are in Traditional Medicare with Emblem Senior Care as supplemental/Medigap coverage which speaks volumes for how the 250,000 retirees endorse Traditional Medicare.

STOP the PRIVATIZATION of MEDICARE

Passed by the Retired Teachers' Chapter membership meeting on May 13, 2007 and now goes to the Delegate Assembly of the UFT.

WHEREAS Medicare is becoming privatized as a result of a subsidy being granted by the U.S. government to privatize Medicare health plans known as Medicare Advantage, and

WHEREAS these subsidies to **private plans** amount to 12% per beneficiary above the funding for a beneficiary under traditional Medicare, and

WHEREAS a distinction needs to be made between non-profit and profit-making Medicare Advantage plans since the latter plans go against the philosophy and practice of Medicare as a government program dedicated solely to the interests of its beneficiaries, and

WHEREAS profit-making Medicare Advantage plans consume huge Medicare dollars in marketing and administrative costs thus depriving other Medicare beneficiaries of improved benefits, therefore be it

RESOLVED that we urge the elimination of the subsidy granted profit-making Medicare Advantage plans and use the money saved to benefit all Medicare recipients, and be it finally

RESOLVED that we oppose the privatization of Medicare in the form of profit-making Medicare Advantage plans.

Source URL: [Stop the privatization of Medicare](#)

Stop the privatization of Medicare

Thank you for your continued attention to this pressing matter.

Patricia Luce

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From: patricia luce <patricialu123@yahoo.com>
Sent: Wednesday, January 11, 2023 4:38 PM
To: Testimony
Subject: [EXTERNAL] Please do not amend 12-126

I am very grateful to each of you for allowing me to be the voice of the most vulnerable retirees in your districts who are unable to to the research that I have done over the past year.

My due diligence has led me to the conclusion that replacing Traditional Medicare is an immense disservice to your districts' current and future retirees especially those on low pensions, minorities and

the very elderly whom research has demonstrated are denied care at greater percentages by Advantage programs with their troublesome prior approval requirements.

My union, the UFT, has historically been vehemently opposed to privatization as evidenced by the Resolution, "Stop the Privatization of Medicare" and the article, "Preserve Medicare

as We Know It". They have done a complete about face due to back room deals that were made involving the most powerful unions and the MLC to usurp billions from the Stabilization

Fund for non healthcare purposes. One billion went for raises in 2014, with the promise to find health cost savings. The plan is to serve up 250,000 retirees to an inferior MA private "for profit"

insurer to get the very federal "kick back" subsidy that the union decried in its " Stop the Privatization of Medicare" Resolution.

Denying traditional Medicare to your most vulnerable constituents will not solve the problem of spiraling healthcare costs which is a separate issue entirely. It will allow the deceitful, ill founded

schemes of backroom dealings, by a few that negatively affect so many, to continue.

Thank you.

Patricia Luce

From: Patricia Miller <pbmiller128@gmail.com>
Sent: Friday, January 6, 2023 9:54 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Protect Admin. code 12-126

Attention: Council Members:

I am a NYC retired employee, I retired from the Manhattan DA. I also worked at two other Agencies OMB and FISA. I worked 20 years as a NYC employee knowing and was told that I would have my health insurance after I retired.

I developed breast cancer and must have my health coverage. Please do not disappoint me and so many City employees who were promised Health benefits and now at the end of their lives take it away. Many City employees have a small City pension and can't afford to pay for Health insurance it's just unfair. DC37 should be ashamed of the way they mishandled monies that should have been

Allocated for the health fund and now they want take our benefits away. Please help us and say no to Amending Code 12-126. Thank you

Sincerely, Patricia Miller

From: Pat Thilman <patthilman@gmail.com>
Sent: Friday, January 6, 2023 3:40 PM
To: NYC Council Hearings
Subject: [EXTERNAL] January 9, 2023 hearing on the amendment to administrative code Section 12-126

I am a Queens resident that was born in Queens. I am also a retired New York City Special Education teacher that worked for years in a Jackson Heights Title 1 school that serviced many English as a New Language students.

City Council Member Carmen De La Rosa introduced legislation to amend Section 12-126 of the city's administrative code to preserve health care choices for city retirees. The proposed amendment adds a clause that reaffirms the Municipal Labor Committee's right to negotiate retiree health care and enables the city to continue offering retirees the option of other pay-up health care plans.

The City Council needs to pass this legislation to amend the city's administrative code and preserve health care options for city retirees.

Please do not take away this option we have been promised for years.

Thank you!

Patricia Thilman
patthilman@gmail.com

Woodside, NY 11377

January 10, 2023

Dear Councilperson:

I watched most of yesterday's hearing live, and I am watching what I missed in the recording today. Clearly, you and your council member have a very tough decision. And it seems like your hands are tied in several ways. Mulgrew said "You're going into MA either way." The mayor said "Change 12-126 and you'll get option if keep senior care for 191 or don't change it and you all go to MA period the end no senior care." Why are we letting the mayor, who is clearly mad that this opportunity for the city to save 6 million dollars by passing the fee to the federal government is not so easy to pull off. And this is the same Mayor that said, during his campaign, this sounds like a bait and switch. He was correct back then and it was that statement that led me to vote for him. I could not be sorrier I did.

It seems like the Mayor is bullying the city council to vote to amend 12-126, or ELSE. You asked Marianne what happens if we sue and lose and she had no answer. In my opinion, if we sue and lose we're all in MA period the end. I know the city council doesn't want to put retirees in that scenario either. Really you have a Sophie's choice ahead of you. And should that happen, you know we will most likely be court.

I think you need to appeal to Mayor Adams to reconsider his threat, and spend some time researching all the things you heard today – the PSC offer, the NYO of Retirees ideas, and of most importance, review the plan they want to force us into, that doesn't even exist as Mr. Mulgrew said today, he will not approve of any plan that does not offer equal or better. So, if he has yet to approve it, what could you possibly review before the imposed voting deadline.

The PSC had the most hopeful suggestion. They have a fund that can offer 5 million a year for 3 years to keep what we have stable and offset the 6 million the city is looking to save while a more favorable solution is researched. What a generous offer. I hope you consider that carefully. That would buy time to investigate all you heard today, and come up with a plan that suits our needs.

I think city council has to go to mayor and say "Look, MA in general sucks. You know it, we know it, the New York Times knows, CMS knows it. Furthermore, retirees don't want it. And they can't afford to pay \$191 to keep it (and that is time 2 for a dependent.) We need to find another way to find savings. We won't change 12-126 because it's protected health benefits for 55 years and we are afraid of the unknown consequences going forward. They will sue the city if you push them all into undesired MA and they will probably win, because they earned and were promised these benefits. Let's work together to find an agreeable solution for all concerned."

In all honesty, I don't know how you could listen to everyone that testified today and not have your heart full and your conscious persuaded that protecting our benefits is only through keeping 12-126 as is. It has done so for the past 55 years. Don't let Mayor

Adams bully you and the retirees. I heard the most eloquent, heartfelt and heart-wrenching testimony today. I hope you feel the same way and ask the Mayor to go back to the drawing board.

My name is Patti Bottino-Bravo, and I am a recently retired speech-language pathologist for the NYC DOE. One more thing. I noticed that only 4 people testified to vote yes, and they are all big names in the UFT. Funny that the only people who testified that way are UFT and former UFT execs. Since I paid for Medicare from every paycheck since I am 16 years old, and worked two jobs for most of my career, so I paid A LOT, I ask you to do whatever is necessary to ensure that I keep my Traditional Medicare, and my premium free Senior Care. If the Mayor actually does away with that he would be the most cruel person. I hope he gets to hear some of these testimonies.

Thank you so much for giving the retirees the opportunity to be heard. I am sure you have an enormous amount of letters to go through, and I have no way on knowing if this will even be read. But with faith, that right prevails, I beg you to ask Mayor Adams to take a step back and reconsider his harmful threat.

Patti Bottino Bravo, MS, CCC-SLP
Brooklyn, NY 11224

Attn: NYC City Council

To Whom It May Concern:

Why must the employees of NYC always be asked to relinquish their rights and privileges, when those who have so much are asked to relinquish relatively nothing (doctors, hospital administrators and the insurance companies) The working people of this city should have health care improved at lower cost to the employee, instead of lining the pockets of those who already have too much.

Paul Nacinovich

From: PaulP <pmppk@earthlink.net>
Sent: Sunday, January 8, 2023 11:08 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Health care

Dear City Council,

The Mayor and City Council should immediately appoint a Blue Ribbon Commission to address healthcare costs and potential savings -- with all stakeholders at the table, specifically retirees. The unions are desperate and have been putting out disinformation about the Health Stabilization Fund and the cost of protecting seniors' healthcare. And they have been telling active workers that if they don't contact their City Council members and ask that 12-126 be changed, the actives will have to pay \$1500 in premiums -- pitting actives against retirees. This is outrageous. Enough gas lighting! Let's deal with real facts, real choices, and real savings.

The UFT has sent emails to the City Council spoofing our Organization and email messaging to protect Admin Code 12-126 in its current form. So please note, we believe the Code, which states, "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 H.I.P.-H.M.O. on a category basis," (of individual and family) protects us ALL EQUALLY. PROTECT IT!

Brian Gibbon from the UFT has used the subject line: URGENT! NYC Retirees Need Your Help! We are the NYC Retirees, and do not need THEIR help, they are trying to kill us. And unions, under the Taylor Law, cannot represent retirees. The above are some pretty good reasons why, sadly.

Here is our [website](#) where we fact check and debunk the rhetoric coming from DC37, UFT and MLC, so far.

Thank you for protecting us! (**and you too!**)

Paul Principato
NYPD/FSD
28 years

Sent from my iPad

From: Paulp <pmppk@earthlink.net>
Sent: Sunday, January 8, 2023 1:40 PM
To: NYC Council Hearings
Subject: [EXTERNAL] health plan

City Council:

I am asking that you do not change our current medical coverage as it exists now. The MAP has certain roadblocks contained in it that are not beneficial to us for continued , approved, and repeated coverage, if needed. Our current plan satisfies our needs without fear of losing it. I suffer from pulmonary fibrosis and am deeply concerned that under MAP I will not be getting the same ease of treatment and covered care that I am receiving with our current medical coverage. I opted out for the MAP plan if it is forced upon for that reason alone. And if I am forced to pay the Extra \$199.00 per month for me and my wifes coverage it would place a burden on my cost of living situation. I am asking you to carefully consider your final decision and to , at least, have the Unions that were able to partake of the 1.6 billion dollar giveaway for Union raises reasons to reimburse the fund that was stripped of that money so that the current medical covers (Senior Plan) can continue as is and that you do , at least, consider the cost savings plans present by the retirees organization and OMB. Thanking you, in advance, for any considerations received.

Respectfully
Paul Principato
Retiree: NYPD/ FSD
Sent from [Mail](#) for Windows

From: Ptrust Gmail <ptbass75@gmail.com>
Sent: Monday, January 9, 2023 6:26 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Concerned teacher regarding 12-126

Here is my testimony,

Hello my name is Paul Trust. Some members of the council may know me as one of the plaintiffs that tried to provide the council a revote on the school budget cuts, or on other advocacy issues.

I would like to express my deep concern on the proposal to change the admin code 12-126. As a current NYC teacher, this health care plan bait and switch pits current teachers vs. our retired brothers and sisters. I've heard from retirees the plan the UFT/Mayor is pushing would be disastrous for many, especially those who have decided to move out of state, where doctors on the Advantage plan are few and far between.

Us teachers and other municipal workers dedicate our best years in service to this city, and deserve the best in return. Please, do not side with the mayor/UFT president on this and do right by those who have given so much. Please grant them the piece of mind that they can get the medical care they deserve and allow them to keep their current medical plan.

Thank you for your time and consideration.

Paul Trust
Sent from my iPhone

I am a retired law professor. I retired from the City University of New York Law School in 2018 after 30 years of service. My area of expertise is Health Law, including private and public health insurance.

I urge you to vote NO on amending NYC Administrative Code 12-126. Amending 12-126 will effectively force tens of thousands of elderly, sick, and low-income NYC retirees, who are predominantly people of color and women, into an inferior form of health insurance, solely because they cannot afford to pay the \$191 premium that will be required to remain in their current Medicare Supplement Plan (Senior Care).

Particularly for patients who are in poor health, which many elderly people are, MA plans do not provide the same quality of care as traditional Medicare. It is now well documented that MA plans frequently deny pre-authorizations for medically necessary care thereby harming the health of elderly patients. [Medicare Advantage Plans Often Deny Needed Care, Federal Report Finds - The New York Times \(nytimes.com\)](#) Additionally, because many providers do not want to be constrained by pre-authorization requirements and frequently lower reimbursement rates, MA networks are much smaller than the almost unlimited number of providers across the U.S. who accept traditional Medicare. This results in patients having far fewer choices of doctors and hospitals, and in some locations where NYC retirees now live, no choices at all. The bottom line is that MA plans provide worse care than traditional Medicare and this disproportionately impacts the health care of people who are low-income and racial and ethnic minorities [Three studies assess Medicare Advantage quality incentives and spending | National Institute on Aging \(nih.gov\)](#); [Racial, ethnic disparities persist in Medicare Advantage | Fierce Healthcare](#).

By amending 12-126, the NYC Council will create a two-tiered system that discriminates on the basis of race, gender, illness/disability, and economic status, because wealthier retirees, who are predominately white, male, and economically advantaged will be able to opt out and keep their traditional Medicare. Moreover, such a move will instantly put the City of New York at the forefront of the national movement to privatize all public health insurance in the U.S., including Medicare. NYC should be leading the movement to expand public health insurance and health equity, not expanding the role of a for-profit health insurance system that privileges wealthy retirees.

I urge you--do not amend Section 12-126 and create a two-tiered, profit-driven, retiree health insurance system that is racially and economically biased and qualitatively inferior to traditional Medicare. Continue to give NYC's retirees the high quality health insurance that they were promised and that they deserve.

Thank you.

Paula Berg
Professor of Law Emeritus, City University of New York Law School



Mon, Jan 09 @ 9:30AM – Committee on Civil Service and Labor

Esteemed Members of the New York City Council's Committee on Civil Service and Labor:

I am a full-time professor at Lehman College at the City University of New York. Many years ago, I was able to take this job because I was promised, in exchange for better salary and research/medical/educational benefits elsewhere, substantial health benefits both during my years as a working professional at CUNY and during my retirement.

This calculus has made working at an institution I revere because of its transformative engagement with hundreds of thousands of city students every year possible. I have been able to raise a family, cover medical expenses when ill, and plan for my future retirement. I would not have agreed to accept a position at CUNY if I hadn't been assured that my family and I would be covered medically both while I was working and after I retired.

To renege on that assurance, without taking real time to bring all stakeholders together to find long-term solutions to funding City healthcare, is to betray me and my academic colleagues across CUNY. It is also to compel the next generation of would-be CUNY professors, teacher-scholars passionately committed to working with, inspiring, and guiding our city's young adults to careers and professional success, to look elsewhere for secure and trustworthy employment. Please vote against Mr. Scheinman's recommendations and for the PSC's proposal.

Most sincerely yours,

A handwritten signature in black ink, reading "Paula Loscocco".

Paula Loscocco, Professor of English, 9 January 2023
paula.loscocco@lehman.cuny.edu

[This is the gist of what I will present via Zoom to the Council Member Carmen de la Rosa's Committee on Civil Service & Labor on 1/9/2023 if given the chance.]

TESTIMONY FOR THE COMMITTEE ON CIVIL SERVICE & LABOR, 1/9/2023

Good morning, Honorable Members of the City Council and the Honorable Chair Ms Carmen de la Rosa. Thank you for this opportunity to share my prior experience with Medicare Part C, which animates my opposition to being forced into a Medicare Advantage plan by the City's planned changes to the Retiree Health Care program.

My wife, a retired professor with decades of teaching at CUNY, and I as her spouse are covered by original Medicare and the City's Supplemental Medigap insurance known as Senior Care. We chose this option because in 2014, when I was diagnosed with cancer, I was covered by a Medicare Part C UnitedHealthcare plan, which my surgeon's office assured me was accepted. The day before my surgery, however, the hospital's Business Office called to say, "Mr. Ross, we want to be sure that you know that while your provider accepts your insurance, the hospital does not."

There I was, facing life-saving surgery with two different surgeons, whose schedules had been carefully coordinated, and suddenly I learned I could be on the hook for thousands, probably tens of thousands of dollars' worth of hospital bills. I was in total shock, and I was angry.

Private insurers make money off Medicare Part C with just this kind of fragmented coverage. In my condition and at our age, we can't afford to live with the threat of this happening again.

We implore the City Council to find another solution, the one, for instance, articulated by the Professional Staff Congress, and save our healthcare!

With hope and respect,

Paul Ross
Washington Heights resident of over 40 years

From: Paula McKinnon <pjmckinnon15@gmail.com>
Sent: Sunday, January 8, 2023 10:15 PM
To: Testimony
Subject: [EXTERNAL] Testimony regarding Medicare Advantage Plan

Hello:

I am a retired guidance counselor with 25 years of service to New York City. I also live in Penn South, the largest NORC in the United States.

I have seen firsthand the consequences of patients who have medicare advantage plans. Unfortunately, because my husband was ill with Stage IV cancer, I have been in innumerable emergency rooms and hospitals.

I have observed not just once but MANY TIMES, patients who had to wait for pre-approval for procedures. Precious moments wasted in an ER while approval is granted. I have been in imaging facilities where people cannot get MRIs or CT scans in a timely manner because their insurance did not approve the procedure.

I have seen at the office of my own eye doctor, a patient crying because she signed up for a MAP and could no longer use her surgeon again because he was not part of the plan.

We never had one iota of trouble with regular Medicare. Everything was able to be done in a timely fashion. Health problems have a funny way of sneaking up on you and certainly, if you find yourself in a catastrophic situation, you want easy and early access to all tests and procedures that can help you. And our healthcare has been working. Just because money is owed to the Stabilization Fund because of unwise choices by our union leadership does not mean that we retirees, as the most vulnerable times in our lives, should pay the price for misguided actions.

It is not fair for those of use who cannot afford their two-tiered system to have to make the choice between a substandard health care plan and an approximately \$1200 a year added cost to keep what we have.

I urge you not to amend 12-126. This will open the door to more "poor judgement" by the MLC and our union heads.

Thank you for your consideration to this matter.

Sincerely,

Paula McKinnon
UFT
Retired Guidance Counselor - 25 years of service

Statement of Penny (Phyllis) Mintz.
Greenwich Village voter.
Erik Bottcher constituent.

It is beyond cavil that the primary goal of all Medicare advantage plans is to maximize profits by minimizing expenses – i.e. health-care payouts.

When I retired nine years ago, my neurologist told me that under no circumstances should I sign up for any Medicare advantage plan because that was no insurance at all. I saw that he was right when my older brother got sick and his Medicare advantage plan denied all coverage. He had to sell everything he owned to get medical care, and now, at age 78, he shares an apartment far from New York City with two others and subsists on social security. And he's only that well off because after one year he bought back into Medicare.

My cardiologist gave me the same advice as my neurologist. He told me that he spends about a third of his time arguing with insurance-company employees who lack any medical training but who routinely deny life-saving procedures that are always covered by Medicare. If my cardiologist could have that back, he could serve so many more patients. He hates what Medicare advantage has done to his practice.

I wisely stuck with Medicare. It's fabulous coverage. You too will be able to enjoy it – unless, of course, you vote to change Administrative Code 12-126. But at least you won't have been the victim of a bait and switch scheme, like all of us.

I am an attorney. I left an extremely high-paid position at Skadden Arps to become an assistant district attorney. Yes, quality of life was a big part of that decision, but the joy – the unmidigated giddiness I experienced – from the knowledge that I would have free platinum-

quality health care for me and my husband for the rest of our lives was also a major part of that decision.

Now, in my waning years, having sacrificed the high pay and no longer capable of going back to work, I face the likelihood of the Sophie's choice that my brother faced: Bankruptcy due to health care costs or no health care followed by pain and premature death.

My life – and the lives of all of these voters and tens of thousands more who are not here today – rest in your hands. Do not remove the protection of 12-126.

Penny Mintz
Director, Progressive Action of Lower Manhattan
Board of directors, New York Progressive Action Network

From: rosenpmsw@aol.com
Sent: Wednesday, January 4, 2023 11:46 PM
To: Testimony
Cc: Penny Rosen
Subject: [EXTERNAL] City Council hearing on health insurance coverage for city employees, city retirees, etc

To Whom It May Concern,

I am a retiree as well as maintain a private practice in the health care industry. I know people in my practice with Advantage Medicare plans, which prevent them from having continuity of care. Not all of their providers take their Advantage Medicare plans. Hence, their providers drop their insurance, so the patient is continuously looking for new providers. It gives them less than optimal medical care.

As a retiree who is still working and paying high Medicare Part B premiums and Prescription Drug premiums (part D), I contributed to traditional Medicare all my working life since age 16. I signed on to Medicare, which is for all, as written in law by President Johnson. That's the plan I want to benefit from. I do not support privatization of Medicare through Advanage plans. CEOs of managed care companies are there for the profits. I remember when a Cigna CEO testified in Congress against the denial of claims at Cigna. Michael Moore's documentary "Sicko" tells the story of how Americans are deprived of "universal" health care, while other countries offer health care as a universal human right. Medicare is an attempt to have "universal" health care.

Do not Amend Section 12-126 of the City's Administrative Code. If more information is required, please let me know as soon as possible. Thank you.

Sincerely,

Penny Rosen
West 82 Street
New York, NY 10024

rosenpmsw@aol.com

From: Perdomo Doraliza <DPerdomo2@schools.nyc.gov>
Sent: Tuesday, January 10, 2023 11:01 AM
To: NYC Council Hearings
Subject: NO TO AMENDING CODE 12-126

I do not agree to AMENDING CODE 12-126 it is unfair!!! We work hard and deserve the full benefit without reduction .

My name is Peter Allen-Lamphere - I teach Mathematics and Robotics at a high school in Washington Heights in City Council District 10. I am a public school parent of a sophomore at Art and Design High School.

You have doubtless received much passionate testimony from retirees about why it is important not to change Administrative code 12-126, but I would like to focus on why this change would be a disaster for active employees. I am currently on parental leave caring for my newborn, which is why I can testify today, unlike most of my fellow UFTers who are working right now.

The health care benefits provided by the City of New York are crucial for me and my family. They helped ensure quality care in a NICU when my son was born. They made sure my wife had a successful, high risk delivery and postpartum recovery. They make sure that my teenage daughter can get the mental health care she needs. They are equally crucial for the teachers, paraprofessionals, secretaries, custodial staff, school aides and cafeteria workers who work at my school, and the hundreds of thousands of city employees.

By amending the city administrative code, Mayor Adams would have you undermine the baseline amount that the city must pay for health care coverage, making it potentially less than the HIP base rate. Although HIP and its sister plan, GHI, are not "Cadillac health care" and are by no means perfect, they play a crucial role. If the code is amended, the city and the MLC will likely create a bargain-basement health care plan, much cheaper than HIP and GHI, for active employees. Those of us whose families need our current level of care would be forced to pay premiums for the difference in cost. Such a bargain-basement plan is currently out for RFP but we have no information about it because the union officials involved have signed NDAs about the negotiations.

The city, the MLC, and arbitrator Martin Scheinman would have you believe that there is no alternative to amending the code. But this is simply not true. Arbitrator Scheinman's recommendation (and I underline that it is only a recommendation and does not bind the city or the unions in any way) ignores a number of other cost saving methods outlined in the 2018 agreement with the MLC.

The leadership of our union siblings in the Professional Staff Congress have put forward a clear alternative plan to buy time by borrowing from the Retiree Health Benefits Trust to pursue these alternative approaches, which include consolidating welfare fund drug purchasing, exploring a municipal self-insurance plan, and requiring lower costs from the private hospitals, and increasing audits and oversight of the insurance providers companies.

However, even these are not the only alternatives available to the City Council. Imagine if the City Council, unions, and Mayor united to lobby Albany to increase taxes on the real estate moguls and wealthy in this city who have made billions during the pandemic. There are some simple revenue increases that could help take care of the crisis in the healthcare stabilization fund quite easily - and help fund other critical city services as well.

Of course, this crisis will not be resolved unless the fundamental issue of healthcare costs is addressed. And there is a solution: the New York Health Act, by creating a single-payer system in this state, could eliminate the ability of hospitals to price-gouge and provide a much better care to all folks in the city, not just city employees. There are details that need to be ironed out in the NYHA, but the City Council has a choice: it could lead a united effort with the unions to lobby for this change that could lead to significant social change for all of us.

I recognize that this testimony is at odds with that of my union leadership. I am a member of the Movement of Rank and File Educators, a grassroots organization of UFT members fighting for a different perspective within our union. I believe that our position against this change represents the beliefs and interests of my fellow educators, and of your constituents, much more than those of the current leadership.

My name is Peter Basquin. I am a professor emeritus of the City University of New York. I served the City University as Professor of Music at Hunter College, CUNY; as Chair of the Music Department; as the Director of the Doctoral Program in Music at the City University Graduate Center; and as Director of the Hunter College Macaulay Honors Program. Despite these 43 years of service, if the City Council approves this amendment, I will be cut adrift, without any health insurance at all, for the rest of my life.

The City of New York proposes to force all of its retirees to become members of a Medicare Advantage plan. I, however, along with others of my colleagues, no longer live in New York City, or in New York State. It best served my interests in retirement to move to a Continuing Care facility in suburban Maryland, closer to my surviving sibling and my nephew. Having no children, I am relying on the proximity of my extended family for family connection.

However, I have polled all of my medical providers in my new location, including – most important – my primary care provider who is associated with the facility where I now live. None of them – primary care physician, ophthalmologist, otolaryngologist, neurologist, gastroenterologist, physical therapist – will accept any form of Medicare Advantage. They do not have the personnel to process the pre-treatment approvals or the frequent appeals that Medicare Advantage plans require.

Therefore, if I have no insurance but Medicare Advantage, I have no insurance at all. This is hardly the way to recompense a teacher who has, for more than 40 years, nurtured and trained students, many of whom now serve the City of New York as a second generation of teachers.

I urge the Council to follow the recommendation of Council Member Gale Brewer and encourage the city to negotiate a health-care solution that benefits all retirees, not just those who have remained in the five boroughs. The existing Senior Care plan, with Medicare and coordinating services, best serves all retirees.

Dear Council Members,

The City Council is being threatened that if they don't amend the statute to force retirees into the Medicare Advantage, the Mayor will do that on his own. Amending the statute does the same thing! Why should the City Council amend the law if the Mayor will do this anyway? Why do his dirty work? Let the Mayor take the political hit for hurting retirees and remove City Council Members from the ire of retirees and constituents in their next election. If the Mayor does this act, the Retirees will be able to challenge and win this in court where we have been successful because the City has violated the law and this is his way around it. If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing us from winning this in Court. Don't prevent us from winning again in court. We served our time as employees and have a right to enjoy our time as retirees with proper care that we earned and paid for.

Don't buy the Big Lie. Don't amend the Code, protect it like every City Council before you has against a greedy Mayor. Protect 12-126. Scheinman has no jurisdiction over the City Council nor the Retirees.

We request that you do NOT support the bill being introduced on January 9th by Civil Service and Labor Chair DeLaRosa.

Thank you for protecting us from financial peril and losing our healthcare.

Philip Traversa, Employee
NYC Dept of Education, 10 years of service

From: Phyllis Berk <phyllisberk@gmail.com>
Sent: Friday, January 6, 2023 2:10 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Jan 9 hearing on Committee on Civil Service and Labor

Phyllis Berk
8050 Chevy Chase St
Jamaica, NY 11432
January 6, 2023

Dear City Council Members,

As a member of the NYC Municipal Retiree System, I am glad to hear the issue of amending the administrative code of the city of New York which relates to health insurance coverage for city employees, retirees and their dependents, is being raised.

Being a retiree, my husband, who was not a city employee, and I are dependent upon our healthcare benefits meeting the needs of our health concerns. This is only going to enhance as we age. Like many retirees, I do not have a stellar pension, nor am I able to live a lavish lifestyle. My husband and I make ends meet and we live within our means.

The healthcare policy we currently have, GHI Senior Care, has never denied or delayed any treatment we or a doctor feel necessary. Think of your parents or grandparents, and how their needs change. At this stage of my life I don't want to be turned away by an insurance company because it hurts their bottom line. People are not statistics. City employees dedicated their professional lives addressing the needs of the City and the people. Some go into careers working for the city aware that the pay is not commensurate with similar jobs in the private sector. They do this because they know the benefits in the end will make it worthwhile. Healthcare benefits while working and retired are a major consideration for those taking jobs for New York City and staying in those jobs. Removing this benefit retirees and current employees expect, have been promised and had for decades is neither a caring or professional way to react.

The city has been through tough times, and who always came to save the day...city employees. Money for NYC or funding is not a long-term issue here. Really, it is not. Show those that have given so much of themselves to the city they love that you love, respect and appreciate them.

I humbly hope you consider my opinion, which mimics many other city retirees.

Sincerely,

Phyllis Berk

phylliscberk@gmail.com

From: Phyllis Beard <phisyb@gmail.com>
Sent: Friday, January 6, 2023 12:01 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Fwd: Testimony for city council

----- Forwarded message -----

From: **Phyllis Beard** <phisyb@gmail.com>
Date: Thu, Jan 5, 2023, 11:27 AM
Subject: Testimony for city council

Good morning. Thank you for the opportunity to record my thoughts regarding changes to 12-126. It is reprehensible to consider changing the rules in the middle of the game. It is through no fault of the retirees that the stabilization fund was depleted to pay for the teachers union contract. Expecting the retirees to bare the burden of an ill conceived back room deal is ethically and moral devoid of reason, and perhaps even illegal.

There are many ways to tighten the financial belt of the city of New York other than throwing those who helped this city get through everything that's happened in the past 50 years away. I urge the city council to not be fooled by the lies and factually incorrect statements of those with a vested interest both financially and otherwise and vote against the change. Thank you,
Phyllis Dreiband Beard

Testimony to *Protect* Administrative Code 12-126
City Council proposal, January 9, 2022
My City Council person: Eric Dinowitz

There are many reasons to be horrified by what we are watching spin out of control today in the City Council: the willingness, indeed, the *advocacy*, of the UFT to abandon the retirees who for years fought for and contributed to their unions . . . who continue to contribute, as do I, to the UFT, and who, despite these particular NYC unions' abandonment of its elderly, continue to support unionism and the rebirth of union ideals across the country.

We are horrified, too, that *this* City Council—with the most women members ever—would even consider abandoning others who have served the public over an entire adult lifetime; we served because of our love for the city and its children and the critical value of excellent public education. And it is an abandonment when you go after the health and well-being of the elderly and the disabled by attacking promises made to them and codified in City Council code 12-126m—a code upheld twice in the courts and a code enacted by the City Council itself in 1967.

Further, we are horrified that City Council would even begin to discuss this when no plan has even been negotiated or publicized. When those who want to stay with traditional Medicare, and the health care people they have known, are threatened with *no choice at all*. What kind of autocratic decision would that be? How does that make you proud to be a City Council member?

I just recently underwent surgery and will be scheduled for surgery. As of this writing, my surgeon (and others who assist him) are covered by traditional Medicare. They are not interested in Medicare Advantage plans because of all the reasons recently exposed by the *NYT* articles and from what they have seen during their own practice of medicine (<https://www.nytimes.com/2022/12/17/health/medicare-advantage-health-insurance.html?searchResultPosition=1>).

Am I supposed to find another surgeon at this point in my life (close to 80) , . . someone who doesn't have a history with me and my situation. Am I supposed to wait till I am totally disabled before an Advantage plan decides to cover future surgery (the public now knows how coverage decreases and becomes more difficult to obtain as enrollees age). And what about all my other doctors and surgeons who have weathered other storms with me?

I know you will hear stories today that should break your heart, stories by those who have reached their old age with disabilities and illnesses they could not have imagined would befall them when they signed up with their unions fifty and forty years ago. Protect them. That's your job, to honor the people of this city and know when politicians and those acting politically are playing with their power, protecting *themselves* and not us (remember "essential workers"?, hiding their sleight of hand, and hoping the least abled won't notice.

Don't rob us of a promise made.

Phyllis Katz UFT retiree 2008

From: Priscilla Balch <pksbalch@gmail.com>
Sent: Thursday, January 12, 2023 1:04 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Medicare Advantage Plans Are Not The Way To Go

To The City Council:

We are writing to you at this time to ask you NOT to amend New York City Administrative Code 12-126. As New York City municipal retirees who worked for the Board of Education, now the Department of Education, as teachers, one of us for 28 years, the other for 34 years, we would also like to inform you of the problems associated with Medicare Advantage Plans. To that end, we have attached articles to this message that discuss the issues involved, issues that formed the basis upon which many of us who can afford to do so opted out of the original Medical Advantage Plan offered by the City last year. We have no reason to believe that the current discussions between the MLC and Aetna will create a better plan.

We believe the City and the MLC are spreading false information about the 'arbitrator.' This 'arbitrator' is a consultant hired by the City. His opinion has no legal standing and in using this tactic, they are trying to sow fear among the weakest and most vulnerable populations: the elderly and disabled. We also believe the City and the MLC are trying to create confusion among these groups by stating that amending the city code is a vote for healthcare "choice." We think that nothing could be farther from the truth. Voting to amend the city code is NOT a vote for choice. It creates instead two-tier health coverage for retirees: those that can afford the medi-gap supplement (GHI Senior Care) to go along with traditional Medicare, and those who cannot (who will be forced to take the substandard care delivered by a Medicare Advantage plan).

Please do NOT amend the City Administrative Code. Please allow NYC retirees to continue our legal battle in court. In this way you will not weaken our legal options. If we retirees should lose in any further legal process, the City Council has the ability to go back and look into other healthcare options. We believe as does the Organization of NYC Public Service Retirees that the Mayor's Office is trying to get political cover for this unpopular maneuver by using a potential City Council amendment as a shield.

As the testimony of many, many municipal retirees made clear at Monday's hearing, Medicare Advantage has often been used by private insurers to reap great profits through a strategy that employs the denial of necessary care to the detriment of the health of their clients. There certainly must be another way for the City of New York to save money on the healthcare of its retirees without resorting to the use of force to get them to accept substandard healthcare at the most vulnerable time in their lives.

If health care for NYC public retirees needs to be examined, we urge you to create a commission that includes NYC retirees along with other stakeholders to make recommendations to the New York City Council.

Thank you for your attention to this important matter. The decision you make in regard to Administrative Code 12-126 will affect the health and safety of thousands of senior citizens who provided during their working lives the much needed services upon which the people of the City of New York were dependent. Please do not amend New York City Administrative Code 12-126.

Respectfully yours,

Priscilla Balch and Jerry Balch

<https://truthout.org/articles/privatization-scam-threatens-to-replace-traditional-medicare-altogether-by-2030/?eType=EmailBlastContent&eId=f0c62d3b-9dea-460e-bd5d-76d3416047fd>

<https://www.nytimes.com/2022/12/17/health/medicare-advantage-health-insurance.html?searchResultPosition=1>

<https://www.washingtonpost.com/opinions/2022/11/30/medicare-advantage-seniors-health-care/>

Rachael Wilde
Brooklyn, NY, 11205

Tuesday, January 10, 2023

Dear Council Persons,

As a public school teacher, I am appalled that NYC officials and my union, the UFT, are attempting to strip the retirees of this city of the healthcare they were promised as city employees. After years of public service and providing for the people of NYC, former employees should be honored. Retirees should have access to the same healthcare coverage that we have as current workers. That was the deal that was struck. Access to quality health care in retirement has always been used as a recruitment tool; when you work long and hard for this city, the city promises that you will be taken care of. That when you retire, you will keep the healthcare you received when you became a city employee; the city's healthcare coverage gives city workers stability that should continue into retirement.

Stripping those who worked long and hard for this city—from teachers, to firemen to DC 37 workers—of their long-promised healthcare coverage is shameful. Medicare coverage is national healthcare that all people over 65 enjoy. Privatizing healthcare through the Medicare Advantage program will lead to unwanted health outcomes and ultimately will not save the city money.

As a teacher who is still working in the NYCDOE, I also know that once this administrative code, 12-126, is amended, active teacher's health benefits (as well as all city workers') will begin to be chipped away. The door will be open and the quest to weaken our collective healthcare and benefits will gain momentum. There will always be those in power who will work to dismantle the NYC workers' health coverage, unless we stand up and fight back!

As your constituent, I ask you to stand with our New York City retirees in opposing changes to the City's **administrative code 12-126.**

Sincerely,
Rachael Wilde

**NYC City Council Committee on Civil Service and Labor Hearing at 9:30am,
January 9, 2023:**

Hearing on Proposed Legislation to Amend the Administrative Code

Contact info: Ossining, New York 10562,
co.rachelx@gmail.com

Honorable Chair De la Rosa and Honorable Committee Members,

My name is Rachel Cohn, and I have been retired since 2013. I worked for the NYC Department of Education for 34 years. Thank you for allowing me to submit testimony. I write today to ask members of the Council not to support any amendments that are being proposed to change the Administrative Code 12-126. I, along with so many others, believe that any changes to this code will result in a catastrophic diminishment of the healthcare coverage that the NYC municipal retirees currently receive, despite the repeated and misleading tales of the heads of the two major unions, Claire Levitt and Renee Campion.

In October 2018, I inadvertently learned about the plans to switch retirees to a Medicare Advantage plan. I called the UFT retiree health benefits division and Joe Wohl, a now retired executive of the UFT, called me back. Mr. Wohl said that he is on the OLR committee and stated that there would absolutely not be a Medicare Advantage plan or any changes to health care other than requiring new hires to go on HIP for 365 days and some medical procedures would become ambulatory. On October 12, 2018, Michael Mulgrew told the UFT Delegate Assembly that his deal would result in no additional copays. He promised no significant cost to any of us. Yet, any couple wanting to keep traditional Medicare, under Mulgrew's plan, will pay almost \$5000 a year. These are just two examples of health care injustices that the UFT leaders have promulgated since 2018: [Medicare Advantage Enrollees Discover Dirty Little Secret, Federal investigators Find Medicare Advantage Plans Too Often Deny, Delay Needed Care](#))

Additionally, on December 15, 2022, Martin Scheinman issued a 31 page document that has no force of law. As the signature page at the end of the document explains, it is only a "recommendation". Scheinman has no legal or jurisdictional authority to order the retirees into a Medicare Advantage plan, distinctly inferior to the health benefits the retirees have long received on traditional Medicare.

As he admits, Scheinman's limited authority comes from a 2018 Agreement between the City and the MLC. The Agreement does not allow the Committee, let alone Scheinman by himself, to order anyone to do anything. Some have attempted to make Scheinman's document seem more consequential than it in fact is by calling it a

“decision” or “order” or “award.” It is none of these things. It is merely a non-binding (strategically timed) recommendation, as the document itself states. Another attempt to manipulate the outcome of a situation. The op-ed piece in the Daily News, [“Why Are City Unions Hurting Their Own Retirees”](#) on Saturday, January 7, 2023 posits, “Rank and file had no voice in the MLC deal that was done behind closed doors. It seems the backroom dealing continues. Weeks ago, the Council was “lukewarm” about revising 12-126, which sets a minimum that the city must meet for our health care. Now, they’ve done a rather sudden and spectacular turnaround.

What has changed? I can’t help but suspect my union leadership, along with others, quietly reached out. Maybe those union contributions would slow for Council members who voted to uphold health care contributions. And will Council members get funding from Mayor Adams for their pet community projects if they don’t vote his way?”

I object to the Mayor wanting to make budget cuts on the backs of the elderly. Retiree healthcare represents 6/10 of 1% of the entire NYC budget. I object to Speaker Adams compelling you to vote on a bill that will force all City retirees into a Medicare Advantage Plan. As former employees, we do not have the power to sit at the table with unions and negotiate our fate. I am in opposition to Intro Bill No. 874. The City Council should not participate in voting for a bill that will force disabled retirees, first responders, 9/11 victims, surviving spouses, and the elderly into a for profit Medicare Advantage Plan that exists solely to make money for the insurance company. Let the Mayor take up this fight with us. The NYC Organization of Public Service Retirees has already prevailed over the City on this issue in court. Six Supreme Court Justices unanimously held that the MLC was wrong on the law and could not force us to pay the additional fees. Now the Mayor is pushing you, through the disingenuous voice of an arbitrator, to make a decision that is unnecessary. The unions are threatening you because they think you need them for your re-elections. You don’t need them. In fact, you need us. You need to be aware that there are viable alternatives to not passing this amendment. Tangible strategies that are research based and recommended by healthcare and economic policy experts we work with. We can show you the way to build a better and competitive future that will draw people to work for NYC. If the Administrative Code is changed, it will be very difficult to attract a competent workforce to a city that doesn’t keep its promises and doesn’t offer good benefits.

We gave of our lives and time, often without a contract, to make settlements, extending so far as to keep NYC from bankruptcy. We do not have a voice with the unions anymore, but we do have a voice through you.

Why would you ever even consider taking our healthcare protections out of the law, and putting them into the hands of a very few, very fallible, very self-interested group of politicians?

Keeping 12-126 intact doesn't mean we can't negotiate for quality healthcare, and savings. Amending 12-126 means we will be at the mercy of a few *men* in a room.

We dedicate our careers to public service, not for great pay, but to do good for the people of NYC. What we sacrifice in pay, we expect to make up in decent, stable benefits both in-service, and in retirement. Don't give away our legal protections. What we give up in law, we will never get back.

Don't allow the pressure of a few men in a room to cause you to make a vote that you know is wrong.

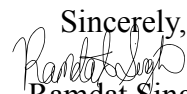
Do not pass this bill!

Good afternoon Council Members,

My name is Ramdat Singh, I am a teacher working for the New York City Department of Education for 7 years and a member of the United Federation of Teachers (UFT). I object to the Mayor's wanting to use seniors who are retirees as the poster child for budget cuts. I object to Speaker Adams forcing you to vote on a bill that will force retirees into a Medicare Advantage Plan. As a current NYCDOE employee, I do not have the power to sit at the table to negotiate my fate as a future retiree. I oppose Intro Bill No. 874 and any efforts to private retirees' healthcare coverage.

The City Council should not participate in voting for a bill that would force retirees into a Medicare Advantage Plan. The New York City Organization of Public Service Retirees has already taken this fight through the courts. Moreover, six Supreme Court Justices unanimously held that the MLC was wrong on the law and could not force retirees to pay additional fees. Now the Mayor is pushing you, through the voice of an arbitrator, to make a decision that is unnecessary. I am aware that my union, the United Federation of Teachers, is supporting the Medicare Advantage Plan, but as a member of the UFT, I oppose these changes. A form of Medicare Advantage plan was proposed in 2021, and ultimately about 65,000 NYC retirees chose to opt out of this plan and retain their current Medicare and Senior Care plan even though it cost \$191 per person per month to do so. That shows clearly how strongly retirees object to the Medicare Advantage plan.

The City can look at other funding streams to help balance the budget. The funding stream should not be funds from retirees who are disabled, senior citizens, or even 911 responders. We need you to be the voice and negotiators for us. I urge the City Council to oppose Intro Bill No. 874.

Sincerely,

Ramdat Singh

From: Raymond Cohen <troutaroo@mac.com>
Sent: Sunday, January 8, 2023 9:35 AM
To: NYC Council Hearings
Cc: Raymond Cohen; Rose Cohen
Subject: [EXTERNAL] Testimony to City Council. Do Not amend Administrative Code 12-126.
Protecting the Code Protects Retirees

My name is Raymond Cohen.

I am writing for my wife Rose and myself. We retired from the New York City Department of Education in 2002 for me and 2003 for Rose.

Pitfalls of Medicare Advantage Plans

Most Medicare Advantage Plans work with a limited network of health care providers.

More than a dozen released audits reveal that some private Medicare Advantage Plans overcharged the government for the majority of elderly patients they treated, often by overstating the severity of certain medical conditions, such as diabetes and depression. The center for Public Integrity reported that overspending tied to inflated risk scores has cost taxpayers tens of billions of dollars in recent years. Overall these plans were likely to charge Medicare too much than too little for some of the 70 medical conditions examined in the audit.

"According to The Office of the Inspector General Medicare Advantage Plans have incorrectly denied or delayed prior authorization, or payment requests and in doing so have accrued unwarranted revenues, according to the Office of The Inspector General. (OIG) found that 13 percent of service requests would have been approved under fee-for-service under medicare were denied under OIG). For payment requests , 18 percent of those that were rejected would have been approved under fee-for service requests."

- 1. Medicare Advantage limits care and access to life saving treatments.**
- 2. Big Healthcare is under Federal Investigation for Medicare Advantage Fraud.**
- 3. There are 100 more life threatening pre-authorizations.**

How can the City Council allow seniors who gave their whole working years to the City Of New York even contemplate not allowing choice to their retirees? We were promised our benefits when we began teaching. Six judges agreed with our lawyer based on 12-126.

Since I have been retired I have had heart surgery, surgery for squamous cell, radiation and hernia surgery. I take 4 life saving medications. Because my mom died of colon cancer and my dad died of prostate cancer. I am constantly being screened for these diseases, too.

My wife Rose is taking medication for a high platelet count. She has been receiving epidurals for a condition caused by polio when she was a child.

If you truly value the lives of your retired constituents and those firemen, teachers , police, sanitation and other retired city workers, you should not amend Administrative Code 12-126.

Raymond Cohen retired from The Department Of Education in 2002. Email Raymond Cohen at Troutaroo@gmail.com

Rose Cohen retired from The Department of Education in 2003. Email Klady207@gmail.com

From: Raymond D. Shaffer <raymondshaffer@gmail.com>
Sent: Friday, January 6, 2023 9:36 AM
To: Testimony
Subject: [EXTERNAL] vote no to change the administrative code 12-126

Although my disabilities are invisible, I have had serious health challenges. Traditional Medicare has given me an excellent level of care that I am frightened of losing. I fear that changing doctors mid-stream would be detrimental to my health. To be placed in a Medicare Advantage plan that is more concerned with its profit margins than with my health has increased my anxiety. Please vote against the privatization of our health plan. The city should not do this on the backs of retirees who are the most vulnerable health-wise.

R.D. Shaffer

Raymond Weston, Ph.D.
Brooklyn, New York 11210

Committee on Civil Service and Labor
New York City Hall
City Hall Park
Broadway
New York, New York
10007

Council Member De La Rosa, and Members of the Committee on Civil Service and Labor,

I am writing to express my disappointment, dismay, and disillusionment at Mayor Adam's intention to switch retired works to a private Medicare Advantage plan.

As a Faculty member of The City University of New York, I am a part of the cohort who accepted lower salary increments in order to preserve the current retirement benefits package. However, as I prepare to retire in 2023, I am faced with the specter of high inflation, decreasing services, and the current city administration's intention to renege on its contractual obligations and institute a de facto decrease in quality and increase in cost of health services. This unconscionable action is being taken at a time when the Medicare Advantage Program is under nationwide surveillance for its high costs, high refusal rate of services, and limited access to physicians.

Such a betrayal, regardless of the financial benefit, will not be worth the the subsequent lack of trust by future negotiating cohorts, the negative perception of potential future employees, and the enduring ill-will of the retired workers.

As a function of both ethical principles and long-term self-interest, I ask that the Committee on Civil Service and Labor reject Mayor Adam's attempt to amend the administrative code of the City of New York in relation to health insurance coverage for city employees, city retirees, and their dependents.

Respectfully,

Raymond Weston, Ph.D.

Dear Council Members

My name is Renée Dinnerstein. I am a retired New York City teacher and I am here to ask you NOT to vote to amend Administrative Code 12-126.

I began teaching in public school in 1968.

The idea that the city and my union, UFT, might deny me the medical coverage that I've had since retirement has caused me *great* distress.

I have been told, **in no uncertain terms**, by my 6 medical specialists, who literally keep my body going, that they WILL NOT accept Medicare Advantage.

- Dr. Astaire Selassie, pain management
- Dr. Nancy Coles, ophthalmologist
- Dr. Karen Silver, podiatrist
- Dr. Stuart Katchis, orthopedic surgeon
- Dr. Hal Mitnick, rheumatologist
- Lisa Primich, physical therapist

I have many friends who are in the same position.

I also fear that this change will add to the unfortunate two-tier system in our city.

My teacher's pension after taxes is \$39,768. I could keep my Medicare and pay for supplementary insurance for my husband and myself, reducing my net pension by 12.5%.

A municipal worker, retiring with a much smaller pension, might have a net pension of \$12,000. The cost of the same supplemental insurance that I would sign up for would end up being 40% of their pension.

Workers retiring on a smaller pension, *mostly persons of color*, would be *terribly* discriminated against. They would be unable to purchase a supplemental insurance coverage.

Consider the thousands of DC37 workers, earning meager salaries, who would not be able to afford supplementary medical coverage.

PLEASE VOTE NO TO AMENDING 12-126!

I am a retired New York City High School teacher and am living on Social Security and my pension. As teachers, we went many years without raises, and, of course, we could have made more money in the private sector. In exchange, we always knew that we had the promise of Medicare and premium-free senior care upon retirement. This guarantee was not a bonus. We thought of the healthcare we had as active teachers as part of our salary package, and Medicare and senior care as part of our retirement package.

The Mayor is now attempting to take away our guaranteed rights to premium-free Medicare and Medigap insurance, by asking the City Council to vote in favor of changing Amendment 12-126. I am asking you to vote no to any changes to this Amendment. It has been there for over 55 years and has guaranteed the right to premium-free healthcare up to the cost of HIP-HMO, for active and retired city workers for decades, and prior City Councils have done the right thing, by upholding its provisions time after time, despite attempts by many Mayors to change it. Please don't do this to us! Please don't do the Mayor's bidding. There are many ways to save money that the Mayor has not explored and it should not be on the backs of the elderly. There have been suggestions that a Blue Ribbon panel be created to explore other options but in the meantime, one group has come up with \$300 million in savings just on their own. Imagine what could be accomplished if a panel were to be created!

I have health issues. Among others, I have already had three different cancers and three back surgeries. I dread the thought of being forced into a Medicare Advantage Plan where some clerk, or even a doctor on the insurance company's payroll, gets to question my medical care or my doctors' decisions about what is the best course of treatment for me. In fact, a few of my doctors have already told me that if I were to join a MAP I would have to seek another provider,

Retirees do not want to be thrown into a Medicare Advantage Plan. We have spoken to our doctors and have heard the reasons why they are adamant they won't accept MAPs. Our doctors tell us outright they don't want to deal with these companies because, unlike Medicare, these companies are only interested in their bottom line. They require prior authorizations for hundreds of routine tests and procedures, requiring additional time and paperwork for the doctor's staff. But most importantly, doctors state these prior authorizations can result in delays

that could have tragic consequences. We don't even have to rely on the word of our own doctors; there have been numerous studies that have shown exactly the same thing. I live in NYC and many of my doctors have told me they only accept traditional Medicare, but it's even worse for retirees out of town who have been told, up front that there are no doctors anywhere for miles who will accept a MAP plan.

The Organization of Retired NYC Employees has gone to court to prevent the unions from forcing its retired members into this MAP, despite the unions' promises to provide us premium-free healthcare upon retirement. Because the MLC lost in court, twice, they are now, working with the Mayor, trying an end-run around the Judge's decision. It's always been Amendment 12-126 that guaranteed our premium-free healthcare for life up to the cost of HIP-HMO and that's what the judge based his decision on. When the Mayor and the MLC saw the Judge's ruling, they decided they have to get rid of the Amendment as it stands. That's why they are asking you to fight the Judge's ruling for them. Please don't do that. The retiree group believes strongly that the judge will rule in favor of the retirees if it goes to court again.

Please stand with the retirees. The City Council is supposed to represent the people of the city. All of us, this diverse group of retirees are elderly and often sickly. We go to doctors more often than we did when we were younger. We have health issues to contend with and we rely on our representatives to be our allies. Please don't let us down.

I am asking you all to side with us, the retirees, the people of the city. Vote no to any changes to Amendment 12-126 so we can keep our premium-free Medicare and Medigap insurance, which is guaranteed in that Amendment. Please encourage the Mayor to find other ways to save money that isn't on the backs of the elderly.

Please support us. I live in Council District 26 and many, if not most of my fellow retirees still live in the five boroughs. We vote and will remember which Council Members have our backs.

Thank you for taking the time to read this,

Renee Silverstein
Retired DOE

Briarwood, NY 11435

From: Rhoda Schlamm <schlammrhoda0089@gmail.com>
Sent: Tuesday, January 10, 2023 10:48 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Please DO NOT amend 12-126--Retirees' health care and very lives depend on keeping our current options without bankrupting us

I am a retired City employee receiving GHI Senior Care and learned by listening to the Council hearing yesterday that the City actually has a surplus and there are other ways of financing retirees' and active employees' health care costs now and down the road that haven't even been considered in the rush to get us all into a deficient Medicare Advantage Plan, no matter how the City falsely touts it as better than all the other MAPs. The City, Mayor, Municipal Labor Council, and two biggest unions are crying poverty because the system of funding health care benefits is broken. Two lawsuits brought by the NYC Organization of Public Service Retirees have denied them the ability to herd all retirees into this MAP, which would only be a quick temporary fix anyway and set a precedent for continuing to raid retirees' health care reserve funds for other purposes later on.

What is needed instead is a thorough investigation and analysis by the City Council of how the City got into this situation, an investigation that includes consultation with health care experts with no skin in the game and retirees and their representatives, an investigation that hasn't been done yet and is sorely needed. Clearly, it hasn't managed these funds appropriately or well. If our federal government has taken the trouble to analyze Medicare Advantage Plans and found them seriously wanting, frequently denying and delaying needed care that causes grave harm to claimants, why can't the City Council do its own independent investigation of how the City is handling its finances and allocations in regard to health care financing and plans for active and retired employees?

Instead, retirees are in danger of losing their trusted doctors who won't accept the MAP and of having needed tests and procedures denied or delayed because of this sneaky, greedy plan being pushed by the MLC chair and leaders of the UFT and DC37. They claim it will close a perhaps imaginary deficit they are warning of that they created by giving raises to current employees from the retirees' Health Care Reserve Fund, which was never designated for that purpose. They are willing to betray retirees who counted on the promise of having affordable healthcare when they retired and earned it during their years of City service taking lower salaries. Some retirees can barely pay their monthly rent, utilities and food costs, so how they possibly afford to keep their current plan if they are forced to pay \$191 a month and when they can't, lose their current health providers and timely access to necessary tests and procedures.

The two largest unions, DC37 and the UFT, are running the MLC along with its chairman, all of whom have threatened the healthcare benefit retirees have depended upon in our older years. They regard us as disposable pawns in their game and think we no longer count because we're retired and aren't represented by them. Unfortunately, the MLC is not a democratic group. It's not driven by a one-union, one-vote procedure, but policy is determined by those two unions with the largest membership. Their solution to the City's supposed shortfall is not to explore other options but do a quick fix in an underhanded and immoral way. No retirees or their representative organizations nor the smaller unions were consulted in the secretive backroom deal between the main players and were purposely kept out of the room so that the plan could be suddenly presented half

baked to retirees in July 2021 with no transparency, holding back a crucial fact about the preauthorization needed for almost everything.

Yesterday I watched several hours of testimony in the Council on changing Admin Code 12-126 in the Council and was glad to hear so many retirees and supporters state multiple reasons for keeping the health care plan options the City promised us and we have counted on since 1967. Now the callous, rapacious Mayor, OLR, and chair of the MLC and heads of big unions in a devil's bargain want to make up deficits previously illicitly taken from retirees Health Care Reserve Fund to pay for current raises. **I hope that you will not let them do this.** The big unions may have told some Council members that they won't fund or support their reelection campaigns to get them to amend 12-126, but if that's anyone's motive in voting to change it, it is very shabby.

We will fight to keep our health benefits in court because many retirees simply cannot afford to pay \$191 a month to keep their current plan and don't want to be herded into an MAP that their doctors won't accept and be bankrupted to pay for lifesaving health care that the MAPs are prone to deny or delay. If we lose, there will be very difficult years ahead for current and future retirees who can't afford supplemental coverage if they are forced into an MAP.

Thank you,
Rhoda Schlamm
Retired NYC DOHMH employee

Woodside, NY 11377

January 10, 2023

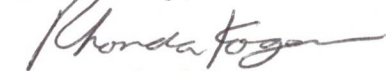
Dear Council Members:

Please be brave just like all the NYC retirees who testified before you at the hearing and do not amend Administrative Code 12-126. Be courageous and don't succumb to the pressure from the unions and the Mayor.

Please realize if you change the Code, which existed since 1967 and was never changed even during the worst fiscal period of the City, you are effectively opening the door to the City making changes that will forever harm retirees and possibly others. I understand that there is confusion because the Mayor is threatening that if the Administrative Code isn't changed, all retirees will be forced into the Medicare Advantage Plan. However, what you have to understand is that a change in the Code will still not ensure a retiree's choice of medical plan. This is due to the fact that most City retirees cannot afford the monthly premiums that will be attached to Senior Care. Therefore by changing the Code, you will actually be responsible for the creation of a tiered health care system, based on a retiree's ability to pay. Those who can pay the Senior Care premiums will be able to maintain their superior health insurance and those that can't will be forced to take the inferior Advantage Plan. I am sure that is not your intention.

Please let retirees continue to fight for an equal and just system to be put in place to help those people who have given so much to the great City we all love. Please call for a Blue Ribbon Panel to investigate all options to help ensure the City's fiscal health and do not change Administrative Code 12-126.

Sincerely,



Rhonda Kogen

NYCHA Retiree

District Council 5

GOOD MORNING:

January 9, 2023

I am a NYC Municipal retiree, 38 years' service in the FDNY, and retired in 2017 in the rank of Deputy Chief. I am here today to petition the City Council to vote against the proposed change to NYC Administrative Code section 12-126 which would jeopardize and diminish NYC retirees healthcare. This, a protection which has been enshrined in the Administrative Code for decades. My sister and brother Municipal workers enter City service and accept lower compensation in comparison to the private sector for the guarantee of healthcare benefits from the plans available at retirement.

The current retiree healthcare structure which is traditional Medicare supplemented by a Medigap Plan is the result of many years of collective bargaining. Retirees are now being sold out by the two largest unions in the MLC (UFT and DC-37) due to weighted voting. The genesis of this was the misappropriation of \$1 billion dollars which was earmarked in the Stabilization Fund to protect these very benefits, and used for pay raises for NYC teachers.

I do not begrudge our valued NYC teachers their pay raise, but unfortunately, that initiative involved 'borrowing' the funds from the Stabilization Fund to pay for the raises and 'repaying' the borrowed funds with savings generated by the forced enrollment of NYC retirees into a federally subsidized Medicare Advantage Plan. For a retiree to opt out they would have to begin paying a burdensome cost for the promised, no cost Medigap Plan they had earned for their years of service.

The previous Mayor along with the UFT and DC-37 alone created this crisis! The proposed solution is to now force retirees into Medicare Advantage with extensive pre-authorization requirements that would place many critical health care decisions in the hands of administrators instead of doctors. Retirees were forced to band together to sue NYC and won a determination that NYC Administrative Code 12-126 did not allow a monthly cost for their Medigap plan. The current Mayor Adams when he was candidate Adams labeled this scenario a "bait and switch."

Throughout my 38 years in City service I always played by the rules. I have earned and deserve the benefits promised to me in retirement. Changing the rules now to take away a benefit that I and my fellow NYC Municipal retirees earned is unfair and unethical. **I am respectfully urging you to vote against the proposed changes to NYC Administrative Code Section 12-126.**

Respectfully yours,

Richard Alles
E. 80th Street
New York, NY 10075
ralles08@gmail.com

From: relgart@optonline.net
Sent: Saturday, January 7, 2023 4:53 PM
To: Testimony
Subject: [EXTERNAL] Protect 12-126

Honorable members of the City Council,

I am a NYC Municipal retiree, having taught in The Bronx and Queens for 45 years, from 1968-2013. I loved every minute of my career. I am here today to adamantly **oppose** any amendment to the law designated as 12-126. I oppose any amendment on personal, legal, and moral grounds.

On a personal level, I have recently had MRIs on both my heart and my spine. Since I have **traditional** Medicare coverage, I was able to get these appointments quickly, without needing authorization from a private insurance company. Furthermore, there was no insurance company employee telling me and my doctor that I didn't need an expensive MRI, and a much cheaper sonogram would suffice. As a result of the MRI, my cardiologist, whom I have been seeing for over 10 years, was able to prescribe a drastically different regimen of medications that will hopefully prevent the necessity of heart surgery..

On the other hand, Medicare Advantage plans, one of which the MLC wants to impose upon us, are **notorious** for delaying or even denying approval for dozens upon dozens of medical procedures. There have been numerous recent articles and studies on the inefficiencies, and even fraud, perpetrated by Medicare Advantage plans. I want nothing to do with them, ever.

I now ask each of you to **feel** what I am discussing.. if your doctor wanted you to get an MRI or a CT scan, how would **you** feel if your doctor needed to get approval from an employee at an insurance company? What if was your spouse or partner who needed the test? Or your parent or grandparent? Or, Heaven forbid, your child? Please feel this for a few seconds. When you do, it will become obvious that the retirees are not **numbers** who represent savings for the city. We are important people to our family members. Just as you are to your family members and just as they are to you.

Two brief notes in the legal realm: Please take another look at Mr. Scheinman's letter. In **his own words,** he clearly states that his letter is a recommendation. Therefore, it is not a law. Plus, he has no authority over the retirees. Secondly, there was **nothing** in the ruling by Judge Frank that states that there may only be one health care plan. The issue of **choice** that has been promulgated by the MLC

is an egregious distortion. The MLC just wants to change who makes the choices . They want to take the choice away from the retirees and place it in the hands of the MLC.

Finally, please take one more look at me and at my brothers and sisters in The New York City Public Retirees group. We are human beings, not numbers or dollar signs.

We just want and deserve to keep traditional Medicare. Please protect law 12-126, so that we may do so. I have looked at your biographies on the Council website. Having done so, I am confident that you will protect that law. Thank you very much for listening.

Respectfully,

Richard Elgart

, Plainview, New York, 11803

From: M K <myra531@gmail.com>
Sent: Friday, January 6, 2023 12:23 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Retiree health benefits

Dear Council Members,

I am a UFT Retiree. I was in active service with the NYC Board of Education for 21 years and have been retired for 8. **I want to retain my Medicare health benefits as promised as a term of my employment with NYC. I do not want to be forced into a Medicare Advantage Plan.** When I became a NYC teacher, salaries were much lower than other localities, but the trade off for me was the benefits. How can these benefits now be stripped away????????

After a recent colonoscopy, I was diagnosed with colon cancer. I was referred to a surgeon for removal of the tumor and then an oncologist who is now in charge of my treatment and ongoing care. I am currently undergoing chemotherapy for colon cancer and do not want to risk not being able to get the quality of care I am receiving now..

A recent visit (bi-weekly) included::

A meeting with a genetics counselor

A blood test

A chemotherapy infusion

An electrocardiogram and

Appointments with two of my specialists.

I was and am able to get all the treatments and testing needed without any prior authorizations. I am grateful that the doctors are able to perform the tests and treatments that are best for my recovery without having to wait for an insurance company's clerk to decide if the

test or treatment is necessary. Two of my doctors have already informed me they will not accept a MAP. Every MAP is a **For Profit Company** and only interested in the bottom line. I do not want a clerk working in a MAP deciding my medical care as this can be a life and death decision for me, especially now!!!!

I implore you to do what is right for retirees who have dedicated years of service to NYC.!!! I am furious that our city and the unions we supported for so long, would turn their backs on its retirees as it appears now in order to help balance a budget shortfall that we did not cause. **I am asking that you vote AGAINST any changes to 12-126 which keeps retirees current health benefits as is** Remember, you will be a retiree too one day.

Regards

Richard Kennett

From: nrichardq@aol.com
Sent: Wednesday, January 11, 2023 2:31 PM
To: NYC Council Hearings
Cc: nrichardq@aol.com; nancyanewkirk@gmail.com
Subject: [EXTERNAL] City Council Amendment

The city's strong advocacy of Medicare Advantage for its retired workers smacks of a take it or leave it proposition. Retirees deserve much greater consideration of the extremely serious and exceptional health challenges that many of us must face. Medicare Advantage places limits on providers and on access to care that may be vitally essential, especially in life threatening situations. It is imperative that along with Medicare, retirees must have the option of city paid supplemental health insurance that meets whatever their particular health challenge may be. I urge the city council to pass amendment 12-126 to give retirees the choice of health care that they deserve and are entitled to.

Richard Quintanilla
UFT Retiree

From: Richard Sherman <richdonnagreat@yahoo.com>
Sent: Sunday, January 8, 2023 3:24 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Please Do Not Amend Administrative Code 12-126

Medicare Advantage is no prize. It certainly is no bargain for taxpayers and plan holders.

In 2016 when government auditors asked a Minnesota Medicare Advantage Plan to submit records of a provider indicted for fraud, they were unable to furnish records to justify the \$20,000 payment from Medicare ("Hidden Audits Reveal Millions in Overcharges by Medicare Advantage Plans" NPR, WLRN, 11/21/22).

Kaiser Permanente directed doctors in their Medicare Advantage Programs to add additional illnesses to patients' records, patients not seen by doctors in weeks. ("The Cash Monster was Insatiable", NY Times, 10/8/22).

As reported in "NY Times", a federal investigation revealed how Medicare Advantage Plans often deny "tens of thousands of authorization requests" ("Medicare Advantage Plans Often Deny Needed Care, Federal Report Finds", NY Times, 4/28/22 updated 12/3/22).

The American Prospect calls Medicare Advantage a MASSIVE SCAM: ("Medicare Advantage is a Massive Scam. The program rips off both the taxpayers and its own enrollees". (4/29/22).

This is just the tip of the iceberg of the fraud and waste that Medicare Advantage has foisted on taxpayers and enrollees for years. Federal investigations into Medicare Advantage is ongoing.

If Administrative code 12-126 is amended, the City Council will be enabling the "fraud machine" known as Medicare Advantage to suck the blood out of NYC retirees. People who gave their youth and health to the City of NY, and were promised real health care as Administrative Code 12-126, WITHOUT AMENDMENT, provides.

Thank you for your time.

Richard Sherman

Retired Staff Analyst
Parks Department (2013);
Previously Supervisor with HRA

POB 934853
Margate, Florida 33093

From: Richard Sherman <richdonnagreat@yahoo.com>
Sent: Sunday, January 8, 2023 2:55 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Please Do Not Amend Administrative Code 12-126

Testimony of Richard Sherman:

My name is Richard Sherman. I am a retired Staff Analyst from the Parks Department. I had previously been a Supervisor in HRA.

I am not anti-union. I'm a retired member of the Organization of Staff Analysts (OSA). I was formerly a member of SSEU Local 371.

The "Scheinman Report" is not a ruling. It is just his opinion and is not binding. It is not a court decision or an award of any kind. It amounts to paid propaganda whose proponents hope the City Council falls for it. When he was a candidate, Eric Adams said correctly that Medicare Advantage was a bait and switch. Now that he is under the influence of Medicare Advantage lobbyists -- including some Union leaders -- he is trying to orchestrate that bait and switch.

The retirees have identified at least \$300 million in savings. OMB knows about some of these savings options and has NOT implemented them NOR informed the city council.

How can the Mayor or the City Council make a decision if they are not being properly informed by OMB?

Do not make any change in the Administrative Code 12-126 which will only be to the severe detriment of hundreds of thousands of NYC retirees ...forcing many to no longer be able to choose their own doctor as well forcing endless and sometimes fatal delays while NYC retirees wait for an insurance clerk to decide about a pre existing condition. I know you would not want your medical treatment or your loved one's medical treatment to be approved or rejected by an insurance clerk.

Please reach out to NYC Organization of Public Service Retirees for the real facts about what Mayor Adam's once correctly described as a bait and switch.

The MLC does not want you to know they sold off the NYC retirees hard earned and promised healthcare for union pay raises.

Please do not amend Administrative Code 12-126 and thereby allow NYC retirees to continue to receive treatment by doctors of their choice and without life threatening insurance company delays and denials.

This issue is PERSONAL for me.

In July 2022 my local hospital in Ft. Lauderdale that I would be assigned to under a Medicare Advantage plan after a bronchoscopy procedure advised me that no lung cancer was found.

At that point I traveled five hours to Tampa, Florida to a nationally recognized hospital that specializes only in cancer treatment and that I would never be assigned to under Medicare Advantage. I had a needle biopsy that showed lung cancer. On September 12 in Tampa I had

robotic lung cancer surgery and am considered today cancer free. If Administrative Code 12-126 had been amended as Mayor Adams wants, I would not have been able to be treated by the lung cancer specialists that I chose in Tampa because Medicare Advantage would never assign me there.

Richard Sherman
Retired Staff Analyst
Parks Department
Previously a Supervisor with HRA

Testimony of Richard Leigh, PhD, PE,
Central Park West, New York NY 1025

before the

New York City Council Committee on Civil Service and Labor

In relation to

An amendment to the administrative code of the city of New York, in relation to health insurance coverage for city employees, city retirees, and their dependents, Intro 874-2023

I am a District 7 constituent from the Upper West Side, and I am covered by NYC health insurance through my wife, a former teacher. I'm writing with a simple request: do not pass Intro 0874-2023. This amendment to the NYC Administrative Code constitutes a clear breaking of promises to retired New York City workers, including teachers, disguised as a "sensible" financial adjustment. By adding what appears to be a simple sentence to paragraph (1) of subdivision b of section 12-126 of the administrative code of the city of New York, this change will force retirees to either move from from their current standard Medicare coverage to a for-profit "Medicare Advantage" plan or pay substantial increments to retain Medicare coverage. Numerous [studies](#) have shown Medicare Advantage plans to be inferior to standard Medicare, especially by restricting patients to "in-network" doctors and rejecting appeals for coverage.

The plan to switch retirees' coverage to Medicare Advantage was first proposed at the end of the DeBlasio administration and is being carried forward by Adams. The plan constitutes a major case of moving the goal posts after the ball is in the air, since retirees undertook work for NYC with a high level of retirement health coverage guaranteed. The amendment will allow the City and the Municipal Labor Committee to choose any plan they agree on as a "benchmark" by which to set the maximum cost the city will pay, rather than use the HIP-HMO standard written into the law. Clearly, they will choose the Medicare Advantage plan as the new benchmark, and will then be free to charge retirees who choose to remain with actual Medicare a substantial premium for full coverage. The proposal has been protested by retirees, contested legally, and rejected as a breach of contract and for other reasons by the courts and further limited by an arbiter. This proposed amendment to the Administrative Code is their latest attempt to meet legal requirement while to circumvent promises made and force this change down the throats of unwilling retirees.

I have no idea why the Municipal Labor Council is part of this attempt to force retirees to choose between a lower standard of care or additional payments that few can afford. They are clearly ignoring the protests of their constituents, which will have impacts later on.

Finally, this move to private insurance coverage constitutes a substantial step away from what all progressives know we need: a government-managed health system that will end the rapacious behavior of the health insurance industry. Such a plan is under serious consideration within New York State government. To move New York City employees and retirees away from Medicare and into the arms of the health insurance industry sounds like a page from the Republican playbook.

So I urge all members of New York City Council to vote against this amendment.

Thank you for your time.

Richard Leigh

From: rick oliveri <rickoliveri518@gmail.com>
Sent: Saturday, January 7, 2023 6:34 PM
To: NYC Council Hearings
Subject: [EXTERNAL] 12-126

Please don't amend 12-126 as it will take away our great medical that we have had forever.

Sent from my iPhone

From: r bott <rebott@yahoo.com>
Sent: Thursday, January 12, 2023 4:27 PM
To: NYC Council Hearings
Cc: r bott
Subject: [EXTERNAL] Written Testimony, NYC Council, Committee on Civil Service and Labor, Hearing on 1/09/23

Rita E. Bott

1/13/23

Brooklyn, NY 11234
rebott@yahoo.com

NYC City Council
Committee on Civil Service and Labor
Hearing on 1/09/23, Written Testimony

NYC Law 12-126 is a vital protection for current employees and retirees who receive health benefits from the City of New York. As such, I oppose its repeal. I also oppose efforts to eliminate the choice retirees have to continue traditional Medicare with a City-funded Medigap plan.

The declaration of war launched against retirees by Mayor Adams, the occasion for this hearing, came about because in order to give teachers a raise in 2014, a fund set up to secure health benefits for all was raided to benefit said teachers---to the tune of a billion dollars. The shortfall thus created was brought about by former Mayor De Blasio with the connivance of the highly-paid members of the Municipal Labor Council, one of whom is none other than Michael Mulgrew, head of the teacher's union! The MLC acted and continues to act on behalf of retirees on healthcare but any and all retiree efforts to have any input, to communicate and advocate for their best interests with the MLC, have been consistently rebuffed by its members, per in-person testimony offered at the January 9th hearing. MLC members who testified that morning even absented themselves from the rest of the hearing, thus insuring they would not be there even to listen to any testimony by retirees or their chosen representatives!

Mayor Adams *baited* the electorate by acting like he was skeptical of forcing retirees into a for-profit, corporate Medicare "Advantage" plan. Once elected, however, he *switched* to being all for it. The bone of contention became whether to permit retirees to choose to continue with traditional Medicare, which the majority were already on. It was therefore proposed to allow retirees to pick up the tab for what had been one of the benefits paid for them by the City that they had retired with--a Medigap plan that supplements traditional Medicare---at \$191/month for each retiree and dependent covered. Citing the statute 12-126 in question, courts determined that retirees newly paying for this benefit would violate the law designed to protect them. Next came the threat that the Council would have to change the law to enable retirees to pay for a choice or Mayor Adams would throw every retiree under the Medicare "Advantage" bus. Of course, there are forces at work who are fine with this, exemplified by the Citizens Budget Commission that has sought to sock it to municipal workers/retirees for years, wealthy donors, and their media which offered "kudos" to the Council Speaker for being "open" to an inferior, for-profit MAP. Their media repeated over and over again that there

was a special subsidy from the federal government for a MAP hat made it impossible to resist switching to it. At the hearing, it was revealed that there is no such subsidy.

One tabloid demanded to know what is so terrible about Medicare "Advantage." These plans seek to make a profit and the way they do it is behind-the-scenes where a specialist may not be participating or someone is very sick or otherwise in need of a costly procedure or treatment to obtain or maintain quality of life and they are given a hard time by the company with denials, appeals, delays--when you may least be able to fight for yourself. This sort of thing doesn't show up on all the TV advertising but is real nonetheless. Please read the testimony of my retired colleague, librarian Dana Simon, who was on a MAP and needed **two** cochlear implants to retain hearing. She was denied one of them at the last minute! The denial was based on outdated guidelines! Appeals followed---all the way to New York State and she was finally able to get the procedures and retain her hearing which was so important as her vision was severely compromised. Why should she have had to struggle so hard to get needed medical care? Why was a for-profit company in charge and not her physician?

In my own case, although I retired prior to being Medicare-eligible, I was surprised to discover that major surgery for a life-threatening condition at NY Presbyterian Hospital in 2004 under the auspices of Blue Cross and GHI-CBP (not HMO's) made me vulnerable to corporate oversight when a severe side effect of the surgery occurred and I had to be returned to the hospital for several weeks. A company retained by the insurers started calling me and demanding to know why I was there, what was the plan, etc. They also started calling the physician, who was the head of his department, too. I had never been told that something like this would happen and it was a real eye-opener. I was not prevented from receiving care in this case but felt intimidated by the intrusions. I suspect I had just a taste of the difficulties that could be raised under private Medicare "Advantage."

Finally, the pay I received at the New York Public Library was very low. In 1995, a study of major urban libraries across the United States showed public librarians in NYC, represented by DC 37, were the lowest paid! That's why we fought for a special raise outside the usual bargaining pattern. The Library was having trouble hiring or retaining librarians. When I started there, I never dreamed I would fall so far behind librarians in NYC schools and at CUNY---but that's what happened. One thing helped keep me going and that was at least there are benefits. Now, this administration is looking to take one very important benefit away, 12-126, targeting those of us who are in retirement--and we are looking to elected leaders in the Council to resist this and find another pathway forward that respects the service we provided in a variety of ways to help countless New Yorkers.

Rita E. Bott
Supervising Librarian, Retired
The New York Public Library

From: Rita Hohauser <rhohauser@aol.com>
Sent: Thursday, January 12, 2023 3:07 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Preserve Administrative Code 12-126

Dear Council Members,

My name is Rita Hohauser. I was retired from NYC DOE in 1987 after suffering a devastating line of duty injury. I have been through shoulder surgery, hand, back, and cervical spine injuries. I have had ongoing physical therapy for the past 35+ years and am in constant pain,

It has been a struggle physically and financially. Without choice, I would not have been able to get the medical care I required.

It has been devastating to see the City try to take away the health benefits that I, and all NYC retirees were promised when we started working. I was subject to several salary freezes during my 17 years as a NYC teacher. We gave up raises to help the City financially. This meant that my pension was severely diminished when I retired.

I am imploring you to NOT amend administrative code 12-126.
I remind you that Mr Scheinman's OPINION is NOT LEGALLY BINDING!

Please help preserve retiree legal rights and our right to keep original medicare without financial penalty by NOT AMENDING AC 12-126.

Thank you for your support.
Rita Hohauser

From: Naomi Shore <nshore@hotmail.com>
Sent: Thursday, January 5, 2023 2:29 PM
To: NYC Council Hearings
Subject: [EXTERNAL] No to privatizing our healthcare

I am a retired teacher, having taught in public high schools in NYC in 3 boroughs for over 35 years. I loved my job and gave it my all. My students still meet me socially. I never thought of asking and expecting more than my salary and the union-negotiated protections I was given. When people chided me and said, that with my skills, I could have commanded twice the salary and half the stress in private business, I stopped them. I loved my job, my students, and the safety the union provided.

Now, the city is pulling shenanigans just as we are getting older and are perhaps less capable of sorting through the massive and vague disinformation. You are playing bait and switch. That is unethical as well as illegal.

Focus on getting better costs by strong negotiation and not on merely heaping the costs on us by subversion and deception. Privatizing our Medicare leaves us in the hands of "for profit" businesses and we know how that goes in schools, colleges, and other supposedly social services.

Sincerely,
Rita Naomi Shore

From: Rita Olicker <ritaollicker27@gmail.com>
Sent: Sunday, January 8, 2023 2:05 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Written Testimony for Hearing on 1-9-23 at 9:30 A.M. on Switching Retirees Health Care to Medicare Advantage ..

Before I begin, I would tell you that I have attached at the end- links to two YouTube videos (both of which have transcripts) which are very informative. I encourage you to view them.

My name is Rita Olicker. I am an ACTIVE city employee with almost 38 years of service at HRA and nearing retirement. I and my co workers approaching retirement are very distressed at the city's effort to change the retiree healthcare -- Original Medicare with a Medgap Supplement paid for by the city which was a benefit fought for by our prior unions) to the inferior privatized Medicare Advantage plan. There has been a lack of transparency on the city's part. Most active employees and even retirees do not know that this is going on. Most retirees do not know the difference between Original Medicare and Medicare Advantage . All they know is that they have had excellent coverage under Senior Care and don't realize the health and financial consequences that can befall them under Advantage. In Original Medicare which is a federal ' single payer' program. there is no pre-approval needed for health services nor is there a limited doctor network, as it is accepted by 95% of all doctors and hospitals in the [U.S.A.](#) When you see a doctor. The doctor bills Medicare directly which pays 80% of the bill and the medigap supplemental plan is required to pay the 20% that Original Medicare did not cover.

Advantage programs are run by private insurance companies which get federal subsidies to take over the management of senior health care. They are allowed to make a profit from these subsidies -- by denying/limiting access to health care services via their pre approval process and limited network of doctors--(doctors in their plans have agreed to accept their fee schedule). Should you go to a non participating doctor or have a procedure done without their pre approval, you are on the hook for that cost. Your yearly thousands of dollars MOOP (MAXimum Out of Pocket) costs that you may be responsible for, only apply to your co pays for 'pre approved' treatments. Anything not 'pre approved' by the Advantage Plan is totally your financial responsibility.

Private investors in the 'Advantage' and similar type insurance companies also now have a stake in profiting from federal Medicare dollars and there is a big push on by these companies to privatize all of Medicare . Even though numerous governmental agency studies have shown that Medicare Advantage has been more costly to taxpayers and provided worse health outcomes than Original Medicare, the push goes on because of lobbyist activity within Congress . Due to this, the federal government has been encouraging employers with retiree plans to switch its retirees to Advantage programs with the incentive being that the employer can get out of its obligation to pay for retirees' Medigap or other premium because the federal government will pay a subsidy to the 'Advantage' company.

NYC should not be a party to the profit driven privatization of Medicare; - by accepting the 'favor' of nullification of its (40 + year old) financial obligation to the Original Medicare supplemental retiree health care plan. It should honor the promises made to its former and current workers and not throw the most vulnerable among us (whose health is inevitably on the decline due to age) to the 'winds' to sink or to swim both in health and in finances . It is not right for NYC to do this to its own elderly and disabled who gave years of service to this city. If the City goes through with this and allows retirees to stay in Original Medicare by paying for their own Medigap supplement, it will create a two tier retiree health program with the older retirees(and those on lower pensions) forced into the inferior and precarious Advantage program because they cannot afford the premium. Others will be forced to make changes to their living situations which were sustainable due in large part to the predictability of cost and health care access of their original health care plan.

It is also blatantly unfair that the city would take away the medigap premium payment (which is one quarter the cost of its active employee health premiums) from its retirees on fixed incomes with increasing health care needs. while leaving untouched the health care premiums paid by - the younger, generally healthier active employees who get periodic raises.

Obviously, the city wants to retain current and attract new employees and therefore does not dare to increase health care costs to the actives. , but it is not morally right to turn the elders out to fend for themselves.,because the city has no use for them anymore.

Today's active employees are tomorrow's retirees. The city should make it abundantly clear to active employees. at the outset. that they will not be getting the expected excellent health care coverage in their retirement.

Please watch the below videos

1. Below is a licensed Medicare Agent who made a video about NYC Effort to Switch Its Retirees to Advantage and the Retiree pushback. In it, he explains

a. difference between Original (Traditional) Medicare and Medicare Advantage and that city retirees have a right to be skeptical of Advantage.

b. From 19:35 to 24:35, he explains the 'Why' of NYC (and other large employers) doing this, and how employer sponsored Advantage plans have even fewer requirements and are under less oversight / scrutiny than even the open market (Joe Namath, J.J. Walker, etc) Advantage Plans.

<https://youtu.be/sCU6sZ5keMs>

-----',---'
Below is a 'Democracy Now' video with Amy Goodman and Wendell Potter Whistle Blower on the whole Medicare Advantage push by the government.

<https://youtu.be/YEgNxlrfygl>

Honorable Council Members:

Happy New Year

I am writing to you on behalf of all my fellow NYC retirees who are NOT skilled in technology and are not able to have their voices heard through emails, zoom or written testimony.

My husband and I are both NYC DOE Retirees with over 50 years of service to the children of our great city.

I have written to you multiple times over the last months trying to share all the rationales for not amending 12-126.

My letter today will not repeat that info or list all the studies by medical professionals that clarify that Medicare Advantage Plans are inferior to Medicare and our current supplemental insurance.

My letter today will not try to convince you that should you amend 12-126, you will break the city's promise to its current active workforce and its retirees.

My letter will simply remind you that if you do amend 12-126 you will be responsible for creating a 2-tier retiree healthcare system where those who can afford to stay in Medicare and Senior Care will receive better health care than those retirees who, due to having smaller pensions simply cannot and will not be able to keep their current plan and will be forced to accept the inferior MAP the city will dump them into

These retirees who served the city in lower paying jobs worked their entire life cleaning toilets in NYC buildings, mopping the cafeterias floors in our schools, cleaning and sanitizing our city hospitals. .

The older retirees in this group of low paying city jobs have even lower pensions because they retired many years ago. These same retirees, due to their advanced age most likely require more medical services. They will be the most affected.

They will be forced into the MAP; many will lose their trusted doctors and will have to have to resort to prior approval for many of their required services.

All retirees and active employees will be negatively affected should you amend 12-126 but those who cannot afford the optional plan at \$191 monthly will suffer the most.

Thank you for your time.

Joanne and Robert Belli

Dear Members of The Committee on Civil Service and Labor,

I am a retired Professor from Queens College, CUNY and I urge you not to amend 12-126 to allow the City to place us retirees on Medicare into a Medicare Advantage Plan.

Medicare Advantage plans put roadblocks in the way of their members in terms of which doctors they can see and what care is appropriate. I myself have had melanoma and I am being carefully monitored to see if there is any spread of this disease. At one time I was told it might have spread to my brain --- a condition that is life-threatening. Fortunately, after several scans it turned out to be a false alarm. Would I get the same level of care in a Medicare Advantage Plan? I doubt it. And if it does later spread, could I choose any doctors I want to treat me? Probably not.

I understand that the City needs to save money. However there are better ways to save money as outlined by my union, the PSC. The City, like many large corporations could "self-insure," hiring an outside company to administer the plan. Hospital and doctor charges should be carefully monitored to make sure the City is not being overcharged, etc. As the PSC proposes these and other ways to save money should be carefully studied and could even produce more savings than adopting a Medicare Advantage Plan by a for-profit private insurance company. Recent articles in the NY Times and elsewhere have exposed the money-grubbing behavior of such plans.

January 9,

2023

Dear New York City Council Members:

I am a FDNY Lieutenant that was forced to retire in 2006 due to a World Trade Center sickness. My main diagnosis was a rare blood cancer, that required a Bone Marrow Transplant. This has left me totally and permanently disabled! A forced change from my current health care plan would be disastrous for me and my family!

All retirees want you to know, The Scheinman report is NOT a “ruling”, it’s merely a non-binding opinion, issued to appear as if it had legal weight! It does not! Two courts, NYS Supreme Court and NYS Appellate Court, have upheld NYC Administrative Code 12-126 that has protected retirees’ choice of health care plans to date. Martin Scheinman has NO legal authority concerning this matter. THIS DOCUMENT IS MR. SCHEIMANS OPINION! You must remember that any changes to this code will also affect you. Do you want to have substandard health care during your retirement? I think not.

Administrative Code 12-126 should NOT be modified in any fashion.

All NYC retirees have earned their current health care plan benefits. This was paid for over their long working careers and through attrition bargaining during contract negotiations. Attrition bargaining is what every current and former NYC employee knows as GIVE BACKS! Mayor Adams who should be a proponent of labor, is not. Mayor Adams should not be making you and the other members of the NYC Council the scapegoats concerning this matter. He should not be allowed to balance the city’s budget on the backs of retiree’s, who most are on small, fixed incomes.

As it is reported the MLC and the City of New York want Administrative Code 12-126 changed so they can add more funding to the health care stabilization fund. The MLC and the city were complicit in raiding this fund. Now they find this fund becoming insolvent. NO ONE and I mean NO ONE should have the right to spend

the money in the health care stabilization fund for any purpose except for providing health care for current and retired city employees.

The MLC, Harry Nespoli and Michael Mulgrew as well as other union leaders were allowed to raid this fund to provide raises for current employees. The union leaders above and many others have misappropriated money from the health care stabilization fund which they had no right to do! If the health care stabilization fund was not used as a wage increase slush fund, we would not be here today. What will prevent unions in the future from raiding this fund again? If this misappropriation of funds happens again retirees will find themselves in the Medicaid system. Why haven't these union leaders been investigated for misappropriation of funds?

Mayor Abraham Beam, during the fiscal crisis of the 1970's, did not take health care benefits away from retirees!

The unions that formally represented retirees when they worked, DO NOT REPRESENT THEM NOW in retirement. Retirees are unrepresented! City unions only care about their current membership! If Admin Code 12-126 is amended, retirees are going to pay the price, with their health, by being forced to take a substandard health care plan. We will have no choice. There will be one plan, take it or leave it. The city and unions could care less about us! Advantage plans are administered by "for profit companies" This will lead to health care rationing!

Just last week I was at my surgeon's office In Hackensack, NJ with my son who requires a surgical procedure. A woman walked into the office and made the receptionist aware that she now has AETNA MEDICARE. The receptionist said sorry we do not accept that plan we only accept traditional Medicare. If I am forced into an Advantage plan, I will no longer be able to see this doctor! This I believe will be the case with many of my doctors because most are out of state!

I was promised, in 1995, when I was hired that my choice of health care insurance would follow me into retirement. Remember Administrative Code 12-126 currently protects all employees, retirees, and our family's health care currently as it is written. **THIS ADMINISTRATIVE CODE PROTECTS YOU!**

I have a disabled 25-year-old daughter. Kerry has Down syndrome and requires several medical specialist's care. Kerry receives Medicare. I do not want to be told that we can no longer use our current doctors and hospitals for Kerry and ourselves. My daughter Kerry does not do well with change. It would be a huge burden on our family to be put into a medical rationing plan as the one being proposed by the MLC and the City of New York. My daughter has faced discrimination because of her disability. If she is forced into an advantage plan she will further be discriminated against!

AMENDING NYC ADMINISTRATIVE CODE 12-126 IS DISCRIMINATORY TOWARDS RETIREES!

Respectfully,
Robert Wallen
Retired Lieutenant, FDNY

From: Robert Mazza <robjmazza@gmail.com>
Sent: Saturday, January 14, 2023 1:36 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Medicare Advantage - neither Medicare nor Advantage

I'm writing on behalf of myself, a retired NYC schoolteacher and on behalf of my cousin, Joan Squeri, who worked for the Department of Housing for forty-three years and who is also retired.

Joan has had one kidney removed due to cancer contacted as a result of the 911 World Trade Center bombings and is now undergoing chemotherapy for her remaining kidney. She currently has full medical coverage under traditional Medicare and Emblem Health but is worried because her doctors tell her they will not be treating Medicare Advantage patients. My urologist has told me the same thing.

It is really an outrage to take away health care benefits that we were promised as NYC workers with the assurance that we would not have to worry in our old age. I blame Michael Mulgrave who is trying to keep his job by placating the current education workforce with raises by taking away benefits from retirees.

Despite what these private companies promoting Medicare Advantage proprot when they are looking to sign up people, I have no doubt that they will renege on any promises made at the outset.

Medicare is a US Government program with rules that require legislation to make any changes. Medicare Advantage are for-profit businesses whose rules can be changed from one year to the next to satisfy shareholders.

I urge the City Council members to reject this plan.

Thank you.

From: Robertondrus <robertondrus@aol.com>
Sent: Saturday, January 7, 2023 10:16 AM
To: NYC Council Hearings
Subject: [EXTERNAL] NYC CHANGING TO MEDICARE ADVANTAGE PLAN

HI, I LIKE THE CURRENT PLAN AND DO NOT WANT ANY CHANGES, THANK YOU, ROBERT ONDRUS

RE: 12-126

Oppose Amending

I am opposed to amending 12-126. The city council is being pressured to act in haste.

This is an artificially created crisis enabled by the MLC and the city when they utilized the Health Insurance Stabilization Fund (SF) for purposes not related to health insurance premiums for actives and retirees. This utilization has gone on at least since 2014 and a number of publically available documents on the OLR website reveals this.

The MLC and the city have refused to consider numerous suggestions that have been made by other interested parties. Among them are creation of a “blue ribbon panel” and one by the Professional Staff Congress to temporarily use the Retiree Health Benefits Trust (not the same as the SF) to cover the immediate costs of GHI Senior Care while a solution acceptable to all parties is developed.

The MLC and the city are trying to abruptly upend over 50 years of precedent and, if successful, it will likely have a disparate impact on low income retirees. Four mayors have tried and the city council has rejected each attempt.

I urge the city council to do so again.

Robert Pfefferman

**TESTIMONY TO THE NYC CITY COUNCIL AGAINST AMENDING NYC
ADMINISTRATIVE CODE SECTION 12-126**

My name is Robert Silberstein. I retired from the NYC Department of Citywide Administrative Services in September 2020 after 35 years of City service. Upon retiring at age 65, I chose traditional Medicare supplemented by Senior Care and have found this choice very satisfactory in meeting my medical needs.

Since retirement, I have had medical services to treat concerns from a previous major surgery and other emerging diagnosed medical conditions that my doctors tell me are known to progress as I age. I had peace of mind of the promise of future City-paid healthcare made during my civil service career. I have since learned they were protected by NYC Administrative Code §12-126 (“Ad Code”). That peace of mind vaporized almost 2 years ago when the City of New York (“City”) and the Municipal Labor Committee (“MLC”) unilaterally, and without any consultation with retirees, decided to compel all retirees into a corporate-administered Medical Advantage Plan (“MAP”).

Quickly formed, the NYC Organization of Public Service Retirees (“NYC Retirees”) sued the City of New York (“City”) to protect retirees’ interests from this calculated attack on our earned medical benefits. Even after the City lost both at trial and on appeal, the City and MLC were not interested in coming to a table to discuss potential savings with any stakeholders.

Instead, the City and MLC now approach the City Council to change the Ad Code. But first, they secured an opinion/recommendation arising out of a contrived dispute between the City and the MLC, a recommendation which contains an artificial deadline by which to act. The Council should not feel compelled to rush into making any changes to the Ad Code. The deadline contained in the report of Martin Scheinman is offered as a mere recommendation. Specifically, his report on pages 1 and 32 says that it is his recommendation. Although Mr. Scheinman may be an arbitrator by trade, his authorship of this report was not in that capacity. His signature indicates that it was signed in his position as chair of the tripartite committee. The opinion/recommendation is not an order, as an order would result from a dispute between parties. However, there was no dispute here, as the City and MLC have been in agreement since 2021 when retirees were forced into a MAP. The City’s disagreement is with the NYC Retirees and that is being contested in court. Certainly, the recommendation of Mr. Scheinman is not binding to compel the City Council to change a local law under an accelerated legislative schedule.

MAP is a private for-profit insurance in business to maximize profit. To that end, MAP adds nearly 100 more life-threatening pre-authorizations, including approvals and limits care and access to life-saving treatments. Moreover, major health MAP providers are under investigation for MAP fraud. These are not improvements to traditional Medicare supplemented by Senior Care.

Our former unions do not represent our interest, and cannot, because we are no longer employees under a collective bargaining agreement. I cannot vote in any of my former union elections. For decades, the retirees only have had the City Council to protect our rights every time similar attempts to reduce retiree healthcare were made. Now, this administration and the MLC are using the City Council as a vehicle to alter retiree healthcare. If successful, they will plausibly deny that the change was their initiative and assign to the Council the responsibility for putting them in the untenable position in which they will be. Retirees once again need the City Council’s protection.

Retirees are counting on you to continue the City's longstanding commitment to Administrative Code §12-126. Please do not amend Administrative Code §12-126. Thank you.

JANUARY 9, 2023

TESTIMONY SUBMITTED TO THE NEW YORK CITY COUNCIL REGARDING INT. NO. 874 A LOCAL LAW TO AMEND SECTION 12-126 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK IN RELATION TO HEALTH INSURANCE COVERAGE FOR CITY EMPLOYEES, CITY RETIREES, AND THEIR DEPENDENTS

Dear Council Members -

I am writing to implore you to vote NO on the bill to amend AC 12-126 and to thereby preserve my traditional Medicare Health insurance. As a dependent of a NYC retiree I have relied on these benefits for over 40 years. These benefits were promised to our family from the early 1980s when my wife began working for the city until 2017 when she retired. They were the deal our family made with the City of New York. It is immoral to take away this promised benefit now that we are elderly, retired, and have no advocate in the decision-making process. The NYC City Council boasts of its efforts to help all those in need, but are the retirees of the city not included in that laudable goal? We all recognize the need to curtail the rising costs of health care and to be conscious of the city's spiraling budget BUT is it fair or moral to solve these issues by taking Medicare away from elderly retirees and substituting a far worse Medicare Advantage plan? I put forward that it is NOT fair and that there are other ways to achieve savings, ways which have not been explored.

It seems unfitting for the City Council to approve this amendment without exploring other avenues for health care savings. And unfitting as well to see the City Council buy the lies being told by the MLC and the unions which are a coverup for poor management and unethical if not illegal practices in taking funds from the healthcare stabilization fund to pay for raises for active workers. The other lie is that Arbitrator Scheinman's report (an arbitration in which retirees were not a party) is in any way binding; it is not a decision, it is just a report and the City Council has no obligation to follow any of its findings.

I urge you to vote NO on the bill to amend AC 12-126 which Council Members De La Rosa and Ayala have proposed on behalf of the mayor and to put an end to the plan the Mayor and the Municipal Labor Committee (MLC) have concocted to force retirees into a Medicare Advantage plan

NYC retirees deserve to keep the traditional Medicare and free supplemental health insurance they earned and which they were promised at their retirement. A Medicare Advantage plan is in no way comparable to traditional Medicare. It is, for many reasons, an inadequate plan that relies on privatization of health care in the service of profit for insurance companies.

PLEASE PROTECT THE HEALTH INSURANCE BENEFITS OF RETIREES AND THEIR DEPENDENTS.

PLEASE DEMAND OTHER OPTIONS BE EXPLORED.

PLEASE VOTE AGAINST CHANGING NYC ADMINISTRATIVE CODE SECTION 12-126!

Robert Soloway – rsst4@aol.com

From: Roberta Berger <robertaberger2@gmail.com>
Sent: Tuesday, January 10, 2023 8:23 PM
To: NYC Council Hearings
Cc: Roberta Berger
Subject: [EXTERNAL] Amendment of Administrative Code 12-126 for NYC Retirees Health Care Coverage

To Whom It May Concern,

As a retired teacher, I urge the City Council to amend Administrative Code 12-126 to protect health care Choices for retirees. Many of us DO NOT want to be part of any Medicare Advantage plan. We prefer to stay with traditional Medicare. We need a supplemental plan that goes along with that.

Without changing the code and giving CHOICE to retirees, we will not have an option to choose a supplementary plan for traditional Medicare. We retirees have spent our lives in service to the City of New York. We feel abandoned at this time in our lives when health care is so important to us as we get older.

Please vote to protect our health care and give us CHOICES.

Thank You,

Roberta Berger (Retired Teacher - District 26 Queens)
Edward Berger (Retired Teacher - District 26 Queens)
Irwin Tropp (Retired Teacher District 26 Queens)

--

Roberta Berger

ROBERTA GONZALEZ TAGS
NYC DOANH
38+ years

Please DO NOT VOTE TO AMEND 12-126! VOTE NO!

I have two cancers related to working for the city during and after 9/11. The WTC Health program has a two tiered system. Responders ...uniformed on the pile city workers and Survivors those who breathed the same air but worked next to those on the pile.

Responders are seen at Mt. Sinai, Survivors are seen at Bellevue....

As a Survivor, and a Bellevue patient, My cancer was UNDIAGNOSED for almost 4 years. I believe a two tiered system was not seeing me in the same way that a system designed for all would have seen me. Thank god I eventually went to NYU with my scans for a second opinion and the doctor there took one look and told me I had lung cancer....and thank god it was a slow growing cancer or I would not be here today.

As a retiree, and as a cancer patient I want to be treated with dignity. I want my doctor to make treatment decisions with me, and based upon my health care needs...not based on what some profit minded Advantage plan has in its calculations made by a clerk or a perhaps a clerical trainee, and not with some entity that has a pre conceived idea of who I am, and what might or might not affect my health.

City Admin code 12-126 is in place now. It guarantees the current health insurance options we have now, including Original Medicare with a Sr. Care Ghi option....the many choices listed on the OLR website.

The Sheinman report that has recently been promulgated is only a PURCHASED OPINION ...it is not an award, a law, or a binding piece of arbitration.

Arbitration occurs between dissenting parties. The CITY and *MLC DO NOT Disagree!*

I don't want my life destabilized, I don't want 250,000 retirees lives destabilized...I don't want the city revenue system destabilized either...their are alternative savings that can be considered!

How would changing the code give us what we already have?

I believe You, the city council members, have been mis informed in many ways:

Changing the code would take away our current plans and choices...

If choice is the issue, we already have choice in the current code wording, why would we change it? 11 contracted plans are already on the current OLR website!

Why are the city unions battling to have the city pay less toward our health care....workers and retirees? What's next then?

Folks striking for MORE WORK AND LESS PAY?

It's because the unions misused the health stabilization funds, and want to get rid of their debt by passing all retiree health care costs on to the Federal Government with Inferior Medicare (dis) Advantage Plans, where there are limited networks, delays and treatment denials, with hidden costs passed on to seniors...(see Diane Archer's report attached).

When the mayor was running for office he said 'don't destabilize the retirees, as per the Daily News!

The Professional Staff Congress/CUNY, developed the attached health cost saving solution....it is but one of many plans put forward to help keep NYC Municipal Retirees from the greedy and deadly hands of for profit Medicare (dis) Advantage Plans.

What other harm or indignities,

might be waiting to strike seniors and those already struggling on fixed incomes after opening that Pandora's Box?

Who does disagree with amending the code?

Me and 250,000 municipal retirees who have served, who did their jobs, who signed on to keep the city going, through hurricanes, superstorms and blizzards, pandemics, riots, fires, and terrorist attacks and white powder anthrax exposure and events.

—
Has everyone forgotten that when Eric Adams was campaigning for Mayor he said:

"You don't become a civil servant to become a billionaire. You become a civil servant to have stable health care, a stable pension and a stable life, and we cannot destabilize it after they retire," he said. "Right now, after serving your city, we should not do any type of bait and switch. When you retire, you retire with an understanding, and we need to make sure we live up to that agreement."

Talk about a "bait and switch"!



nydailynews.com

Eric Adams calls Mayor de Blasio's NYC retiree health care shift a 'bait and switch'

12-126 has been in place for 55 years...there have been many health care choices added to the city's portfolio of providers... why amend what already works?

Please the CUNY/PSC report attached and the 11/22 NYC FINANCIAL PLAN

Written by Diane Archer (Just Care USA)

The HHS Office of the Inspector General once again reports on huge Medicare Advantage overcharges to the federal government. It's pretty clear at this point that Medicare Advantage plans—health plans covering people with Medicare administered by private insurers—use whatever means possible to get paid more and more money. Because the government pays them a higher rate upfront for enrollees with multiple diagnoses—“risk-adjusts” its payments—Medicare Advantage plans invest in ways to identify as many diagnoses as possible for their enrollees.

To be clear, the upfront government payments to Medicare Advantage plans intended to cover their enrollees' care is in no one's interest other than that of the insurers offering Medicare Advantage plans. The Medicare Advantage plans receive these payments regardless of the cost of the services they cover. There's no one policing them from taking taxpayer money and spending as little as possible on care. The government's “capitated” payment system helps explain why the Government Accountability Office has found high rates of inappropriate delays and denials in Medicare Advantage.

The Medicare Advantage plans receive higher fixed payments if they can show that their enrollees have multiple diagnoses. Consequently, the MA plans often hire companies or employ doctors to assess the health of their enrollees and identify as many diagnoses as possible. This practice is called “upcoding.” It is eroding the Medicare Trust Fund and driving up Medicare Part B premiums.

The HHS Office of Inspector General “OIG” found that several of the larger insurers offering Medicare Advantage plans are hiking up their government payments significantly through upcoding. It found as much as \$5 billion in potentially wrongful payments to these plans. And, lord knows the extent of the wrongful payments the OIG did not find.

The Office of the Inspector General did not name the 20 insurers it identified as responsible for the majority of overpayments. But, based upon what it did say, UnitedHealth was likely responsible for a significant amount of the upcoding and overpayments. Aetna and Humana are also engaged in upcoding that results in particularly large overpayments. It appears that Medicare Advantage plans can overcharge the government with near impunity or accountability.

Not surprisingly, people enrolled in Medicare Advantage cost taxpayers significantly more than people in traditional Medicare. The question is why Congress allows them to continue when they cost more?

Will Congress put an end to the “risk-adjustment” gaming in Medicare Advantage? It would bring down the Part B premium for everyone with Medicare and strengthen the Medicare Trust Fund. It would also reduce the profits of insurers offering Medicare Advantage plans. The health insurers offering Medicare Advantage seem to think Congress will continue to condone this gaming. Their ranks are swelling.

November 2022 Financial Plan Reserves are a Historic \$8.3 Billion

In the November 2022 Financial Plan the city has maintained \$8.3B in reserves – the highest level in its history – representing 11.2% of the city funded expense budget. This is the first time the city has maintained more than 10% of city revenues as reserves.

The current levels of budget reserves are:

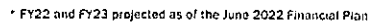
- **Rainy-Day Fund:** \$1.9 billion
- **General Reserve:** \$1.6 billion
- **Retiree Health Benefit Trust:** \$4.5 billion
- **Capital Stabilization Reserve:** \$250 million

The city has a variety of budget reserve sources:

- **Revenue Stabilization Fund (also known as the Rainy-Day Fund):** these resources are not designated for a specific purpose and are the only reserve within the city's budget that can be carried over from year to year.
- **General Reserves:** these funds are set aside annually and are not allocated for a specific use or city expense. Unused general reserves cannot be transferred from year to year.
- **Retiree Health Benefit Trust:** supports healthcare benefits obligations to retirees and their beneficiaries.

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■ Capital Stabilization ■ General Reserve Rainy Day Fund ■ Retiree Health Benefits Trust ■ Reserves as Percent of City Funds



THE RETIREE HEALTH BENEFIT TRUST FUND: A RESOURCE TO SUSTAIN BENEFITS WHILE NYC HEALTH INSURANCE IS RESTRUCTURED

PSC proposes that a small portion of the funds available to the Retiree Health Benefits Trust be used on a short-term basis to sustain benefits provided by the Health Insurance Stabilization Fund—instead of forcing retirees into a Medicare Advantage program to generate equivalent funding—while long-term solutions to accessible, affordable health coverage for City employees/retirees are negotiated. PSC's proposal will show that, due to the surplus in the Retiree Health Benefits Trust, the City can pay a large portion of the cost of retiree health benefits annually into the RHBT and use the difference to sustain the Stabilization Fund through FY2025, and that use of the funds in this manner is fiscally responsible and consistent with City practice.

One function of the RHBT for the past 15+ years has been to carry over revenue accruals for use in future years, not simply to pay for Other Post-Employment Benefits (OPEB). As of 2021, that function had become superfluous because of the creation of the Revenue Stabilization Fund. PSC proposes that the City withhold \$0.5 billion a year over 3 years from reimbursement to the RHBT for the actual cost of retiree health benefits in order to sustain the Stabilization Fund benefits for the next three years. Doing so while still providing sufficient funding for post-employment health benefits would give the City and its unions time to develop long-term solutions to escalating healthcare costs.

Health benefits for current and future NYC retirees are roughly a \$90 billion obligation. Because the number of employees and retirees has increased and health benefits cost more, the obligation has doubled since the City started reporting OPEB costs in 2006. While funding future pensions is a state constitutional requirement, funding future health benefits is not. The City has an obligation to pay for retiree health benefits, but the City practice is to "pay-as-you-go" each fiscal year.

"It's a matter of using resources from those times when revenues are relatively strong to mitigate the impact of economic downturns," said a spokesperson for Mayor Bloomberg on establishing the Retiree Health Benefit Trust Fund in 2006. And that is precisely how his and succeeding mayoral administrations have used the RHBT ever since, as a de facto rainy-day fund which even the City's fiscal monitors acknowledge as reserves when they assess the city's fiscal cushion, according to the IBO.

The one restriction was that money deposited in the Fund could be withdrawn only to pay for retiree health benefits. Those benefits (for municipal retirees and their dependents) are:

- Pre-Medicare health insurance
- Medicare supplemental health insurance (for those age 65+)
- Medicare Part B & IRMAA reimbursements
- Retiree union welfare fund contributions

Established with two \$1 billion infusions in 2006 and 2007, conservatively invested, and replenished each year by at least the amount spent to pay for retiree benefits, the RHBT reached \$3.2 billion by FY2010 when the Great Recession led to reduced tax revenues. Bloomberg then used Fund assets to pay for retiree benefits, but did not fully reimburse the Fund, using that money to help balance the City budget instead. The final Bloomberg financial plan anticipated draining the RHBT assets to \$0 by FY2014. Instead, the incoming de Blasio administration added money to the RHBT. By 2019 it had grown to \$4.7 billion. That ended in FY2020 when the last de Blasio budget did not reimburse the Trust fully and used about \$1 billion for other government spending. By the end of 2020, net assets in the RHBT were reduced to \$3.8 billion. Any mayor's decision not to fund the Trust in a given fiscal year is constrained by the fact that the maximum withdrawal is the amount spent for retiree health benefits.

The most recent accounting of the RHBT issued by the City Comptroller shows a net balance of \$4.58 billion as of the start of FY2023. During FY2021, the cost of retiree benefits had risen to \$3.4 billion. The City is not required to provide funding beyond the pay-as-you-go amounts for benefits to current retirees and their dependents, but often does, sometimes to prepay the following year's expected expenses. During FY2022, the City contributed approximately \$4.6 billion to the Trust.

As of 2021, the City can legally carry over revenue accruals into another fiscal year in the Revenue Stabilization Fund, so there is no longer a need for the RHBT to serve that purpose.

Rather than transferring the full amounts required to pay for the retiree benefits liability each year, the City could re-route \$400 or \$500 million annually to sustain benefits supported by the Health Insurance Stabilization Fund until the City and the MLC resolve the problem of providing and paying for comprehensive health insurance benefits for active and retired city employees with premium-free options.

How could the RHBT have the wherewithal to subsidize the Stabilization Fund and cover the costs of retiree health benefits? The adjacent box illustrates how that \$500M per year could be diverted from the City's General Fund to the Stabilization Fund rather than the RHBT through at least FY2024 and possibly through FY2025.

The City has an obligation to pay for retiree health benefits and does so on a pay-as-you-go basis each year. In general, the RHBT pays the monthly bills for retiree health insurance (Medicare supplemental and non-Medicare) and for retiree welfare fund contributions and provides funds to reimburse 65+ retirees for Medicare Part B in April and for IRMAA in October. The City reimburses the RHBT for those expenses at the end of the fiscal year. This proposal assumes the City will reimburse the RHBT for those expenses minus \$500M per year for 2-3 FYs.

While the MLC and the City continue to work to lower hospitalization costs and consider the responses to the RFP for health insurance for active employees, and while the PSC has proposed other approaches to cost reductions, such as self-insurance by the City or cooperative purchasing of prescription drugs, none of these approaches offers the immediate relief and fiscal appropriateness of using excess funds in the RHBT to protect the Stabilization Fund while a long-term solution is found.

HOW THE RHBT COULD WORK

At the start of FY2022 (4 months ago), there was a net balance in the RHBT of \$4.58B.

In FY2021, retiree health benefits cost \$3.4B. We assume a \$3.6B cost for FY2022 (+5% since FY2021), and maximum increases of 5.5% per year in FY2024, FY2025 and FY2026. If the City allocated \$500M per year less to the RHBT than the cost of retiree health benefits and contributed that \$500M to the Stabilization Fund for 3 fiscal years (the cost of retiree health benefits less \$500M/year), the City and the MLC would have at least 3 years to restructure health benefits, including restructuring the Stabilization Fund. (Health care cost trend is based on the numbers used by the actuary to estimate the liability for OPBB. If health care costs increase more slowly than estimated or investment income grows, more funds will be available.)

Start of FY2023: \$4.58B - \$3.6B needed to pay for retiree health benefits

- City repays \$3.1B at end of FY2023: \$0.5B to \$0.6B Fund

Start of FY2024: \$4.08B - \$3.8B for retiree health benefits

- City repays \$2.3B at end of FY2024: \$0.8B to \$0.9B Fund

Start of FY2025: \$3.58B - \$3.0B for retiree health benefits. City makes periodic payments

- City repays \$3.5B at end of FY2025: \$0.5B to \$0.6B Fund

My name is Roberta Pikser. I am a retired teacher of English as a Second Language to Adults and a member of the United Federation of Teachers. I was Adult Education chapter secretary for many years.

Teaching adults is very different from teaching children: Adults have different needs. When I was teaching, the idea was to go into the communities to be of service to the students. To accommodate our students' schedules we worked from 8:30 in the morning until 9:00 at night,. We were only paid for classroom time – not for preparation or for travel. Often we worked a six day week. But we chose to do this work in order to help people who were becoming part of our communities and the City of New York. We knew that, however hard the job was, whatever sacrifices we had to make, we would retire with the security of health care for the bodies we had used up in the service of our City. This is what we earned.

Now, after we have used our selves up, the City wants to renege on its part of the bargain for no clear reason. The issue of health savings is not be the issue unless the money is needed to pay the \$27.9 million salary for the CEO of Aetna. There are many other ways for the City to save money rather than to deny needed medical care to retirees. The City could self-insure; the City could use its bargaining power to force hospitals to stop overcharging; the City could combine the different unions' supplemental health funds and avoid unnecessary duplication; the City could institute oversight of the insurance companies from whom it buys insurance. This battle is as unnecessary as it is vicious.

Amending Section 12-126 of the Legislative Code will open the way for tiered health care, for the destruction of health care for all future City workers. This is not acceptable for a city that purports to be the most advanced city in the country.

Do not sell out the retirees. We are your constituents Do not sell out current workers. They are your constituents. And do not sell out our children, the future workers who will keep this city great..

Thank you.

Jan 6, 2023

Hon Adrienne Adams
Speaker, NYC Council

Hon Carmen De La Rosa
Chair, Civil Service & Labor Committee

Re: Administrative Code 12-126

Dear Speaker Adams and Chair De La Rosa:

In recognition of the pressure that you and other Council members are under to shift NYC retirees to managed care, thereby releasing the City from its legal obligation to provide affordable health coverage for its retirees, I offer another perspective to keep the Code as is.

This past Election Day, New York City voters overwhelming supported the three ballot measures that together work to create “a just and equitable city for all”, in acknowledgement of historical injustices.

In support of greater equity, I submit to you that NYC government workers and retirees have been and are always at the frontline of citywide emergencies and disasters, by assignment and by choice.

Two of every three NYC government workers are persons of color; yet despite this diversity, remain underrepresented in leadership positions with its higher income.

Almost fifty percent of this workforce are women, the foundation, who still do not have pay equity with their male counterparts, earning \$.73 for every \$1.00 earned by men.

Women are also the primary family caregivers which often results in more days out of work due to caregiving demands. The impact on their careers and earning power is significant by foregoing or even being considered for promotions, working in positions with less income. This has a direct effect on the amount of their pension and Social Security received as a retired person.

Advocates of the managed care plan say the monthly costs will be \$191, but this doubles to \$382 per month if the retiree has a spouse. At present, prescription coverage for two is \$250 per month, significantly increasing the touted \$191 ‘for coverage’ to \$632 per month or \$7,584 per year! Not mentioned are the Medicare deductibles and insurance co-pays, so actual healthcare costs are higher still.

Imposing these unanticipated costs will be quite a burden for retirees living on fixed incomes, many of whom have chronic health issues and may have elected pension options for their surviving spouse with the understanding that health coverage costs would remain stable or with minimal increases.

Therefore, I strongly encourage you and the entire City Council to keep Administrative Code 12-126 in its original form, recommend the Mayor meet with independent arbiters to discuss other avenues of cost-saving as highlighted by the entities opposing this proposed change, and put this discussion to rest.

It has been an honor to work in government, in service to the community, as I'm sure you would agree. It is a very special opportunity to be the face of government and work toward a more equitable and socially just city. Thank you for your commitment to making NYC a better place for all.

Sincerely,

Robin Fenley, PhD, LCSW
Mountainview Ave
Staten Island, NY 10314
recfenley@gmail.com

Retired 2019 as Assistant Commissioner with the NYC Department for the Aging
Previously employed with Health & Hospitals, Emergency Medical Services/FDNY
24 years, 10 months in City service

From: robin leitman <robin.leitman@gmail.com>
Sent: Saturday, January 7, 2023 10:24 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Administrative Code

Honorable City Council Members

I am a 72-year-old retired NYC high school mathematics teacher. I am writing to you in your capacity as a member of the New York City Council.

I am urging you to **vote against** the proposed changes to NYC Administrative Code Section 12-126, that will soon be brought before you for consideration.

The mayor and the Municipal Labor Committee will be petitioning the City Council to alter and diminish City retiree's health care which has been enshrined in the Administrative Code for decades. Many retirees negotiated lower salary increases in exchange for secure retiree benefits (specifically health care benefits).

The current retiree health care (Original Medicare supplemented by GHI Senior Care) is the result of many years of collective bargaining sacrifices and financial assistance to the City by our former unions.

The proposed changes have their origin in an initiative devised by the previous mayor and the MLC. They "borrowed" money from the stabilization fund to pay for raises for active employees and planned to pay back the money by forcing NYC retirees into a "free" Federal subsidized Medicare Advantage Plan. This plan was significantly inferior to our current plan including many prior authorizations that would delay or deny necessary treatments and place our health care decisions in the hands of administrators and not our doctors.

Our alternative was to pay \$191 a month to stay on our current original Medicare plan. This is unaffordable for many retirees. Retirees banded together under the banner of the NYC Organization of Public Service Retirees to sue the City. We won a determination that the NYC Administrative Code 12-126 did **not** allow the monthly cost of the Medicare supplement plan to be increased. After losing in court, the city is bringing this matter to the City Council to overturn the Court's decision.

I hope you agree with our position that our current health care is something we retirees have earned with our many years of service to the city. Please **vote against the proposed changes to NYC Administrative Code Section 12-126**

Thank you for your consideration of this matter which is of critical importance to NYC retirees. I would very much appreciate hearing your thoughts on this matter.

Sincerely,
Robin Leitman

NYC Council must not change 12-126. Leave municipal healthcare as is. NYC cannot solve its financial woes on the backs of retirees and municipal workers.

Thank you

Ms. Mallah 2nd grade Teacher PS2

From: robint156@aol.com
Sent: Thursday, January 5, 2023 8:19 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Testimony for hearing re: Administrative Code 12-126

In regard to Administrative Code 12-126, I implore you to keep this code so that Retirees health benefits can remain intact as they are today. The Medicare Advantage Medicare plans do not provide retirees with the same coverage. While it was indicated by the UFT, that 98% of doctors would accept the plan, the doctors that I have used for years did not want to participate in the advantage plan that was proposed last year and I have no faith that they would accept this new medicare advantage plan by another administrator. Furthermore, the difficulty getting approval for necessary tests and procedures will be cumbersome and untimely which will risk our health and good medical outcomes.

Amending the statute, will force retirees into a plan that they don't want and you will be doing the dirty work for the Mayor. We served decades for NYC and deserve the health care that we were promised, earned, and paid for.

Please protect us from financial and medical peril.

Robin Timofey
DOE Retiree with 32 years of service

From: Robin Titone <true27@optonline.net>
Sent: Friday, January 6, 2023 9:50 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Keeping our Health Benefits

Dear Ms. De La Rosa,

I am a NYC retired teacher and want to keep our Senior Care health coverage. I do not want to see the health care code changed.

I am a relatively healthy person and up to now I may not have realized just how important our current coverage is. In the last few weeks I have had some health issues that required me to take numerous tests. Fortunately, our medicare and GHI supplemental enabled me to have these varied tests without any question. I did not need to take precious time to get authorizations or fight for approvals. In one instance an MRI had to be retaken due to an image that was blurred. I wonder if it would have been as easy to have a follow up if I would have had to apply for another approval?

I also was sent to Doctors who were experts in their field. I did not have to hope that they would accept my plan because all accepted our Medicare.

We were promised these City health benefits when we took these jobs. I worked as a teacher for twenty five years and I deserve the benefits I was promised. The city should not try to pay their debts off the backs of the retirees who worked diligently and for less pay than other professionals in order to have good coverage in their senior years. Medicare Advantage plus will never equal what we have now. Medicare/GHI is the best and no one is complaining so why should we be manipulated and coerced into taking anything less than what we already have.

Please do not change any codes or try to take from loyal city workers what they worked years to secure. Our Union is not working in our best interest in this regard and we have to stand up and speak up for our welfare.

I hope the city council will not play politics with the lives of the retired New York employees who invested so much into this city and deserve to keep the health benefits we have worked so hard to attain.

Sincerely,
Robin Titone

From: Shelley Kossover

shelley.kossover@gmail.com

Date: Jan 8, 2023 at 9:48:51 AM

To: Shelley jokerqueen8@aol.com

My name is Rochelle Kossover and I retired from the Dept. Of Education in 2008. I am writing to implore you not to make any changes to AC12-126 as it protects our health benefits - Traditional Medicare with supplemental insurance. Our health care coverage was contractual and was earned at retirement. Changing 12-126 will allow for diminishment of these benefits with privatizing our health care coverage.

Private management of our health coverage profits from withholding tests and services. Prior authorizations and denials cause delays in much needed medical care at critical times and can result in life threatening situations. Narrow networks of doctors and hospitals that accept Medicare Advantage Plans impact on our health and cause abnormally long waits for needed appointments. For example, Sloan Kettering Hospital does not accept Medicare Advantage Plans. Many Medicare Advantage insurers are currently under investigation for fraud and up-coding. Many studies and articles have been produced showing how these privatized plans are inferior to traditional Medicare with supplemental insurance.

**We were dedicated city workers who earned our benefits.
In our Senior years when we need it the most, don't
diminish our care.**

Sent from my iPad

From: Rochelle Mason <roemas02@gmail.com>
Sent: Wednesday, January 11, 2023 4:24 PM
To: NYC Council Hearings
Subject: [EXTERNAL] SUBJECT: PROTECTING Admin Code 12-126 PROTECTS RETIREES

To Whom It May Concern,

The City Council is being threatened that if they don't amend the statute to force retirees into the Medicare Advantage, the Mayor will do that on his own. Amending the statute does the same thing! Why should the City Council amend the law if the Mayor will do this anyway? Why do his dirty work? Let the Mayor take the political hit for hurting retirees and remove City Council Members from the ire of retirees and constituents in their next election. If the Mayor does this act, the Retirees will be able to challenge and win this in court where we have been successful because the City has violated the law and this is his way around it. If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing us from winning this in Court. Don't prevent us from winning again in court. We served our time as employees and have a right to enjoy our time as retirees with proper care that we earned and paid for.

Don't buy the Big Lie. Don't amend the Code, protect it like every City Council before you has against a greedy Mayor. Protect 12-126. Scheinman has no jurisdiction over the City Council nor the Retirees.

We request that you do NOT support the bill being introduced on January 9th by Civil Service and Labor Chair DeLaRosa.

Thank you for protecting us from financial peril and losing our healthcare.

Name : Rochelle Mason
Tier 4 Employee
32 years of service

I am deeply concerned about the Mayor's and our unions latest attempt to extract health care savings from City workers by amending the City's Administrative Code section 12-126, which establishes the monthly HIP-HMO rate as the City's minimum contribution to the cost of health care for City employees, retirees and their dependents. I urge you to vote No on the proposed change.

The amendment would not only clear a path for the City to begin charging substantial premiums to retirees who opt to remain in their traditional Medicare program, SeniorCare; it would also open the door for the City to increase health insurance costs or reduce benefits for in-service employees.

Instead, the City should be going after the hospitals for exorbitant charges, addressing the skyrocketing costs of prescription drugs, and auditing current insurance providers, not balancing the budget on the backs of workers and their dependents. There are other ways to contain costs, and the City should seriously consider them. Some cities in the United States self-insure. Some use the huge purchasing power of their municipal workforce to engage in collective drug purchasing. Some deal much more aggressively with hospitals that charge exorbitant rates. New York City is doing none of the above.

For nearly 80 years, municipal workers have been able to rely on the City to meet its obligation to cover their health insurance costs in retirement, and Senior Care has done it well, without premiums, co-pays, or prior authorizations. The proposed Administrative Code change breaks this compact. Further, it opens the door to weakening the quality and increasing the cost of active employee health insurance.

On a personal note I am a senior with multiple health issues and am planning a surgery in April. I am afraid my hospital and surgeon will not accept my medical coverage. The surgery is in Hospital of Special Surgery and I was already informed that I will be required to pay the surgeon up front and have to apply to be reimbursed. In addition I was told by the surgeon this may be the first of 3 surgeries. The fear of having to have approval of the Medicare Advantage plan is very stressful.

In addition, my husband is a heart patient that is sent to Saint Francis Hospital for Angiograms when he his cardiologist thinks it is necessary. He doesn't want to wait for prior approval from a Medicare Advantage plan to see if he will be permitted to have this procedure. He is also a cancer survivor and needs the best care and hospitals possible.

As a senior we need quality medical treatment in life and death situations and do not want to worry that we will not be able to be treated immediately.

Please do the right thing and reject the proposed change to Administrative Code 12-126.

Rochelle Berkeley

UFT 2006 retiree

36 year NYC retiree

72 year NYC resident

From: Rolanda Pyle <rolandapyle@aol.com>
Sent: Sunday, January 8, 2023 6:36 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Admin Code 12-126

NYC Council
Re: Admin Code 12-126

Dear City Council Members:

In recognition of the pressure that you and other Council members are under to shift NYC retirees to managed care, releasing the City from its legal obligation to provide affordable health coverage for its retirees, I present a perspective to keep the Code as is.

I am a retiree who worked for the City at several agencies. All through my career, I would always remember my father (a postal worker) advising us to work for the government because besides having a good job, you will get a pension and good health care even once retired. This was very important to me as an African American and as a woman. So I joined city government and I was laid off twice while working at two different city agencies due to budget cuts. Then after working for non profits, an opportunity arose and I came back to the city.

During my last city tenure, I was diagnosed with Sarcoidosis. I was working for the city during 9/11 and also was on the streets days after, in the area for my agency to reach out to and assist seniors. This illness has required many doctors visits, tests, procedures medications and a few hospitalizations. I usually have at least one doctor appointment per week and have to get medications on an ongoing basis. I am on several medications for this disease in addition to other health issues. I see a Sarcoid doctor, an ENT, an allergist, a pulmonologist and other lung disease specialist just for this disease, in addition to the normal PCP, heart, liver, gastro, podiatrist, gynecologist, rheumatologist and dentist. Changing our health plan will become even more costly for me and I may have to change to new specialists who would take the Medicare Advantage plan. Not all doctors or medical specialists take Medicare Advantage plans. My city health care has helped me to endure, and get through all of this. A change in it could cause physical deterioration, anxiety and emotional stress.

Please consider the retirees commitment, dedication, health issues, trust and dependency on the current health plan when voting.

I strongly encourage the entire City Council to keep Administrative Code 12-126 in its original form.

Rolanda Pyle

Brooklyn, NY 11210
rolandapyle@aol.com

Retired from NY City Department for the Aging.
Previously worked for Department of Health (and Mental Hygiene) and Health and Hospitals (Cumberland Hospital)

January 5th, 2023

As A retired nypd officer as of 1996 I live on a small pension and small social security benefit (age 62). I realize the city is claiming this will be a financial hardship for them (some things never change!!) as it will be for me and my wife. I believe that the city has MANY other means to save money and let us keep what is rightfully our benefit. It's not fair that the city can just move the goal posts 26 years after a person retires.

While I can probably make some concessions to try and adjust my standard of living. as meager as it is, I just dont have as many avenues to do so as the city does.

Please do not let us lose this benefit that 26 years ago I believed I would have till I die!

Thank you,
PO Ronald Scalzo
shield 7793

I, Rose Kelly McTague, live in the district of Council Member Eric Dinowitz. When I retired in 2008 after almost 40 years of service with the Department of Education, I signed papers indicating I chose traditional Medicare and GHI secondary coverage for my husband and me. I am shocked and heartbroken to think this may change. My husband has had a heart attack, a stent placement, a heart valve replacement and prostate cancer. I have had several mini-strokes, cancer and rheumatoid arthritis. Thankfully, with our current coverage, most of our costs have been paid without requiring lengthy approval processes. In 1994 I had an object thrown at me by a student I did not know and sustained a hospital stay for a serious head injury and long-term (to this day) brain issues. I could have filed for social security disability and left my employment. Instead, I stayed even though I suffered tremendous fatigue and neurological deficits because I loved teaching my students and humbly received many teaching awards. I thought I would always be protected when I retired for giving service despite recurrent health issues. Please allow me, my husband and other New York City public service retirees to keep our current insurance which all of our doctors currently accept. This may not be the case, if the hospitals and physicians we use do not accept Medicare Advantage plans. Thank you for reading my testimony.

JANUARY 8, 2023

TESTIMONY SUBMITTED

BY

Rose Murphy

TO

THE NEW YORK CITY COUNCIL

COMMITTEE ON CIVIL SERVICE AND LABOR

HON. CARMEN DE LA ROSA, CHAIRPERSON

REGARDING

INT. NO. 874

A LOCAL LAW TO AMEND SECTION 12-126 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK IN RELATION TO HEALTH INSURANCE COVERAGE FOR

CITY EMPLOYEES, CITY RETIREES, AND THEIR DEPENDENTS

I retired from the Department of Education in November of 2015.

To protect me, my husband, and my fellow retirees and their families, I implore you to vote against amending the NYC Administrative Code Section 12-126 Council Members De La Rosa and Ayala have proposed on behalf of the Mayor and to put an end to forcing retirees into a Medicare Advantage plan. I feel betrayed, disrespected, and even abused by the call to pull my seriously needed current health plan out from under me.

As repeated reporting has been in the news over the past few years, it is absolutely clear that reducing health insurance costs by moving retirees into Medicare Advantage is a terrible option that would harm retirees and place their health, welfare and lives at risk. Government audit reports, professional organizations and investigative journalists have documented that: seniors are receiving less and poorer health care than under traditional Medicare; doctors are being forced to delay needed treatments and place their patients in danger until they can secure prior authorizations or negotiate the reversal of decisions to deny treatments they consider necessary and; the Federal government is spending more per capita on Medicare Advantage than on traditional Medicare. Furthermore, eight of the ten largest insurance companies offering Medicare Advantage plans have been or are now defendants in False Claims Act lawsuits brought by whistleblowers and the Department of Justice over billions in payments fraudulently requested and received. Clearly, Medicare Advantage, as it is now, is a health insurance model that places profits before care and fosters corruption.

There is significant misinformation being proffered by my own union, the Municipal Labor Committee, and City Hall. The report issued by Arbitrator Scheinman on December 15, 2022

does not obligate you to vote for changing 12-126. Scheinman's report is not a decision, ruling or award and no retirees or retiree advocates were involved in the 'arbitration process' that led to its creation. The Scheinman report is a one-sided non-binding propaganda document brought to you by the Administration and the MLC and is being used to mislead you into believing changing 12-126 is the only option for addressing rising health insurance costs. That is not true!

The NYC Organization of Public Service Retirees has identified at least \$300 million in savings that can be achieved without changing 12-126. OMB has been informed about some of these savings options and has not informed the Council about them. Furthermore, OMB has refused to hear about or explore other real opportunities for savings. How can you and the Council make a decision on the best way forward if you are not being fully and honestly informed of all the options available? Wouldn't it be prudent to delay changing 12-126 until a truly impartial Blue-Ribbon Commission of experts was convened to define the true nature of the problem and design better and fairer solutions?

Like every retiree, I am sympathetic to the goal of better controlling the cost of healthcare benefits. But I do not believe the pursuit of that goal should fall so directly and heavily upon retirees. That our well-earned and justly awarded benefits are being regarded as a burden the City must shed is unfair and wrong. We did what we were asked to earn what was offered. We deserve to be respected, to have the commitments made to us honored, to keep the traditional Medicare and free supplemental health insurance we now have, to continue having our critical healthcare decisions made by doctors instead of administrators, and to be left alone to enjoy what time we have left.

PLEASE PROTECT THE HEALTH INSURANCE BENEFITS OF RETIREES.

PLEASE DEMAND OTHER OPTIONS BE EXPLORED.

PLEASE VOTE AGAINST CHANGING NYC ADMINISTRATIVE CODE SECTION 12-126!

Again, I thank you for affording me the opportunity to testify and I very much hope I have convinced you to oppose changing 12-126.

From: nj_rose@yahoo.com
Sent: Monday, January 9, 2023 12:50 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Please Do Not Amend 12-126

Thank you for this opportunity to testify.

My name is Rose Sulinski. I retired from the DOE in 2013 after teaching for most of my career in East Harlem; a total of 33 years. Thus I am a UFT retiree.

I want to start by emphasizing that I am proud to be part of a union.

I am saying this because lately if you question or disagree with those who want 12-126 changed you are accused of being anti union. The same if you speak out against being placed in a privatized Medicare Advantage Plan.

I can not tell you how angry it has made me to be accused of being anti union.

I AM THE UNION. And I always expected my union leaders to look out for me and protect me and do what was in my best interest. But now that I am retired I do not

have that representation. YOU THE COUNCIL MEMBERS ARE WHO I AM COUNTING ON.

I implore you to

1. Read the judge's ruling. He never never ruled or mandated the city offer one plan.

He actually said because of 12-126 we could not be made to pay a premium for GHI Senior Care. That retirees should not be paying a premium

for our supplemental plan Senior Care has been determined by two courts ...NYS

Supreme Court and Appellate court based on 12-126.

And some additional information for you...what the City pays for our Senior Care is only 6/10 of one percent of the city operational budget. And because we are now paying co-pays we have been assuming more of the cost.

2. Read Mr. Scheinman's report.

What Mr. Scheinman wrote was HIS OPINION. He himself states this on page 1 and on other pages in his report.

If he had this power to do away with all health

insurances wouldn't he have already done so? After all he is being paid by the City and MLC to do so. He may be an arbitrator. However the City and MLC are not in disagreement so why the need for his services. Please investigate the objectivity, accuracy and if Mr. Scheinman's report may have been incorrectly misrepresented to the Council and we retirees as binding. The City Council will not be violating any laws by leaving 12-126 as is. Mr. Mulgrew himself has acknowledged that the report is an opinion.

3. Ask yourself why is the Mayor and MLC and certain union heads want the code changed? NOT to provide us choice. We have choice as it reads now. They want the change so we retirees who have premium free GHI Senior Care WILL HAVE TO PAY A PREMIUM TO KEEP IT or ACCEPT BEING PUT IN A PROFIT DRIVEN MEDICARE

ADVANTAGE PLAN. And that is what they want...retirees in a MAP plan.

For those who can't afford the premium THERE IS NO CHOICE.

And since premiums will certainly increase over time more and more will HAVE NO CHOICE.

4. Consider that changing the code opens the door for other negative consequences like making different “classes” of people that will not have equal health benefits. Opens the door to higher co-pays. Opens the door to doing away with Part B Reimbursement.
Opens the door to not covering spouses.
5. Remember that since 1967 it is ONLY this code that has protected our healthcare And that previous City Councils never agreed to amend the code.
6. Investigate the 2014 and 2018 city deal with the unions that led the MLC to agree to come up with savings for the city. Only this one choice on how to do that out of I think eight placing retirees in a MAP has been considered. BTW this may have been done behind closed doors and it seems those who voted on the contracts did not know about this deal until after voting in the affirmative thinking there would be no give backs.
7. Be aware that there are viable solutions to save the city money that have been recommended by various individuals and groups such as welfare fund consolidation and placing all union members into the same drug plan for maximum buying power. Some of these groups include the Professional Staff Congress and the NYC Organization of Public Service Retirees.
Retirees would then not have to be placed unwillingly into a Medicare Advantage Plan.

So...12-126 has been in place since 1967 providing equal healthcare benefits quite effectively.

Again, I ask you, please do not change this code.

Thank you,
Rose Sulinski

Sent from my iPad

From: tuxedo2@optonline.net
Sent: Sunday, January 8, 2023 5:34 PM
To: NYC Council Hearings
Subject: [EXTERNAL] NYC Retiree Health Benefits

To Whom It May Concern:

Any changes in cost for medical benefits to retirees would be a horrible mistake. Every retiree is living on a fixed income. Inflation is at an all time high. Any increase in Social Security benefits will be negated by an increase in medical payments. Many of us worked tirelessly, in many cases under horrendous conditions, for relatively low wages.

We retired with a good faith promise of excellent health care during our retirement years. Is it even ethical to diminish these benefits at this stage of our lives? It's a very sad day for everyone involved that the most vulnerable people, the retirees, are being targeted. This diminishment of benefits is insulting and wrong on every level. When is a promise not a promise? Hopefully, these hearings will bring some clarity on why these changes should not happen.

Thank you for your understanding of our concerns. If you have any questions or require any additional information, please do not hesitate to contact me any time.

Respectfully,

Rose Thomashow

Dept. of Education (Retired)

redroses519@aol.com

My name is Rosemary McKnight, a New York City retiree.

Changing administrative code 12-126 could have a devastating impact upon my healthcare.

I am respectfully requesting that the code not be changed. I, like my husband, have worked for NYC for 25+ plus years. He worked in local 891 as a stationary engineer. He worked his way up from a cleaner, handyman, custodian to a stationary engineer. Like him, I worked my way up the professional ladder. I started out as a toilet trainer, paraprofessional, teacher, and retired as assistant principal.

We worked for the city, knowing that we were not going to get rich. However, we felt we were rich, knowing that we had secure health benefits. I have been covered by GHI/Emblem/Senior Care since 1975. Upon turning 65, I was enrolled in traditional Medicare along with senior care as my secondary insurance. Now out of nowhere, they want to pull the rug out from under NYC Retirees. We did our time, knowing we would be secure in our golden years. Now we reach our golden years and the city decides they want to change everything. Had I seen this coming, maybe I would have continued working to save more for my golden years to pay for my healthcare or I may have decided to work for a different school district out of NYC.

So much back and forth has been going on over the last year and a half. I find it disheartening and I feel defeated. However, what I do know is my doctors are not excepting any of the advantage plans being offered whether the patients are purchasing the policy privately or the city is giving it to retirees. Our hands are tied, we are all living on a fixed income. I attended many retirement workshops and consultations, health care was never factored in. Yes, I have a small "rainy day" fund which unfortunately is being used for food and Con Edison. I do not understand how anyone could think this acceptable. Thank you for your time.

My name is Rosetta Jenkins. I worked in Morrisania Hospital in the South Bronx for 6 months before it closed the end of July 1976

I was a new registered nurse who at 23 had a Master's Degree in Nursing from NYU and excited about finding a dream job in psychiatry at Morrisania Hospital in January 1976. The hospital closed in 6 months later. Luckily, a psychiatrist referred me to Bronx Lebanon Hospital where I stayed for a year before moving back to the Morrisania community in then named Neighborhood Family Care Center. The world was my oyster as I knew my degrees, even with a rather limited number, I would be baluable to any facility. However, I remained there for 33 years until I was forced to prematurely retire on disability in 2010. It was at that point that the human resources department located in Lincoln Hospital, gave me tremendous support because leaving the underserved

community I CHOSE to serve was extremely painful. During this period, I was given information on the NYC retirement process and also the right of the retiree, by law, would be granted continuation of their health benefits. I was very relieved as I had a dependent child and spouse. I got no help from The New York State Nurses Association who only assisted their current workforce. And yes, I felt neglected by them. Nevertheless, the law is the law. And HR made sure it was abided by. After I retired, every illness I could get, I got. My adult acquired asthma worsened. I became so depressed I had to see a psychiatrist. My GHI coverage was mediocre but I was thankful to have it. However, the medication I had to take made me gain a tremendous amount of weight. In my attempts to get healthy, I had to pay for a nutritionist, was denied psychotherapy and physical therapy because HHI was not accepted.

My psychiatrist dropped GHI because of sudden decrease in reimbursement rate. In order to continue to be treated by this doctor who saved my life, I worked out a deal with him and paid out of pocket. I didn't have much of a choice.

In a few years, I received Medicare B and my healthcare changed over night. I could now receive healthcare that I was denied. I was on the road to a healthy me.

Then in 2021, I had a doctor's visit and was interrogated by a receptionist if I had a medicare advantage plan. I told her nothing had changed to my knowledge. And that my sister had ab Emblem Health Medicare Plan and was having many, many peoblems and could not receive services she greatly needed. Also two doctors dropped her. She was not able to pay out of pocket charges.

Then one day, I found out about NYC's plan to rollover retirees into Emblem Health Medicare Advantage Plan. If I did not see the article about Aetna suing the city in my news feed on Google Chrome, I would NEVER had found out as I got absolutely NO correspondence from Emblem Health or anybody. So, I had to do my research and with every morsel of information I found out, I became weak with fear..I immediately telephoned New York State Nurses Association and never got a call back. I called another extension on the menu and that person was kind enough to return my call and gave me the phone number of the person at NYSNA in charge of this situation. I called too many times and no call back. It made me so angry. I contacted former co-workers who had retired at 65, years after I did. They were completely clueless. But I would not stop my research because I knew something was extremely wrong.

Then by chance, I came across the name of Marianne Lynda Caryer Pizzitola. I stalked until I found her on Facebook and of course, the great Organization of Public Service Retirees. Although very frightened. I knew somehow these leaders of The Organization were Godsend. I leaned on faith and trusted that God sent them to me. I will forever be grateful.

I was not alone in my ignorance of what was going on. I was more than upset. The few gray hairs I had turned white. I couldn't sleep if I dared think about the possibilities.

Why would the city and the unions betray us like this? A society is based on how it treats its young and old. Sociology 101. What kind of back room negotiations was going on? One thing that made my soul so outraged was that my health was on the hands of people who had no moral compass. Perhaps those who did not care about us who gave the

best years of our lives in service of the City of New York. We were all frontline workers, putting out lives at risk everyday, growing old before our time because of the substandard working conditions with lower pay. I know for sure I should have been making six figures when I was making much less. But serving the underserved was my mission. And that is why I stayed. I was on a righteous journey. And when you are in service of the poor and have a goal to provide them with the best of care that they deserve as human beings, then you stay by rising above the occasion. But I am not working any more. So, am I and my fellow retirees to be thrown away at the time in our lives we need what was promised to us? Most of us are babyboomers. We grew up during the entire Civil Rights Movement and the days of righteous revolution. We may be seniors now. But you must realize that we are not stupid and still will fight for our healthcare. Fighting against injustice is what

is still in our blood. And as the old gospel song says, we "gonna fight til we can't fight anymore and then we'll go on and fight anyhow". We are soldiers in this army and we WILL fight.

In ending, I want every City Council Person to realize that if you allow the administrative code 12-126 to be changed, you will be committing a crime against people who should remind you of your mothers and fathers, grandparents and other elders. I am sure you would not want them to be treated this way, if you love them. You will subject the retirees to horrible medical treatment.

And don't be fooled by those who lie to you. The unions have become gutless and shameful. They are no longer the unions dedicated to their membership. My mother was a NYC Retiree and was totally dedicated to Lillian Roberts, the president of the great DC-37. That union serviced my mother until the day she died 7 years ago at the age of 88.

That was a great union. But no more. And the rest of them are much worse.

I know you council members do not want to be seen in this light. Listen to The Organization's pleas, or should I say demands. They are brilliant.

In ending this passionate testimony, I want my husband's dementia to be treated to the extent it can be without fear that necessary tests will be denied, delayed and not done. It happened before he got Medicare B. It took several months of his neurologist fighting for an imaging test. We lost time and his memory got shorter.

We live on a fixed income and can barely make it from month to month. I cannot imagine paying a penalty for opting out as Judge Frank prevented you from doing. We would not be able to pay our rent or care for an adult daughter would has emotional

problems that make her have to live with us. I want to have a good quality of life that I deserve. I paid my dues. So do the right thing and vote NO to changing the city code.

I must end as I have written a great deal and have even more to tell you how we WILL suffer if corruption wins. I hope each of you choose to be of courage. As Martin Luther King, Jr day approaches, I will leave you with a quote, my personal favorite that speaks to courage and doing what is right.

"The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy".

Thank you for your time.

---Rosetta Jenkins

Rosie Vartorella

Brooklyn, NY 11231

District 39

My name is Rosie Vartorella. I am a retired Vision Teacher for NYCDOE from Brooklyn, District 39. Thank you Shahana Hanif for your support!

For 25 years I worked with Blind and Visually Impaired students most of whom were the only visually impaired students in their schools. I traveled to 3-5 schools per day. I loved my job! I loved my students! I loved my life! Along with my husband Rick, also a retired NYCDOE Teacher, I juggled work, family, life, just like everyone here. I saw Medicare come out of my paycheck without much thought until last year when I moved onto Medicare. It has been a seamless transition. I do not worry about my future healthcare on Medicare. I do not want to change to Medicare Advantage. The UFT does not speak for me on this issue, though I am a dues paying member. When you are young, busy, juggling, making your life, you do not think about future health insurance. But you must! You should! You will care when you are a retiree. You will want to know you can go to an MD of your choice, not worry about pre-authorization delays for needed testing, be covered when you travel, not have to worry if an MD no longer accepts your coverage. Each of you will be just like me in the future, and trust me, you will want Original Medicare, not Medicare Advantage. When you are covered and medical emergencies arise, whether young or old, you do not want to deal with uncertainty. My family has dealt with many medical emergencies and unforeseen illnesses, but we did not worry about healthcare when they arose. I am living and enjoying life today. I want to know that what I paid into all of those years of paystub deductions, all of those happy yet incredibly hectic and juggling years, what I bought into, is what I earned and what I have. The most important skill I taught my students was self-advocacy. I am speaking out for myself today with my students, my family, and all of you in my heart and on my mind. DO NOT CHANGE Administrative Code 12-126!

Thank you!

I was shocked and horrified that this committee plans to introduce a bill to amend Code 12-126 for the city council to vote on. I cannot believe you would turn your back on all the retirees who labored for years for low wages because of the legal guarantee of free healthcare. Code 12-126 has been in effect for decades.

I want to remind you that the average pension for city workers is currently around \$20,000 a year. Amending the code does nothing but allow the city to start charging people \$192.00 a month to keep their health insurance. So many retirees will not be able to afford it. That leaves them with a Medicare Advantage Plan. These plans have been shown to deny and delay needed coverage to boost their profits. Remember they are privately owned profit based companies. Studies by The Centers for Medicaid and Medicare, The General Accounting Office and The New York Times all verified this. Do you want to be the person responsible for setting up a two tier health system where people with small pensions cannot get the care they deserve? Remember that minorities already have the highest death rates from cancer largely because of the lack of access to good healthcare. Forcing so many more people into a Medicare Advantage Plan will only make it worse.

Also remember, Michael Mulgrew the architect of this insidious plan, is paid over \$400,000 a year. Of course he can't understand being poor and not being able to pay bills. People should not suddenly be forced to choose between eating and paying for healthcare or wondering if the procedure their doctor ordered will be covered by a private, for profit health insurance company.

Also remember, the decision by the "arbitrator" is not binding. He was not acting as an arbitrator, but merely the president of a small group of highly paid people. His "decision" was only his opinion. It is not binding in any way. I am attaching a statement to further clarify this.

I hope this rumor is not true, and that you will not introduce a bill to amend 12-126! Stand with the retirees who worked so hard for this city.

Ruth Solomon

East 67th Street

New York, NY 10065

Dear NYC Council,

You have heard and read many testimonies and all the negative things that will happen if the city takes away our traditional Medicare. I will add something different.

Besides a reference to injustice, I will talk mainly about "fear."

On New Years Eve's Day, I read that 12-126 would soon be challenged.

That day was one of the worst New Years Eve I ever spent. I was up until 3:00 in the morning, not to watch the ball drop, but on line trying to determine insurance alternatives for my husband and me.

I have always had compassion for people who have lost so much through injustice. In 2008, my banker, a single mother at the failed Washington Mutual Bank had to tell her two young daughters that the future house of their dreams was gone because all her savings were tied up in WM stock options. I would read articles in the *New Yorker* about African-Americans who owned land in the south for generations, forced to give up their inheritance because of purposeful increased land taxes. I remember stories about people fired one week before their retirement date, thus losing their pensions.

I am aware of hundreds of stories about injustices - injustices based on mismanagement, loopholes, manipulation or just plain greed. I have often cried silently for these people because they were the victims of larger organizations that were almost impossible to fight. There are few David and Goliath stories for these victims.

I never thought it would be me

I would have loved to have read my thoughts in person but on 1/9 I had to help my husband (87 years old, retired supervisor 1991, CSA) to a doctor's appointment to deal with his vertigo. He has already fallen once from this. He has had many other falls from balance issues resulting in a hairline fracture to his hip and several to his ribs. I swear he has nine lives. Honestly, though, we are really, really scared.

Yesterday 9/10 I had to visit my knee orthopedist, Dr. Gladstone, to deal with my degrading knees. I hobble and the knee pain is increasing. Hopefully a cortisone shot will work but a knee replacement is in the near future. Unfortunately, my doctor will not take MAP as is true for many orthopedists at Mount Sinai Facility Practices. We have used 6 of these orthopedists for various structural body parts.

I could try to schedule it sooner but I am not ready and what happens if the surgery happens close to June when the city wants to implement its program. A friend suggested that I go to the Hospital of Special Surgery. I heard that at first HSS like Sloan Kettering did not align itself with the city's plan. Then they changed. Will they change again-maybe in the middle of my recuperation? These are the things that keep me up at night and panic me during the day.

My husband also lost one kidney to cancer. We might lose Dr. Hall who saved his life and has constantly monitored him. There are many things that are affecting all our body parts-too many to be listed in this letter. Some are just inconvenient, but many cause fear. Adding MAP would cause more fear: appealing denials, changing doctors, more paperwork etc.

My retired teacher friends are frightened too. Some are not thinking straight. One thought her catastrophic could be used in place of a secondary. But this is what happens at this age; most of us stop thinking straight. Had they imposed this illegal plan on us when we were younger, we would be better able to cope.

As time goes on, all of us will cope less. How many of us will be able to challenge the need of several appeals after denials, something MAP is famous for. According to the *New York Times*, "Only a tiny fraction of patients or providers try to appeal these decisions." That tiny fraction applies to patients of all ages. What happens when one is compromised with less cognition, energy or heart as in the aging population.

Fear then takes over.

As I said, I never thought this injustice could happen to me.

Sincerely,
Ruth Dec-Friedman (74 years, retired teacher 2008, 23.5 years, UFT) 917 584-6110
Richard Friedman (87 year, retired supervisor 1991, 25 years, CSA)

P.S. I want to give a shout out to Councilwoman Inna Vernikov and her District Director Mary Scarfogliero. I receive a letter from them on New Years Day. (We wrote all the Council Members.) She was on our side. When I read her email I realized that one person was on our side. One saw the injustice of the situation. I wrote back to her: When I got your response, my shoulders dropped and my stomach stopped clenching. Then I just relaxed into a peaceful New Years Day.

From: Ruth Kraus <rkrau123@gmail.com>
Sent: Friday, January 6, 2023 6:25 PM
To: NYC Council Hearings
Cc: Ruth
Subject: [EXTERNAL] Administrative Code 12-126:comments

January 6, 2023 Submitted written testimony for public hearing Monday, January 9, 2023 by the Committee on Civil Service and Labor

Dear honorable City Council members,

I wish to keep my original Medicare plan (Senior Health Care). I do not wish to transfer to a managed Medicare "Advantage" plan. I have been protected from being charged for my plan, or perhaps from even losing my plan, by Administrative Code 12-126. Any modification of this code will jeopardize my having the present plan without a steep charge monthly.

There is statutory protection provided by administrative Code 12-126. It states, in part, that the City must pay up to the HIP HMO rate (about \$775 at the time) for employees, retirees and their dependents. Certain large unions have now been pitting in-service workers against Medicare eligible retirees and blaming us for defending benefits we have had for 55 years, that pay less than 20% of our health bills. Why should we be blamed for protecting benefits we earned, paid for and WERE PROMISED? And why shouldn't we push back when the City and the MLC are willingly and wantonly selling off benefits for their raises and don't think twice about forcing us into AN INFERIOR PLAN? Some of these unions have been threatening that an arbitrator will take away choices of plans and only leave us the MAP, yet that was THEIR plan all along. We stand together, to protect what we all have earned and paid for! What we hope everyone realizes is that not only are we protecting ourselves, we are protecting in-service and pre-Medicare retirees, as well.

PLEASE DO NOT MODIFY ADMINISTRATIVE CODE 12-126.

Sincerely,

Ruth Kraus
Ret'd 1994 from the NYC Department of Health
Bureau For Families With Special Needs
rkrau123@gmail.com

From: RuthNeuman <bubbiruth@aol.com>
Sent: Friday, January 6, 2023 2:45 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Upcoming Hearing on Proposed City Retiree Healthcare Legislation.

Here is a first hand account of the horrors of Medicare Advantage Plans.

A family member had cancer 6 years ago. He was monitored by his primary care
In August (2021) his blood work indicated he was probably having a recurrence

He made an appointment with his physician, and was called a few days later informing him the doctor died suddenly.

He saw a temporary replacement who told him the permanent doctor would take over soon.

He went to Emblem Find Care and found a participating provider. He had an appointment for September (2021). He went for the appointment. Scans and tests were ordered but required pre authorization. After about 10 days, he was notified there was an error and the provider did not participate in his plan.

He found another primary care and saw him in October (2021). He ordered scans, tests etc. While waiting for approvals he saw a specialist November (2021).

FINALLY, January 2022, he had scans etc done. The cancer had spread since it took so long , from August to January to be diagnosed. He's being treated now, but even with scans etc. he needed approval for his chemo meds.

This is the nightmare of an Advantage Plan .

We deserve better.

I am an Ovarian cancer survivor. If I had to wait for approvals for scans etc. I probably would not be here.

Ruth Neuman

Allerton Ave. Bronx NY 10469

Retired from DOE/UFT

Protect 12-126 - Oppose Intro 874

Dear Committee on Civil Service and Labor Chairperson De La Rosa,

My name is Ryan McGuire and I am a constituent of City Council District 35. I am also a City worker with 5 years of service as an Inspector at the Department of Consumer and Worker Protection (DCWP) and a member of DC 37, Local 768.

I am writing in strong opposition to Intro 874. I urge the Council not to support the Mayor's and the Municipal Labor Committee's attempt to force City retirees into a Medicare Advantage plan and threaten the health benefits City workers have been legally entitled to for decades.

The campaign from the administration and the MLC has described this proposed change to administrative code 12-126 as a way to "preserve choice" for retirees in their health care, but this would be an empty choice for many city retirees. The premium that will be attached to the traditional Medigap coverage (Senior Care) if this amendment passes will put their current standard of care out of reach due to the average retirees' meager income. Moreover, private Medicare Advantage plans across the country have a long and documented history of making care more difficult to attain through pre-authorizations, a narrowed provider network, and cumbersome bureaucracy. Numerous private health insurers (including the one with which the City & MLC is currently in contract talks) have also been found by the US DOJ Office of the Inspector General to have fraudulently charged the federal government for services through their Medicare Advantage programs for the sole purpose of lining the pockets of private healthcare executives.

This plan is neither compassionate nor fiscally savvy, and I am very concerned that this change will functionally strip retirees of a legally guaranteed standard of benefits that they've had for decades, and which I hope to one day enjoy when I retire.

As an active worker, I also reject the pitting of my own interests against those of retirees with the City and MLC's claims that traditional Medicare coverage must be privatized to fund my raises. Not only will I one day be a retiree myself, but Retirees and unions like the Professional Staff Congress have already identified other ways to lower healthcare spending in the short and medium term that I would urge the Council to seriously engage. On a long-term basis, NYC also must move to a single-payer Medicare for All solution that will take away once and for all the profit motive in healthcare and the ability of employers to make workers choose between healthcare and other necessities of life.

City employment has never been attractive for the high pay but for the sense of purpose and the promise of stable employment, benefits and a pension. This bill, though, would fracture the city's obligation to pay for city worker insurance by allowing new "benchmarks" to be created for different "classes" of beneficiaries. Currently, its proponents only wish for a "retiree class" to be created, but what is keeping the City from creating a third or fourth class from being created to erode their benefits as well? NYC is already hemorrhaging workers, and gutting benefits will make it even more difficult to hire and retain talent that can effectively provide quality services to all New Yorkers in need.

Please do not be the one responsible for this door to be opened. Ensure equal protections for all city workers and do not pass Intro 874.

Thank you,

Ryan McGuire, DCWP (5 years service), DC 37/Local 768 member

My name is Sallie Robertson. I am a member of DC37 retirees' association and a retired school crossing guard. A proud former member of Local 372, DC37. I worked thirty five years making sure our children were safe going to school. When I started, I couldn't wear pants as I stood outside in my skirt in the winter. I was laid off by Mayor Beame and rehired by Mayor Koch. I stuck to it until I retired.

I am opposed to the proposed changes in the city's administrative code. I am sorry that I was not able to testify in person. An important medical appointment kept me from being at your meeting. I am battling cancer and have high blood pressure, arthritis and other health conditions.

Here is my story. After all those years, my pension and social security together are about \$1,700 per month. I have a hard time paying rent, buying food, paying for my drugs and health care costs. I am already paying more for my medical care. Sometimes copays make me have to choose how many specialists I can see in a month and if I can afford all my medicines. My friends who worked with me have the same problem. Those of us who earned less when we worked now have low pensions and low social security. We are the ones who will suffer if the changes are made. I ask you to stand with us.

Sallie Robertson
Sallier1219@gmail.com

Hollis, NY 11423

From: mrfocus@aol.com,

To: aeadams@council.nyc.gov, SpeakerAdams@council.nyc.gov, CDeLaRosa@council.nyc.gov, ebottcher@council.nyc.gov, JMenin@council.nyc.gov, edinowitz@council.nyc.gov, ofeliz@council.nyc.gov, fmoya@council.nyc.gov, tcaban@council.nyc.gov, SNurse@council.nyc.gov, RJoseph@council.nyc.gov, KHanks@council.nyc.gov,

Subject: Meicare and ghi Senior care.

Date: Sun, Jan 8, 2023 11:09 am

To whom it may concern,

I will try to keep this as short as possible.. My name is Sam Springer and I am a 79 years old DC 37 retiree with Medicare and Ghi senior care living in Florida.

Like many other retirees I have some medical problems, Gout, Crohns disease and STAGE 4 PROSTATE CANCER. Yes I am dying. Not one, yes not one of my doctors or any other doctors here will accept the Advantage plans you want to force me to take. That is the same as having no insurance at all.

There is a good chance that one of you reading this knows someone who has died of this terrible disease. Maybe you yourself has been lucky enough to survive a bout with cancer. I will not be that lucky.

All I am asking is to please let me keep my Medicare and Ghi medical coverage and not force me into a plan no one will accept.

Let me at least die with dignity

Years ago we, the union members bargained to have Medicare and Ghi senior care when we retired. It was to be paid for by the union reimbursing us. Now to save some money you feel it is ok to take this choice away from us..

Again I am asking to let me keep Medicare and Ghi senior care and not force me into an Advantage plan that no doctor will accept.

Sincerely
Sam Springr

From: Michael Solomon <solkap34@gmail.com>
Sent: Tuesday, January 10, 2023 1:08 PM
To: NYC Council Hearings
Subject: [EXTERNAL] To amend the Administrative code of the city of New York

Dear Council Members

I am a retiree from the NYCBOE. I worked in Harlem, both as a teacher and a guidance counselor. I was always very enthusiastic about doing the best possible job for my students and helping parents whenever I could.

I had always felt very secure in the fact that my retirement would include excellent health benefits. Since my retirement in 2004, I have been very fortunate as I have enjoyed good health and have only had to see my physician for annual check-ups and other doctors for minor problems.

Unfortunately, I have recently been diagnosed with lung cancer. Due to the excellent benefits of my Medicare and Senior Care plans, I have been able to choose the best doctors that are the most beneficial and caring to my recovery. Since I have been diagnosed with lung cancer, I have had to have many procedures that the doctors prescribed. The fact that these procedures were able to be administered quickly, without a waiting period, has helped me to be in a more positive physical condition. If I am placed in a Medicare Advantage Plan, I will have to wait for a team of doctors, social workers, etc., who would be on the staff of Aetna who would be deciding on the status implementation of any needed procedure. This group would certainly not be concerned with what would be the best medical procedures for my recovery, but would want to save money for Aetna.

I understand that as retirees of the NYCBOE, we were promised we would always receive the very best medical care. That no longer appears to be a reality. As the city is planning to impose a Medicare Advantage plan on retirees, I am requesting that I have the option to pay \$191.00 a month to keep my present insurance plan. I know I will need to have access to the best doctors and medical procedures to aid in my recovery. At this point in my treatment, I feel the option to keep my present Senior Care and Medicare plan is a matter of life and death.

I don't understand why allowing retirees buying into this plan should be an issue. I feel the least the city can do is to allow us to maintain the excellent health insurance plan that we were always promised we would have.

Yours truly
Sandra Kaplan

Sent from my iPad

From: Sara Catalinotto <saracat1@gmail.com>
Sent: Monday, January 9, 2023 12:26 PM
To: Testimony
Subject: [EXTERNAL] Don't amend 12-126 (question & comments)

First, as a UFT retiree I would like to know what plan the Mayor, Aetna and those union leaders who support the amendment have to protect the jobs of the diverse New Yorkers who answer members' inquiries about dental, vision, and prescription at each union, if the contracts all get outsourced to Aetna?

City unions often have more retirees than active members, e.g. TRS, the Teachers Retirement System serves a total of 200,000 people from UFT and PSC at any given time, whereas UFT has about 100K working members and PSC has about 30K. That difference of 70,000 can be multiplied by a number of other City agencies and departments. Will such a substantial drop in the total number of people who currently use their respective Welfare Fund offices as a resource lead to layoffs from this workforce? Note that Aetna moved its HQ to New York but has a lot of people working remotely from wherever.

Second, there is a myth that retired teachers are living in such luxury that it saps the city of resources, but that is not our reality. I began teaching in 1989 and retired in 2019 for family reasons, under the (now extinct) 55/25 plan. I had accumulated 25.5 years' pension credit through my service in the public schools and also intermittently as a PSC CUNY adjunct. I did not participate in much overtime "per session" work during my career.

Therefore, my pension income is 51,000 a year before deductions. My husband receives a minimal rate of Social Security payments, amounting

to about five thousand annually due to having had multiple years with zeros when he was unable to work also for family reasons.

We have been boycotting Aetna ever since they went to court to oppose taking responsibility for providing reparations to descendants of enslaved Africans who were a source of ill gotten profit in the company's history. If the City benefit plan subsidizes Aetna in bulk, forcing those of us who prefer a different plan to pay \$2400 a year out of pocket premiums, it will negatively impact our quality of life.

We also depend on City, UFT SHIP and UFT Welfare Fund reimbursements for Medicare premiums, Dental work that is only partially covered, and eyeglasses among other health services that become necessary for senior citizens more than most other age groups. Under the status quo we expect to get back another couple thousand dollars for 2022 expenses by this Spring. The proposed shift to private Medicare Advantage makes us nervous about potential decreases or disappearance of this money as well.

Third, I agree with recent editorials by my fellow UFT and PSC advocates stating that there are -- in theory and in practice -- better and more sustainable ways to mitigate the costs of healthcare that the City is responsible to bear. Michael Mulgrew does not represent me nor my vote, nor that of the people around me in the Naturally Occurring Retirement Community where I am fortunate to live (because otherwise the cost of living in Manhattan would make paying for housing impossible). We are organized and we are watching very closely what happens this month.

In conclusion, please leave Admin Code 12-126 intact and plan for other economical solutions while we the aggrieved city workers continue the court process toward a resolution that respects what is legally and morally sound.

Respectfully submitted,

Sara Catalinotto

United Federation of Teachers Retired Teachers' Chapter member;
Penn South community activist; Voter

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From: Sarah Gluck <sarahrgluck@gmail.com>
Sent: Tuesday, January 10, 2023 1:30 PM
To: Testimony
Subject: [EXTERNAL] Do Not Amend Administrative Code 12-126

Good Afternoon,

I am writing to provide testimony requesting you do not amend Administration Code 12-126. My name is Sarah Gluck and I am a public librarian. Changing this law would reduce the rights and benefits of all future retirees. Public workers on when they retire, by contract, have been granted a variety of premium-free secondary insurance plans by the City if they are on Medicare. This has been in place for more than 50 years - NYC Admin Code, section 12-126 - and has been affirmed by the courts.

This law is attempted to be changed to fix a budget mistake that was made by the City and the unions. That is not a reason to change a law that has existed for decades and protects a vulnerable population. This mistake was not the retirees mistake. It should not be on the retired Public Workers to give up their rights and benefits. Do not amend NYC Admin Code section 12-126.

Thank you,
Sarah

--

Sarah R. Gluck
Pronouns: She, Her, Hers

MSLIS, Archives concentration

My name is Sarah Shapiro, retired teacher, lifelong unionist, and member of CROC (Cross-union Retirees Organizing Committee).

I am here to urge the Council members to vote NO on amending Admin. Code 12-126.

if the law is changed it will not only affect ¼ million retirees, their families, dependents and all current municipal workers but future workers and retirees in perpetuity. Have you thought about how this will affect NY citizens now and in the future?

The New York Times article, *The Cash Monster Was Insatiable: How Insurance Firms Exploited Medicare Advantage for Billions*, reported that nearly all the top Medicare Advantage insurers have been accused of fraud or scamming the federal government by overbilling. One of these companies is CVS, which owns Aetna—the insurance company the MLC and City are currently negotiating with.

“Medicare Advantage,” is a misnomer. It is not Medicare. Legislation in the House called Save Medicare Act would make it illegal for these private health insurance companies to use the word Medicare. Medicare Advantage plans are in the business of making profits by delaying, denying and rejecting necessary medical tests, procedures and medical care.

Retiree healthcare is only 6/10 of 1% of the City’s entire budget.

According to the Mayor’s Office of Management and Budget November Financial Plan the city has \$8.3B in reserves – the highest level in its history.

The Rainy-Day Fund: has \$1.9 billion

The General Reserve fund has \$1.6 billion

The Retiree Health Benefit Trust Fund has \$4.5 billion.

The City is not broke.

Long- term solutions to cut healthcare costs are needed such as:

- 1) The city could create a self-insurance plan;**
- 2) Aggressive hospital cost reduction measures;**
- 3) All union welfare funds could be consolidated into one for group drug purchasing;**
- 4) Current insurance providers could be audited for potential fraud and duplication;**
- 5) Money wasted due to bad insurance management and inefficiencies could be reduced.**

We agree with the proposal put forth by the PSC.

Listen to retirees! Let the mayor do his own dirty work! Vote No on amending Admin. Code 12-126!

Sarah Shapiro
sarahmorah@gmail.com
crocnyc22@gmail.com

Testimony of UES Progressives
For the NYC Council Committee on Civil Service and Labor
January 9, 2023

New York City's municipal workers touch every aspect of our lives. They respond to our emergencies, heal our sick, teach our children and keep our neighborhoods clean. They build and maintain our roads, bridges, schools, parks and playgrounds, and make sure our physical structures, air and water are safe. They staff clinics and healthcare centers, daycare and senior centers, help our disabled and homeless neighbors and so much more. Without them, New York would not be the world-renowned city it is.

NYC Administrative Code § 12-126 requires the City to pay for retiree healthcare and establishes the maximum amount the City pays. **Intro 0874-2023** would amend the code to give the Mayor the power to eliminate their current plan and force all retirees into a Medicare Advantage Plan (MAP), or make them pay premiums for their current plan. Retired workers with smaller pensions and social security benefits, who cannot afford to pay the premiums, would be forced into the MAP and would not have access to the same quality of care as those who can afford to pay. If passed, the changes could also lead to degradation of active employee health benefits.

MAPs are run by private, for-profit companies. They frequently have limited networks of doctors (not all doctors who accept regular Medicare accept Medicare Advantage), more co-pays and deductibles and more pre-authorizations than regular Medicare. A recent study by the **Department of Health and Human Services Inspector General** found MAPs inappropriately delayed or denied medically necessary care, pre-authorization requests and payments to providers, even though the requests met Medicare coverage rules.

<https://oig.hhs.gov/oei/reports/OEI-09-18-00260.asp>

Single payer healthcare, such as the New York Health Act, would address these issues and allow unions to devote efforts to other important workforce issues. In the meantime, healthcare costs are prohibitive and financing of healthcare needs to be addressed. Rather than force municipal retirees to pay for healthcare **they have already earned and were promised**, or take it away altogether, the City Council should exert its leadership and develop thoughtful legislation to address the issues.

The **Professional Staff Congress**, a NYC union representing CUNY faculty and staff, has developed a proposal for addressing healthcare costs, while preserving current retiree coverage. It boils down to a few key steps that the Adams administration and the Council should take: (a) Redirect funds the City holds in reserve to bridge the Municipal Labor Committee Stabilization Fund for three years, (b) Create a stakeholders commission charged with finding a path to control health care spending, with hospital pricing as a priority, and (c) Develop a sustainable mechanism for funding City health insurance. The PSC's full proposal is here: <https://psc-cuny.org/news-events/psc-cuny-proposal-for-nyc-employee-health-benefits-program/>

UES Progressives supports municipal workers and believes retirees should be able to keep the current, premium-free healthcare that they have already earned and were promised. NYC Administrative Code § 12-126 should NOT be amended and we urgently call upon our City Council representatives Julie Menin (CD5) and Keith Powers (CD4), and all City Council Members supporting labor, to vote NO on this bill.

For UES Progressives

Lew Grupper
Brian Mangan
Chris Sosa
Sarah Wilkins

UES Progressives is a chapter of NYPAN and Our Revolution in the Upper East Side of Manhattan. We are committed to advancing economic, racial, environmental, and social justice in our Community, City, and State. We support the right to the basic necessities of life for all Americans including quality health care. Contact: uesprogressives@gmail.com

Testimony – Vote NO TO AMEND SECTION 12-126 OF THE ADMINISTRATIVE CODE

My name is Saundra Roberson and I retired from the New York City Housing Authority in 2010 after 30 years of service.

I am here today to ask the City Council Members to Vote NO to amend Section 12-126 of the Administrative Code

The facts are that Medicare Advantage Plan (MAP's), the plan that retirees will be forced into if this amendment passes, are only good if you are in good health. MAP's, offer silver sneakers gym memberships and other incentives but ultimately MAP's are subject to higher premiums, fees and co-pays when your health begins to decline and you require more medical care.

Under MAP's, consideration of the for-profit insurance companies bottom line comes first when in approving treatments and follow-up tests.

After experiencing a health challenge this past year I needed several follow-up tests to identify the specific condition. Under traditional Medicare paired with GHI Senior Care, my follow-up tests and scans were performed quickly and with minimal cost to me. Traditional Medicare paired with GHI Senior Care is the most affordable and efficient option for retirees.

Additionally I implore you not to use the Scheinman Recommendation as a reason for a yes vote to amend Section 12-126. His "opinion" is just that an "opinion", a recommendation that is not set in stone.

I'm sure you've all heard the saying: It takes a Village! In many cultures Elders are respected, honored and taken care of by the generations that come after them and by those in power. Your vote no to amend Section 12-126 of the Administrative Code is your opportunity to practice this time-honored tradition of respecting and protecting Elders.

Retirees Matter!

Vote to protect Retiree Health Care Benefits!

Vote NO to amend Section 12-126 of the Administrative Code!

From: Sharon Goldstein <canastaplayer128@gmail.com>
Sent: Sunday, January 8, 2023 8:00 AM
To: NYC Council Hearings
Subject: [EXTERNAL] 12-126

DO NOT amend 12-126. Medicare advantage plans are unhealthy for retirees.
What happened to us having choices? It's DISGRACEFUL what the city is doing to us.
Sharon Goldstein
Retired teacher

Sent from my iPad

From: S H <desfy123@aol.com>
Sent: Sunday, January 8, 2023 12:47 PM
To: NYC Council Hearings
Subject: [EXTERNAL] DO NOT AMEND ADMINISTRATIVE CODE 12-126

To the City Council:

My name is Sharon Hansen and I am a NYC retired teacher who served the city for 34 years. It is unconscionable to me that the city as well as many city unions are trying to amend Administrative Code 12-126. The law was enacted to preserve our benefits and is the only protection we have for the health benefits we earned and were promised. There were attempts in the past to change the code and they all failed because protecting health benefits for city workers and retirees was seen as a promise not to be broken.

Now, our hard earned benefits are in peril because of back room dealings between the city and the MLC leadership. I was still teaching in 2018 when an agreement was made between the MLC and the city concerning healthcare savings. When the UFT leadership presented the contract to vote on in 2018, this healthcare agreement was mysteriously absent from the information we received before voting. I believe this was a deliberate and deceptive action.

In the Spring of 2021 I attended a final pension consultation with the UFT as I was going to retire as of July 1st of that year. I was told at that union sponsored consultation what the benefits would be for my husband and myself. It was explained to me that since my husband would be Medicare eligible, his coverage would change to traditional Medicare and a supplemental plan paid for by the city. At no time was there any mention of the city switching Medicare eligible retirees or dependents to a Medicare Advantage plan and yet just two short months later that was announced. I now feel deceived by my own union. They knew this change was coming and did not inform their own pension consultants to mention this for those retiring at that time so we could make a better informed decision regarding our retirement. When I made my official decision to retire without knowing of this change to a very inferior and problematic Medicare Advantage plan, I did not know that if we wanted to keep the original health coverage my husband was entitled to, we would have to pay an extra \$191 per month. I did not plan on having an extra almost \$200 deduction from my pension check which would double to \$400 per month when I become Medicare eligible. These amounts are on top of newly added co-pays for retirees. If my union had been honest with those of us nearing retirement, I might have had to rethink my pension option which now cannot be changed.

If Administrative Code 12-126 is amended, too many retirees will have to accept the Medicare Advantage plan that will be offered because they cannot afford the "pay up" option to keep the coverage they have. I have an autoimmune disease and fear that when I become Medicare eligible I will have problems with receiving appropriate care under an MA plan. Many of the MA plans have proven track records of denials, delays, and fraud that will put the lives of NYC's retirees and dependents at risk. That is unacceptable!

Altering the code now will also lead us down a slippery slope that will negatively impact in-service workers' health benefits, too. The city and MLC will then have the power to "negotiate" away their coverage as well. The decisions over healthcare for city workers will be in the hands of a very small, ever changing, select group of people and even more secret deals will be made that will be detrimental to city employees.

Retirees have already won two court battles against the city on this healthcare issue. Please do your part as elected officials to preserve the benefits the retirees have earned after years of dedicated service. Keeping the code as it has been for the last several decades is our best chance. DO NOT AMMEND ADMINISTRATIVE CODE 12-126!

Sharon Hansen
Retired UFT
Sent from my iPad

Medicare Act of 1965

By Sharon R. Kahn, Ph.D

It is 1965 and this is life in the USA: The Baby Boomers—the generation now in their early 70's—perhaps your grandparents—have just turned 18.

However, in 1965, the minimum legal age was 21—so, 18 year olds could not vote. They could, however, serve in the military, drink alcohol, smoke marijuana, drop LSD, and operate motor vehicles, sometimes simultaneously. The slogan for this generation may was in fact: Turn on, tune in, drop out. Life was full of exultant exploration. The birth control pill enabled young women to join in this joyride, without concern about future consequences. Syphilis and gonorrhea were curable. Better living through chemistry brought euphoria en-masse.

America's elderly could not be so optimistic about their future. In 1965, there were over 19.1 million Americans over the age of 65. They constituted less than 10% of the US population. Their average life expectancy was about 79 years, up over 30 years from 1900 (life expectancy 47 years). Most of the elderly were concentrated in the NorthEast and NorthCentral regions of the US.

1/3 of them lived below the poverty line. Those who needed medical services had to pay over 60% of their income to receive necessary procedures. Almost half of the elderly had no hospital or medical insurance. Even those who worked all their lives and had been covered by their employers insurance lost it when they retired. Private insurance plans had no desire to cover them—too risky.

This is a letter received by a legislative subcommittee in 1959 from an elderly citizen retired teacher about her life:

“I am 80 years old and for 10 years I have been living on a bare nothing, two meals a day, one egg, a soup, because I want to be independent....my dignity would not let me go down and be on welfare. And I worked so hard that I have pernicious anemia, \$9.95 for a little bottle of liquid for shots... I couldn't pay for it.”

The Passage of the 58 page Medicare Act of 1965 changed this. AKA Title XVIII of the social Security Act, implemented on July 1, 1966, which expanded the SSA of 1935. In order to receive Medicare funds, hospitals and health care providers needed to comply with Title VI of the Civil Rights Act of 1964. So: Ambulance services, blood banks, staff, waiting rooms, and wards couldn't be segregated by race.

The drive to create a national health insurance probably started with FDR in 1934. However, due to AMA opposition, he believed it would be more expedient to begin first with a health care insurance for the elderly, which would expand over time to cover all children, then, everyone. Harry S. Truman attempted to get such legislation passed, but failed. JFK attempted to pass health care legislation for the elderly, and failed. It fell on LBJ to try again. The Medicare Act of 1965 was actually two distinct programs.

Part A: Hospital care and SNF. This provided reimbursement to hospitals. This was automatically tied to SSA and immediately and efficiently 17 million retirees were enrolled.

Part B: Physician Services and Out-patient services. This program paid physicians.

Financed: Payroll taxes.

Although as psychologists always say, correlation is not causation, since the passage of the Medicare Act: Less than 6% of the elderly receive welfare benefits. The elderly pay less than 13% of their medical expenses out of pocket. 99.9% of the elderly have insurance coverage. Life expectancy in the US has increased by about 5 years. The population of elderly beneficiaries has risen to over 16% of the total US population and the elderly now are concentrated in the Southern and Western regions. And this despite the fact that the original plan, Medicare didn't cover: routine physicals, out-patient drugs, eye glasses, dental services or hearing aids.

Medicare recipients are more likely to get medical care, report better access to health care, fewer barriers to care, less likely to report dealing with financially burdensome medical bills, less likely to report negative insurance experiences, having an internist who is familiar with their health issues and receive all recommended insurances, compared to those who have employer insurance by a power of two. This increases fourfold compared to those with no insurance, which should come as no surprise.

So, in conclusion: Because of Medicare, hospitals are desegregated. The population most likely to live in poverty are able to enjoy some level of health care access.

We wish to express our opposition to amending section 12-126 of the administrative code and to urge you to vote against the proposed changes.

Weakening the administrative code will give the green light to Mayor Adams to violate the longstanding promise of premium free health care the city has made to retirees. It will impose premiums, and force the many retirees who cannot afford to pay thousands of dollars a year onto an inferior Medicare Advantage plan.

Amending the code also has impacts far beyond retirees – this change will open the door to cuts to city worker health insurance in future rounds of bargaining without addressing the underlying issue of rising health care costs.

I urge you not to betray the City's promise to retirees. Vote no on the Administrative Code change and urge the Mayor to go back to the bargaining table and find a better solution.

Yorktown Heights, NY 10598

Jan. 8, 2023

Dear members of the NY City Council,

I started by teaching career in 1968 and working as a high school teacher in the Bronx for 35 years. We were always the lowest paid in the tri-state area. Some of our colleagues left for greener pastures. But most of us stayed because we loved our jobs and hoped to be making a difference in the lives of our students. During that time we agreed to contracts that gave us pay “raises” of 0% for several years to help save NYC money during difficult times. We even loaned the city 2 weeks of our pay, which was eventually repaid several years later stretched out over several years at zero percent interest on the loan. All of this time we knew that our health care would be taken care of in our retirement. Now to our horror we see that even that is in danger, with our own unions in collusion with NYC. I am begging you to make no changes in Administrative Code 12-126. Any change in our healthcare plan will do irreparable harm, especially to older retirees who have miniscule pensions. It is shameful that our own unions would even think of going along with this after all we have sacrificed. They depleted the stabilization fund, and now want to make up for it on the backs of the retirees. Please vote NO, and retain the City’s contribution to our healthcare. Medicare Advantage plans are a sham, no way as good as what we have now, traditional Medicare. My Mother-in-Law had Medicare Advantage and the poor care accelerated her demise.

I am hoping for a positive outcome for the 250,000 NYC Retirees.

Thank you.

Yours truly,

Sheila G. Schraier

January 10, 2023

Dear Members of the City Council:

My name is Sheila Myers-Danyluk and I am a member of Councilman Dinowitz's District 11 in the Bronx. I am the wife of a NYC retiree who is about to go on Medicare, I will be eligible in 2024. We were both present for much of the hearing yesterday.

Listening to most of your questions to the panels, I am encouraged to see you in agreement with the retirees that Medicare Advantage plans in general are not a good thing. As evidenced in news articles, there are excessive prior authorizations and denial of coverage. There's also been documentation of defrauding the federal government. I am grateful that you agree that retirees should still have the choice of traditional Medicare and a Medi Gap plan from the city (known as Senior Care).

But you are being asked whether to amend Administrative Code 12-126 – which the City and the MLC are claiming will preserve choice, but at a premium of at least \$191 per person per month. The city and the MLC are claiming that if you do not amend the code all Medicare-eligible retirees will be forced into a Medicare Advantage plan as determined by an arbitrator, Martin Scheinman. And I'm sure you are aware that Mr. Scheinman has no authority to "force" his decision, it's unclear if he was acting as a consultant or arbitrator and any authority he may have had expired a few years ago. Yet he is claiming to arbitrate between the City and the MLC, who are on the same side.

I can see many of you were concerned that the City could actually do this. Can the Mayor really go unchecked? Isn't the City Council there to provide checks and balances so something as crazy as this can't happen?

Amending 12-126 is **NOT** the answer. What I personally believe should be done is the following:

- negotiations among all involved parties, including the retirees
- audit of the Health Care Stabilization Fund
- audit of health care participant data (is the city paying for people who are deceased or otherwise ineligible for the plan?)

Sheila Myers-
Danyluk

- audit to see if there is any duplication of coverage in Medicare and Senior Care
- review the Aetna contract, when available
- audit of all the city's expenses to see where savings can be found

I was surprised copies of the Aetna contract were not available to you prior to this hearing. However, as you know, the City is claiming it to be a wonderful plan. If Aetna is such a great plan, why were they not chosen as the initial plan provider?

And why are the city's financial problems being put on the backs of the retirees, who dedicated their lives to serve the City? The most vulnerable may not even know the City is trying to rip away their current healthcare.

To sum up:

I think there is a lot more work to be done and I hope the Council has the authority to make sure it happens.

I will conclude paraphrasing my husband, a retired city planner (31 years service) and a DC37 delegate for 20 years.

"I always wished the Union and the City could be on the same page. They are now, but it's the wrong page."

City Council, please do the right thing by **NOT** amending 12-126 but by encouraging dialogue and delving deeper into the issues.

Respectfully,

Sheila Myers-Danyluk

Bronx, NY 10463

From: Farrel Powsner <farrelp@gmail.com>
Sent: Friday, January 6, 2023 11:03 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Administrative code 12-126 hearing

I retired as a NYC teacher in 2008. When I was hired in 1971, I was promised health coverage after retirement. I see several doctors now. I have picked them and I am happy with them. When I need a test, there is no need to get permission for it. My doctor prescribes it and I get the test and the result is sent to him. The Medicare Advantage plans do not give me the freedom to do these things. Medicare Advantage is sub-standard care when I need it most. This is not what I was promised when I was hired. I am opposed to the elimination of administrative code 12-126.

Sheila Powsner

From: sglatte@gmail.com
Sent: Sunday, January 8, 2023 11:28 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Administrative Code 12-126

I am a NYC public service retiree, and I am imploring the council not to amend Administrative Code 12-126. You are being manipulated by the MLC in their effort to amend the code. If you actually read this administrative code carefully, you will see why it offers real protections to retirees, as well as to active employees. In particular, retirees are older, often having complex health conditions, either for themselves, spouses or dependents. Too many really do not have the financial resources to pay a premium for an option to maintain Senior Care which is traditional Medicare, and is far superior to Medicare advantage, private insurance. Surely, you know this. Again, I urge you, do not amend administrative code 12-126. It will result in changes and manipulations that you will find intolerable, particularly to anyone who considers himself or herself truly progressive. There is good reason that this code has been upheld several times. Be aware that the push to amend the code, which is coming from the MLC, particularly Michael Mulgrew and Harry Nespoli, is purely designed to switch retirees into a compulsory Medicare Advantage plan. All independent comparisons between traditional Medicare and Medicare Advantage affirm that Medicare Advantage, which is, in fact, privatized medical insurance is inferior to traditional Medicare.

Please do not amend Administrative Code 12-126.

Respectfully submitted,
Sherry Glatter (Retired UFT)

Brooklyn, NY 11230
Sent from my iPhone

From: SHERYL SCHLECTMAN <sherry412@aol.com>
Sent: Saturday, January 7, 2023 6:43 PM
To: NYC Council Hearings
Subject: [EXTERNAL] 9:30:A.M. City Hall:Civil Service and Labor committee meeting

My name is Sheryl Schlectman. This is my written testimony. I am a retiree who is very concerned about the proposed changes to our Health benefits. I worked for Queens College Library for 25 years retiring Oct 1, 2010.

As a single mother with two children in need of healthcare the CUNY job opportunity was a godsend. Although the salary was lower than the local prevailing rate and a reduction from my employment at the time the benefits made working for CUNY and hence the City of New York so attractive.

Among these was the promise that as retirees we would have no medical expenses. We would be fully covered as the thousands of New York City retirees have for the rest of our lives!

Now where I come from (The Bronx) a promise is a promise! All of us retirees planned our retirements around this promise and what are personal situations would be like once retired.

The proposed new plans will add significant costs and thus hardship to many of us retirees which live on a very fixed incomes.

I urge the council members here today to remember that we are the people who made the city run. Now after many years of service do you want to hurt the retirement community.

Remember we all don't live in Florida and we vote! My email address is sherry412@aol.com

Sincerely,

Sheryl Schlectman

My name is Shirley Wong and I am an union worker at Brooklyn Public Library (BPL). I am writing in strong opposition to Intro 874. I urge the Council NOT to support the Mayor's and the Municipal Labor Committee's attempt to force City retirees into a Medicare Advantage plan and undermine the health benefits City workers have been legally entitled to for decades.

The campaign from the administration and the MLC has described this proposed change to administrative code 12-126 as a way to "preserve choice" for retirees in their health care. In fact, the premium that will be attached to traditional Medicare (Senior Care) if the change goes through will be out of reach for many retirees on their incomes and would make it infeasible for them to remain with their current standard of care. Medicare Advantage has also been the subject of much reporting regarding fraud with the program and I am very concerned that this will be functionally the only option for many retirees who have been legally guaranteed a certain standard of benefits for decades.

As active workers, we have been told by our union leadership that it is necessary to put the Medicare Advantage switch in place in order for the City to fund our raises, or that we will be forced into paying health care premiums if the switch does not go through. I strongly object to retirees and active workers being pitted against each other when the City and unions could pursue other options. Retirees and the Professional Staff Congress have identified several alternative approaches to lower healthcare spending such as the City creating a self-insurance plan or all City workers' union welfare funds being consolidated for better leverage and group purchasing. I urge the Council to meet with these groups and hear about their proposals. For other active workers like myself, this change to the administrative code opens the door for our own healthcare benefits to be altered or for more "classes" to be created with diminished health care benefits, such as new hires. The City is already hemorrhaging workers, and gutting benefits will make it even more impossible to hire and retain talent while our essential agencies are already dangerously understaffed.

The Council should not play into the Mayor's and the MLC's plan to get around their legal obligations to retirees and should not pass Intro 874.
Thank you,

Shirley Wong, BPL, Local 1482

From: Sid Kivanoski <skivanoski1@gmail.com>
Sent: Friday, January 6, 2023 12:51 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Written testimony for Dec. 9 hearing of Cttee on Cvl Svc & Labor to preserve 12-126

Thank you for accepting my written testimony for the Dec. 9 hearing of the Committee on Civil Service and Labor of the NYC City Council with regards to the health care of municipal retirees, specifically with regards to amendment 12-126.

The Sheinman decision was just that... his decision. It was not a ruling. Amending 12-126 would threaten our health care.

My name is Sid Kivanoski and I was a NYC teacher for 22 1/2 years. I retired in 2016 having had urgent spinal surgery during my last year. I had two more spinal surgeries (three more related hospital stays in all) since then.

I still have spinal issues that potentially could lead to paralysis. Needless to say, there could very well be further surgeries in my future.

My concerns with the new plan include the risk of extended pre-approval times. My surgeries were all time-sensitive and long waits for approval could have proven catastrophic. This would be the same for any future surgeries.

I, like many of my fellow retirees, will not opt out of the new plan, but not because we like it. We will accept the new plan out of financial necessity. I would have to pay \$400 per month for myself and my wife to stay on my regular Medicare plan. I cannot afford that.

Teachers are not paid a lot but we were promised that at least in retirement we would have reliable health care and a good pension. Amending 12-126 would ensure that this promise would be broken.

I Implore you to preserve 12-126 as a protection for dedicated civil service workers.

Thank you.

Sent from my iPad

Good day and thank you for this opportunity to speak.

My name is Jack La Torre, retired NYPD lieutenant and cancer survivor.

First, I wish to thank Marianne Pignatola and her team for forming the NYC organization of Public Service Retirees.

Thanks to this group I can present the following facts:

- ① The Stabilization Fund has been misused for many years (2003, 6, 9, 11 and 14). To fund raises by taking \$1 Billion from it is wrong.
- ② Changing Admin Code 12-126 to force retirees in privatized medicare advantage is both deadly and wrong.
- ③ to ignore the fact that "big health care" is under Federal investigation for medicare Advantage fraud is wrong.
- ④ to subject low income retirees to higher premiums, fees and co-pays is wrong.
- ⑤ to ignore the fact that medicare Advantage adds nearly 100 more life-threatening pre-authorizations is wrong.
- ⑥ to ignore the fact that medicare advantage limits care and access to life saving treatments is wrong.
- ⑦ to believe the so-called Scheinman document (issued December 15, 2022) has the force of law is wrong. It is a non-binding recommendation.

⑧ for the municipal labor Council to have 2 unions (UFT and DC 37) control 2/3rds of any vote is wrong.

⑨ If this City Council amends Admin Code 12-126 it will be taking away the healthcare rights of the elderly and disabled retirees who have dedicated their working lives to serving the people of NYC.

Eric Adams, when running for mayor, said the Medicare Advantage Plan seems like a "bait and switch."

I ask this city council to NOT amend 12-126. I ask this city council to do what is right, not what, as is clearly seen by the true facts, is wrong.

Thank you.

Signed,

Joanne

6657 Boerjen Place

Brooklyn NY 11220

cell: (718) 503-4163

Re: Testimony by Stacey Moriates AGAINST Amending Administrative Code 12-126

Dear City Council Members,

Hearing Date- Jan. 9, 2023

My name is Stacey Moriates. I retired in November 2019 from NYC DEP after having worked for the City over 46 years.

Respectfully, I am asking the City Council NOT to amend Administrative Code 12-126. There are other OPTIONS to replenish the **Health Insurance Stabilization Fund (HISF)** that was essentially secretly raided for NON-health reasons. The purpose of the HISF is to ensure the integrity of the health insurance upon which active and retired employees rely.

The Municipal Labor Committee (**MLC**) **unethically** agreed to allow the **Health Insurance Stabilization Fund (HISF)** to be used as a "slush fund" (aka "raided") (approx. **\$1 Billion**) partly to help pay for contract raises negotiated by the City with the United Federation of Teachers (**UFT**) at the expense of the health insurance coverage for City employees/retirees of other unions. This is **UNPRECEDENTED!**

As a result of this action, the City and the union officials involved with the MLC are now in a panic, because the **HISF** is now depleted. The union bigshots involved in the scheme have been scaring their active employees into believing that the only option is to amend Administrative Code 12-126. It is not. These union bigshots need to cover-up the real reason the HISF is bankrupt. The **HISF** fund **should NEVER** have been used/raided **for non-health reasons**. NOW, the heads of the PUBLIC unions [that includes DC37, of which I am a member] involved with this unethical ruse are trying to force their retirees into the PRIVATE "Medicare Advantage"- which is NO advantage whatsoever. (This will DENY us the option to use our own doctors).

When the City first came out with this option over a year ago, I contacted my doctors upon whom I rely, and was told quite clearly that they do NOT accept the "Medicare Advantage". ALSO, people I know who had been on "Medicare Advantage" had horror stories of the insurance provider changing benefits in the middle of the term for which they subscribed- and it is NOT illegal for insurance providers to do.

As a senior, who had a lifetime career in the PUBLIC sector and who relies upon the doctors who know me medically, I cannot afford to have a PRIVATE profit-oriented insurance provider (who does NOT know me), determine what care is best for me. Amending Administrative Code 12-126 to allow this will negatively affect me and all current active and retired City employees.

In March of 2022, a judge ruled in our favor; however, the **City Administration together with complicit union leaders** - many whose salaries are more than 10 times that of their members - are hell-bent on forcing us into the PRIVATE "Medicare Advantage" insurance.

For years we worked for the City at lower wages [compared to our counterparts in the public and private sectors]; furthermore, we received "raises" that did NOT keep up with the cost of living. Most of our contracts did not and do NOT have provisions for "step-pay" increases, nor stipends. The **ONLY consolation** has been the health insurance terms promised us in retirement by the NYC ADMINISTRATIVE CODE 12-126.

If you do not already know, the "**Scheinman report**" that is being publicized "ad nauseum" is NOT a "ruling". It is just an opinion and is **NOT LEGALLY BINDING!** It's paid propaganda. The City Administration and the union bigshots are hoping the City Council falls for it.

Thus far, retirees have identified at least \$300 million in savings. OMB knows about some of these savings options. It has NOT implemented them NOR informed the City Council about them.

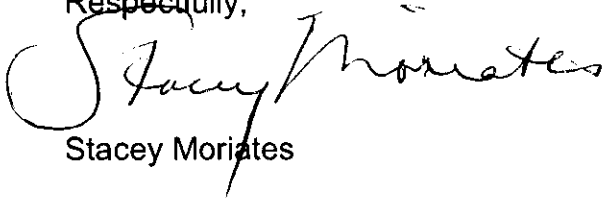
PLEASE- DO NOT MAKE ANY CHANGE TO THE ADMINISTRATIVE CODE!

Instead, I respectfully ask that you reach out to the NYC Organization of Public Service Retirees for real facts! The MLC doesn't want you to know they sold off ALL of our healthcare for raises!

Remember this as we start this New Year 2023. May you have a Happy & **HEALTHY** New Year! AND AGAIN- DO NOT AMEND THE ADMINISTRATIVE CODE 12-126!

Thank you for your consideration.

Respectfully,

A handwritten signature in cursive script that reads "Stacey Moriates". The signature is written in black ink and is positioned below the word "Respectfully,".

Stacey Moriates

P.S.- I have been informed the Mayor has threatened that if City Council does NOT amend the statute to force its retirees onto the PRIVATE Medicare Advantage, that HE will do it on his own. So, **why do his dirty work? Let HIM take the political hit- NOT you.** If the Mayor takes this action, then at least we have recourse.

TESTIMONY FOR THE COMMITTEE ON CIVIL SERVICE AND LABOR

Stephanie Feyne
NYC DOE Retiree

stefeyne@gmail.com

RE: NYC must honor retirees and change Administrative Code 12-126 to protect Senior Care.

My name is Stephanie Feyne. I worked for New York City for 30 years and retired in 2021. In September of 2022, my GYN referred me to a urinary gynecologist who ordered imaging and discovered I had a 5 inch growth pressing on my bladder. Because I have Medicare and Senior Care, the time between my referral to the specialist and the date of my surgery to remove it was around 6 weeks.

Had I been forced into your proposed Medicare Advantage plan, it is likely that I still would not have had approval to visit the specialist yet, as I would have been spending all these months challenging the insurance company for their automatic denial of care, and then would have had to challenge them again to get proper imaging. Because I have the insurance you promised me, this was caught early enough so that I did not have to undergo emergency surgery for bladder occlusion.

I earned and deserved the wonderful health care I had, one which working employees will retain but not me unless you change Administrative Code 12-126 to protect Senior Care.

You must not renege on your promise to us. Having healthy retirees allows us to continue to contribute to our city's financial and civic health. Our insurance is less than 0.03% of the city budget. With the savings identified, it would be well under 0.02%.

I kept my promise for 30 years and expect NYC to keep theirs by changing Administrative Code 12-126 to protect Senior Care.

Thank you for keeping your retirees' health as a priority.

Stephanie Feyne

From: Steve Feldheim <sfeldheim@gmail.com>
Sent: Monday, January 9, 2023 9:10 PM
To: Testimony
Subject: [EXTERNAL] Section 12-126 of the Administrative code.

Please do not amend Section 12-126 of the Administrative code. The Scheinmanthe Scheinman report is not a "ruling", it's an opinion and is paid propaganda. There are many ways to acquire the funds needed to maintain Medicare for retirees, for one, stop refunding Irmaa which benefits are mostly enjoyed by higher salaried retirees. Amending the code and the subsequent assignment of Medicare Advantage to retirees will result in unneeded suffering and deaths of NYC retirees.

Thank You For Listening.
Stephen Feldheim
DoITT retiree 2010

**TESTIMONY OF STEPHEN FISHER
COMMITTEE ON CIVIL SERVICE AND LABOR
JANUARY 9, 2023**

**Stephen Fisher
New York, NY 10014
Council District #3**

Thank you for the opportunity to testify today in opposition to amending City Administrative Code 12-126.

I am Stephen Fisher, a 71 year old City of NY retiree. I am a resident of City Council District 3 and Eric Bottcher is my Council Member.

My path to public service started unexpectedly in 1972 as a college intern at the NYC Board of Correction. I never expected that this would be the start of a career serving the residents of the City of NY. After 33 years of public service with the City and State, I retired in August 2018 from the Department of Social Services, Human Resources Administration from the position of Assistant Deputy Commissioner for the Office of Procedures. During my first stint at HRA, I was also the Assistant Deputy Commissioner for the Division of AIDS Services, now known to many of you as HASA.

The questions to ask yourselves about the City's attempt to limit retiree health care choices and impose a private for-profit Medicare Advantage plan are simple:

- Is this the way we want to treat men and women who gave their all to help run and manage the City and serve the public?
- Do you allow yourselves to be pressured to change a long-standing commitment contained in the administrative code to pay for our traditional Medicare coverage and supplemental coverage of GHI Senior Care or do you impose premiums for a health benefit that was previously covered?
- Why is the Council being asked to act on a non-binding recommendation of an "arbitrator" who has no legal standing to order anyone to do anything on this issue? There is no dispute between the City and MLC as these two parties are working together against retirees.

Two courts and six justices have ruled that the City may not impose a premium as a penalty to remain in GHI Senior Care and reject enrollment in an Advantage Plan. This amendment diminishes a benefit previously earned and paid for during employment with the City.

Let's be clear; this issue and pressure is the direct result of the misuse of the Health Insurance Stabilization Fund by the Municipal Labor Committee to allow the UFT to provide funds for raises to City teachers. This occurred because there is no oversight or audits of the fund, and it is used as a rainy-day slush fund.

The proposed amendment will have a disparate impact on women and persons of color. This should be a red flag for the Council. The vague language of a "class of individuals" removes equal protections afforded to all employees and retirees. This will create different classes of retirees leading to segregation divided access based on gender, race, income or job title. For most retirees who live on a small pension of \$22,000 or less, there is no choice. They cannot

afford to pay \$191 per month for a benefit that was free for them before the City's attempt to implement an Advantage Plan. They are being penalized.

In my career, I also worked at hospitals in health care administration. I am more familiar with the complexities of health care and insurance than the average person. The one thing I learned from doctors over those eleven years is that medicine is about "rule out". You order tests to help pinpoint and/or eliminate the possible cause of the medical problem/complaint. By requiring prior authorizations for CTs, MRIs and procedures, the insurance company becomes a gatekeeper questioning the judgment of the doctor and interfering with the treatment plan between the provider and patient. This requirement has been proven and documented that it prevents patients from receiving the necessary care. This is not a requirement now with traditional Medicare and GHI Senior Care.

In the US Health and Human Services Office of Inspector General Report *"Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care"*, the OIG found:

- 13% of prior authorization denials were for service request that met Medicare coverage rules, likely preventing or delaying medically necessary care for Medicare Advantage beneficiaries
- 18% percent of payment denials were for claims that met Medicare coverage rules and billing rules which delayed or prevented payments for services that providers already delivered
- Imaging services, stays in post-acute facilities, and injections were three prominent service types among the denials that met Medicare coverage rules

(For further information on this topic, see <https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf>. See also: US General Accountability Office of Medicare Advantage; Beneficiary Disenrollment <https://www.gao.gov/products/gao-21-482>)

In the past year, my own experience with a suspicion of prostate cancer illustrated the nightmare this could have been for me. Having a CT scan, cystoscopy, MRI, and punch biopsy of the prostate would have required endless authorizations with an Advantage Plan. And who knows if they would have approved all tests and procedures. The bottom line is the "rule out" process including biopsy resulted in a negative finding. This was a relief to me, and I know others of my age have been through similar experiences.

Union officials have said that because active employees have required pre-authorizations for tests and procedures, it is fine for Medicare Advantage to have the same requirement. No, it not OK for seniors to do so, some who may have cognitive challenges, to be subjected to this and deal with insurance companies.

Retirees also fear that they may lose their providers who choose not to participate in this Advantage plan. Sloan Kettering and Hospital for Special Surgery do not accept Medicare Advantage plans. Retirees who live in STEP communities must maintain traditional Medicare as a requirement of living in this multi-service level community. No one has addressed this issue.

As others have suggested, the City Council should hit the “pause” button and convene a Blue Ribbon Panel, chaired by a former City official acceptable to all, and include representatives of major retirees organizations, the MLC, the Comptroller’s office, the Public Advocate’s office, the City Council, the Administration, the Independent Budget Office, representatives from physician and hospital groups. The goal should be to find needed savings in the delivery of health care and maintain premium free options without eliminating traditional Medicare as an option. Reining in health care costs must be done at the provider/insurer level not on the backs of retirees.

The NYC Organization of Public Service Retirees has identified approximately \$300 million in savings such as merging union welfare funds, having the City self-insure, and auditing current recipients of health care coverage. As City managers, we were always asked to identify cost savings for the agency and develop PEGS. Why hasn’t the City, OMB and the MLC listened to these suggestions?

Section 12-126 of the City Administrative Code has been in effect since 1967. Over several decades, four Mayors have attempted to change the code, and the City Council has protected us and themselves as current employees and future retirees. I ask that you do the same now. Thank you.

I urge you to bring the Adams' administration, the Council speaker and the MLC to the table to find alternatives to the arbitrator's recent decision regarding Medicare Advantage for city employees.

My union, the PSC, has proposed a concrete alternative for the near-term. [Explained here](#), our proposal involves the allocation of \$500 million annually from City reserves to the MLC Stabilization Fund for the next three fiscal years. This would give the parties the time to make the necessary structural changes to achieve long-term health care savings.

Thank you.

Best regards,
Stephen Klein
CUNY Employee

Underhill Avenue ###
Brooklyn, NY 11238

From: Stephen Pineda <s.pineda20@aol.com>
Sent: Tuesday, January 10, 2023 9:00 AM
To: NYC Council Hearings
Subject: [EXTERNAL] NO TO AMENDING CODE 12-126!!!

NO TO AMENDING CODE 12-126!!!

Stephen Alexander

**Testimony of Steven Beck on Int. No. 874-2023
to the Civil Service & Labor Committee, New York City Council,
January 9, 2023**

I urge the committee to reject or table the proposal to change Administrative Code 12-126, which has guaranteed health benefits for municipal employees, retirees and their families since 1967. The AARP frequently sends us seniors warnings that one hallmark of bad deals are claims one must act immediately without time to consider alternatives; that is how the Mayor's proposal is being framed and should raise red flags. Please give full consideration to alternative proposals for medical savings and other ways to find a resolution to this issue.

Labor does not speak with one voice on this proposal, which was advanced in a similar atmosphere of haste and pressure at an August meeting of the MLC. It is my understanding that the Professional Staff Congress and representatives for uniformed services had objections even then, as does the DC 37 Retirees Association (to which I belong) and a growing number of union retirees and those soon to retire.

Rather than being hostile to labor, I have been a union activist all my life, most significantly as a grievance rep and editor for the Civil Service Technical Guild, Local 375 AFSCME, DC 37, while employed as a City Planner II for the City at the Office of the Brooklyn Borough President. At various times I've also belonged to the UFT, American Federation of Government Employees, and participated in an organizing drive among ESOL teachers by the News Guild of CWA. Despite this dispute, I will always support the cause of labor, which historically had strongly opposed privatization schemes like Medicare Advantage.

I thank the Chairperson and Committee members for their attention to this urgent matter and for your service to our city.

The City Council is being threatened that if they don't amend the statute to force retirees into the Medicare Advantage, the Mayor will do that on his own. Amending the statute does the same thing! Why should the City Council amend the law if the Mayor will do this anyway? Why do his dirty work? Let the Mayor take the political hit for hurting retirees and remove City Council Members from the ire of retirees and constituents in their next election. If the Mayor does this act, the Retirees will be able to challenge and win this in court where we have been successful because the City has violated the law and this is his way around it. If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing us from winning this in Court. Don't prevent us from winning again in court. We served our time as employees and have a right to enjoy our time as retirees with proper care that we earned and paid for.

Don't buy the Big Lie. Don't amend the Code, protect it like every City Council before you has against a greedy Mayor. Protect 12-126. Scheinman has no jurisdiction over the City Council nor the Retirees.

We request that you do NOT support the bill being introduced on January 9th by Civil Service and Labor Chair DeLaRosa.

As a retired firefighter I now deal with the medical consequences of my career, just one of the illnesses I cope with requires bi-monthly infusions which are covered by Traditional Medicare at a cost of \$70,000 per infusion. If I was to be mandated into a so called Medicare Advantage Plan I would no longer be able to obtain these life saving infusions as no MAP plan will cover them. I was promised when I put my life on the line for the City of New York that I would always have good, secure medical benefits, why would city council amend a law which protects those benefits for all city employees want to change something that has worked for over 55 years? I know there are other options available to save the city valuable tax dollars without reneging on promises made to former employees.

Please protect me from financial peril and losing my life saving healthcare.

Vote NO to any changes to 12-126.

Thank you for your support !

Steven E Fessel , Retired

FDNY, 20.5 years of service, retired June 30, 2001

Committee On Civil Service And Labor. Mon. Jan. 9, 2023
Steven Hodovan MTADSNY@gmail.com

Jan. 10, 2023

My Personal Experience With A Medicare Advantage Plan

Dear Distinguished Council Members,

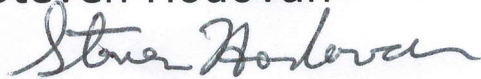
I am a retired Supervisor for The NYC Dept. Of Sanitation. I worked for Sanitation for 23 years and prior to that, I worked for NYC MTA for 5 years. In 2019, I had HIP (Emblem) VIP Medicare Advantage Plan. With that plan, you must have a Primary Care Physician on file. That physician's name is also on the insurance card. In Dec. 2019, Emblem sent me my new card, to be used in 2020. It had my primary care physician's name on it. I had the same primary care physician for 20 years. Approximately, Jan 6, 2020, I had a sonogram, that was AUTHORIZED AND APPROVED by Emblem, prior to the exam. I used my new HIP VIP card for that exam. About a month later, the radiologists sent me a bill for \$225.00. I called Emblem about it and they said, "The claim is denied because I didn't have a primary care physician." I exclaimed that, " I do have a primary care physician, his name is on my new card, that you sent me!" Apparently, they removed him as my PCP without notifying me! They didn't want to hear my story and told me to file an appeal and to get a new primary care physician. My PCP told me Emblem removed him without his approval. Meanwhile, I kept getting bills from the radiologist! I had no choice but to pay the \$225 to the radiologist. My appeal was denied! I kept appealing and appealing. Finally after months of fighting on the phone and by email with Emblem, my appeal was finally approved in Oct. or Nov. of 2020. They finally admitted that THEY WERE WRONG! I had to have the radiologist submit

another claim. Emblem finally paid the claim of \$90 (the approved rate) to the radiologist. The radiologist finally refunded my \$225. What happened to me is a disgrace! I don't know if this was done deliberately or was just incompetence! Either way, I should not have been subjected to that! Now, you would probably say, " But Aetna doesn't require a primary care physician." That's not the point! I followed the rules and they blatantly, tried to screw me over! There are people on Medicare, who would not have not been able to fight back, like I did. People who will be put on a MAP because they can't afford \$191 a month!! Do you want the same (MAP) people determining what claims get paid or do not, for you or your loved ones medical decisions? I think not. As soon as the NYC Health transfer period arrived, I left HIP VIP Medicare and switched to Traditional Medicare with Senior Care. I want to stay with Senior Care! Please vote NO.

Thank you for your time

Sincerely,

Steven Hodovan

A handwritten signature in cursive script that reads "Steven Hodovan".

193 Second Avenue Condominium

193 Second Avenue
New York, NY 10003

December 21, 2023

Following is the reconciliation of the Condominium budget for 2022:

	Budget 2022	Actual 2022
REVENUES AND EQUITY		
Carry over from 2021	\$6,669.04	\$9,322.37
Coop share 85%	\$66,581.32	\$66,581.32
Coop capital improvement paid directly	\$0.00	
Commercial share 15%	\$11,749.64	\$11,750.22
Commercial capital improvements	\$0.00	
Total Revenues without Carry Over:	\$85,000.00	\$87,653.91
EXPENSES		
Con Edison Gas for Heat	(\$28,600.00)	(\$27,537.45)
Building Insurance	(\$29,500.00)	(\$32,379.18)
Elevator Repairs & Maintenance	(\$13,500.00)	(\$18,086.60)
Miscellaneous Repairs & Maintenance	(\$6,000.00)	(\$1,567.64)
Exterminator	(\$2,000.00)	(\$1,868.31)
Professional Services	(\$3,500.00)	(\$3,075.00)
Taxes	(\$200.00)	(\$25.00)
Miscellaneous Expenses	(\$100.00)	(\$40.00)
Boiler cable & Elevator telephone service	(\$1,500.00)	(\$2,235.72)
Miscellaneous ECB violations	(\$100.00)	(\$50.00)
Total Expenses:	(\$85,000.00)	(\$86,864.90)
Subtotal Net Cash	\$0.00	\$789.01
CAPITAL EXPENDITURES		
Not Applicable		
Total Capital Expenditures	\$0.00	\$0.00
Total Net Cash	\$0.00	\$789.01

193 Second Avenue Condominium

193 Second Avenue
New York, NY 10003

December 21, 2023

Following is the Condominium budget for 2023:

INCOME

Cash in Bank Account	\$789.01
Commercial share	\$14,926.65
Coop share	\$84,584.34
Total Revenues	\$100,300.00

EXPENSES

Con Edison Gas for Heat	(\$33,000.00)
Building Insurance	(\$35,000.00)
Elevator Repairs & Maintenance	(\$17,500.00)
Miscellaneous Repairs & Maintenance	(\$6,000.00)
Exterminator	(\$2,200.00)
Professional Services	(\$3,400.00)
Taxes	(\$200.00)
Miscellaneous Expenses	(\$100.00)
Boiler cable & Elevator telephone service	(\$2,800.00)
Miscellaneous ECB violations	(\$100.00)
Estimated 2021 Operating Expenses:	(\$100,300.00)

Commercial Operating Share (15%) **\$14,926.65**

Commercial Expense paid for by Condo 2022

Plumbing separation after store work was never reimbursed* **\$353.84**

Please pay ASAP

Coop Operating Share (85%) **\$84,584.34**

January 11, 2023

To the NYC Council Committee on Civil Service and Labor:

Subject: Pending Future Medical Insurance Offerings For NYC Retirees – Beware of Aetna and Changing NYC Administrative Code 12-126

Considering that the NYC Council may soon be considering the Aetna Insurance Company as a future provider of a Medicare Advantage Plan for NYC Retirees, I want to share my very recent and ongoing awful experience with Aetna while I have been serving as an authorized advocate for an Aetna Medical Insurance plan holder in my family. Below I will detail the recent awful experiences I have had with Aetna.

But in summary, I want to affirm that I have been absolutely shocked by Aetna's apparent refusal to reimburse for valid and supported medical claims definitively covered under the plan holder's policy....which happens to be an expensive premium type policy. It is clear to me that Aetna is in breach of contract and I will be pursuing that with the NYS Department of Financial Services.

So, please consider, and share with the greater Municipal Labor Committee, this very troubling narrative if you are considering an Aetna Medicare Advantage offering for NYC retirees. More generally speaking, because of the risk of causing NYC retirees to accept a primary medical insurance offering from an unproven company like Aetna or from any other unproven company, **as a NYC retiree myself I am against amending NYC Administrative Code 12-126 until additional substantive discussions with all parties are held.**

Since July 2022, and still ongoing as additional and identical medical claims have been submitted to Aetna, here have been my experiences dealing with Aetna:

- Of the over 30 valid and supported medical claims for reimbursement submitted to Aetna since April 2022, only 4 have been reimbursed after the plan's deductible was met....and Aetna has actually communicated to me that even those 4 reimbursements should not have been provided! They indicated that was due to an internal review error on their part.
- Aetna's "Concierge" Customer Service consisted of low level client service representatives who repeatedly could offer no specific information on claim statuses over the course of over 10 phone calls beyond simply repeatedly that the claims were still under review even months after submissions. Except once, several requests to speak to a supervisor were met with "a supervisor is not available at this time". At least

three or more promises that a supervisor would call me back within 24 – 48 hours were never kept. Explaining these broken promises, I eventually learned that Customer Service representatives could not call back unless they received special permission from their upper management.

- Timeframes for completions of claims reviews as conveyed by Customer Service were always exceeded and therefore meaningless. Customer Service also added confusion by conveying that claims showing as “Denied” in the subscriber portal website were not “really” denied and were still under “review”. But the “Denied” statuses never changed to date...and, de facto, those claims have been denied.
- Except for the four claims referenced above that were “mistakenly” reimbursed by Aetna, **ALL** of the submitted claims are either DENIED due to “insufficient information from the medical provider” or are PENDING waiting for “more information from the medical provider” **despite** several timely and detailed supporting medical reports provided to Aetna, upon Aetna’s request, by the medical provider. An Aetna Customer Service Supervisor confirmed that Aetna had already received those supporting medical reports and she even re-transmitted her copies to the claims review units...but that still had no impact on the denied and pending claims.
- Eventually the above supervisor reported back that the claims were DENIED by the claims reviewers because (verbatim) “the billing information on the invoices and the medical records do not follow Federal billing regulations and guidelines.” Astonishingly, the Supervisor was not permitted to explain what was deficient in the submitted invoices and medical reports but agreed to provide the telephone number of Aetna’s Provider Services Department which the medical clinic could call to find out why their invoices and medical records did not comply with Federal regulations.

The medical clinic called Provider Services on December 21 and was promised that Aetna’s medical reporting requirements/guidelines would be faxed to them. To date, they were never faxed. Upon their second, follow up phone call to Provider Services to ask again to be sent those guidelines, the medical clinic was then told that all of the medical reports and invoices they had originally submitted to Aetna **were in fact NOT out of compliance with Federal requirements, that Aetna did NOT require any further information from the medical clinic nor from the plan subscriber to process the submitted claims**, and that the claims were still being processed.

But to date, there has been no change in the statuses of the claims submitted as far back as July 2022 and **ALL remain DENIED or PENDING and not reimbursed !**

- Finally, just for comparison and to affirm that they met medical insurance reimbursement requirements, the exact same type of medical claims submitted by the subscriber **WERE accepted and reimbursed** under the Emblem Health medical insurance plan that the subscriber had previously at prior employment.

Thank you very much for your attention,

Stewart Fleisig

Retired December 31, 2017 after 29 years with from NYC DoITT

Dear City Council members especially my CM Dinowitz:

I am urging you to not amend the code whatsoever. We need to keep public health care for city union employees—especially our retirees—public. Medicare Advantage has been shown to unfairly limit care and harm the retirees with the fewest resources the most. My union, PSC-CUNY, has developed an excellent alternative to give you all time to fix the mess. Rushing to privatization is anti-union—we took jobs with less pay for better health care benefits. We bargained for and expect to continue public health care as employees and especially on reduced income as retirees. I've met with CM Dinowitz staff twice and have made unreturned phone calls and emails related to this matter. My educator colleagues and retirees—many of whom live in 10471 zip code—are adamant about demanding our union rights be respected despite some union leaders' wish to impose an agenda that the rank and file never voted on and never agreed to.

Sincerely,

Stuart F. Chen-Hayes, Ph.D.

Professor, Counselor Education: School and Clinical Mental Health Counseling

Executive Council member, PSC-CUNY Chapter

Lehman College

StuartC@lehman.cuny.edu (work email)

From: stuartf2016 <stuartf2016@gmail.com>
Sent: Saturday, January 7, 2023 1:19 PM
To: NYC Council Hearings
Subject: [EXTERNAL] NYC Retiree health benefits

The proposed changes to NYC retiree health plans are unjustifiable, immoral, unfair, illegal and undemocratic. The agreements our union representatives made during the long years of our employment with the City of New York are binding agreements,. Many years we went without raises when the cost of living continued to increase, as it does today. In lieu of foregoing increases we were promised better benefits for our retirement. This was always an attraction of city employment as well as being a part of a team for keeping a city that we love operating as well as possible. We maintained our side of the bargain.

Now when we are supposed to be enjoying the fruits of our labor we are forced to struggle to keep our health benefits. As retirees, one of the most concerning issues is our health as well as our medical costs; statistically the greatest threat to our and our families' economic well being.

The Retirees have won two court decisions against the current efforts by the City and the MLC to push retirees into a poorer, private, for profit "medicare advantage" (neither medicare nor advantageous) plan. The City Council is being threatened that if they do not amend the statute to force the retirees into a Medicare advantage plan then Mayor will do that on his own. Amending the statute does the same thing! Why should the City Council amend the law if the Mayor will do this anyway? Why do his dirty work? Let the Mayor experience the political repercussions for hurting retirees and remove the City Council members from the ire of retirees and other constituents in their next elections.

If the Mayor takes this action the retirees will be able to challenge and win this in court where we have been successful because the City has violated the law. And this is his way around it. If the City Council amends this Administrative Code they will affirmatively be hurting retirees and preventing us from winning in court.

Don't prevent us from winning in court. We served our time as employees and have a right to enjoy our time as retirees with proper care that we earned and paid for. Don't buy the Big Lie. Don't Amend the Code. Protect it like every other City Council has before you. Protect 12-126. Scheinman has no jurisdiction over the City Council nor over the Retirees. We request that you do not support the bill being introduced on Monday, January 9th by Civil Service and Labor Chair De La Rosa.

Thank you for protecting us from financial peril and losing our health care.

Sincerely,

Stuart Finkelstein
Retiree with NYCEP
Retired in 2017
Worked 34+ years.
New York

BCS

with the City of

From: Stuart Schaar <SSchaar@brooklyn.cuny.edu>
Sent: Tuesday, January 10, 2023 5:07 AM
To: NYC Council Hearings
Subject: [EXTERNAL] From Stuart Schaar, Professor Emeritus Brooklyn College

I am opposed to changing coverage for CUNY faculty from Medicare to Medicare Advantage. Several of my doctors, including my magnificent Cardiologist, will not accept Medicare Advantage because of the very low reimbursements they receive under the plan. I suffered a massive heart attack four years ago and now live with 4 stents in my heart. I can ill afford to lose medical attention from my excellent cradiologist. A few of my other doctors also told me that they do not accept medicare advantage. I hope that the city will retain Medicare as it is for CUNY faculty. Stuart Schaar

**TESTIMONY OF SUE ELLEN DODELL
IN OPPOSITION TO INT. 874 of 2023
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON CIVIL SERVICE AND LABOR
JANUARY 9, 2023**

Thank you, Chair De La Rosa and other Committee members.

My name is Sue Ellen Dodell and I am a life-long New York City resident. I live in Council Member Eric Dinowitz's district. I have been an attorney in City government for more than 43 years: I worked at the Corporation Counsel's Office, the Comptroller's Office, and the Campaign Finance Board, where I was the General Counsel for 17 years and from which I retired in 2017. I am now a hearing officer at OATH. In my years in City service, I have drafted many bills and have appeared many times in this room to testify before the Council. I have devoted my professional life to serving the City and have derived much satisfaction from that service.

I realize that today is only a hearing and you will not be voting, but I ask that you vote no if there is a vote on this bill. Let the Mayor try to put all retirees into the Aetna "DisAdvantage Plan." He cannot do legally do that, which is why he is coming to the Council to give him cover. If he does this without changing the law, we retirees will sue and we will likely win, as we have already won in State Supreme Court and in the Appellate Division. If we don't win, the Council can always pass a law to actually protect retirees (which is not what this bill does).

The MLC says that Int. 874 is necessary to enable the unions to bargain for "choice" in health care benefits, but that is not true: the MLC and the City can bargain right now and should do that. Nothing in any court decisions prevents the MLC and the City from engaging in collective bargaining.

Section 12-126, which has been around since 1967, protects "choice" of health care plans for current employees like you and for retirees, and requires the City to pay for your health insurance and mine, up to a cap provided for in the statute. Don't be fooled by the Mayor's and the Municipal Labor Committee's argument that you have to change the law in order to save our "choice." Right now, we can choose from several Advantage plans and the Medigap plan, and the vast majority of retirees choose the Medigap plan. You and I are protected by the current law.

This bill creates "classes" of employees and retirees (what does that even mean?) which would have their health benefits capped at different amounts for each "class." This creates "haves" and "have nots" and enables the Mayor and the MLC to change the classes at any time. Why would you want to give the Mayor and the MLC that power? if the law is changed, many retirees will not be able to afford to opt out, like DC 37 retirees, 1/3 of whom make under \$12,000 per year.

Prior mayors have tried to change 12-126 several times in the past and the Council always resisted. You must resist the Mayor and the MLC!

You are being given false information when the Mayor and the MLC claim that "the arbitrator" has given the City a "deadline": there is no deadline to act, and the Council should have retirees and other stakeholders sit down and come up with ways to save the City money on health care. There are many ways to save money: we have suggestions and want to sit down with Council members to share them. Certainly the City can find ways to save the amount of money it claims to need, \$600 million, in a budget of \$104 billion! (That's 0.00576 of the budget.)

Any savings from passing this bill won't even go into the General Fund: I bet that the City has never explained to you that any savings -- the \$1 billion taken from the Health Stabilization Fund to pay teacher salaries years ago -- would be replenished on the backs of vulnerable retirees.

Is this the legacy that you want? Do you want to be remembered for having privatized Medicare for City retirees, which will set a precedent for states and cities across the country? Is it worth it for your short-term political future to endanger the lives of retirees and current City employees? Do you understand that this legislation will harm you and other current City employees, by restricting your health care as well?

I know that you are all under pressure from the Mayor and from the UFT and DC 37. You may be subjected to a primary challenge this year, you may lose out on fundraisers. But I urge you to do the right thing, for yourself, for your staff, for city employees, and for vulnerable retirees.

You know what the right thing is to do: vote "no" on this bill if it comes before you.

Leave Admin. Code Section 12-126 as is, to protect yourselves and retirees.

Thank you and I ask that my entire written testimony be included in the record of this hearing.

Additional testimony:

Medicare Advantage is the biggest financial boondoggle in American history: it is a transfer of money from the federal government, from all of us, because we pay for it, to insurance companies that rake in huge profits. Is this really what you want the City to support?

If the Aetna Medicare Advantage Plan is so good, why doesn't the City offer it as an option for retirees, while continuing to offer Senior Care as a premium-free option, as it does now? Are any retirees clamoring to be in an Advantage Plan? No, because we know it is inferior to what we have now, which is traditional Medicare and a Medigap plan.

The City claims it needs to do this to save money, but even during the darkest days of the City, the 1970's fiscal crisis, the Council stood up to the Mayor and didn't alter 12-126.

The City should keep the promise it made to us and not change a law to go around the courts' decisions.

Martin Scheinman's December 15 document has no force of law. He was not acting in his capacity as an arbitrator, nor was he issuing a decision or order. As the signature page at the end explains, the document is just his "Recommendation," which the City is free to disregard. Mr. Scheinman has no authority to order the City and the MLC to force retirees into Medicare Advantage, nor does he have the authority to make anyone to act by any particular date.

Scheinman recommended that the City reach an agreement with Aetna by today, January 9, 2023. How can this Council committee reasonably assess the agreement if it was just entered into and cannot be finalized before the end of the month?

Why upend the lives and health of thousands of retirees before we see what the plan is?

There should be a Blue Ribbon Panel to identify ways for the city to save on health-care savings. But the MLC has adamantly opposed an independent fact-finding investigation, probably because they don't want anyone exposing years of collusion and mismanagement.

Don't be bullied by Harry Nespoli and Michael Mulgrew. They do not have the interests of vulnerable, frail retirees in mind. They want to force us into a plan from a profit-making insurance company that will make millions of dollars from covering the City's retirees and which is not as good as what we have now, no matter how you state it.

Some history for you:

Section 12-126 passed the Council unanimously in 1967. Since then, **the City has paid the entire cost of health care coverage, and has offered a choice of health care plans, for all employees, retirees, and their dependents, up to a cap that currently is \$918 per month.** There have been several attempts by former mayors to amend the section, but even during the 1970's fiscal crisis, this provision was never altered, and it should not be changed now!

In 2021, the City attempted to auto-enroll retirees into an inferior Medicare Advantage Plan, which is a private plan run by a health insurance company, rather than retirees' current choice to remain in traditional Medicare, a government-run plan. The City tried to force us to pay a \$200/month penalty premium, and we sued the City and won our case in March 2022, and we won on appeal as well. Now, you are considering legislation that provides that the Mayor and the MLC may jointly agree to an alternative cap on what the City will pay for health care coverage, for any "class of individuals."

On October 28, 2022, the Commissioner of OLR threatened in a letter to the MLC that unless the proposed legislation is quickly enacted, the City will place all retirees into an Advantage Plan and eliminate all other plans, without changing the law. This would violate the law, which provides retirees with a choice of plans. Then, on December 15, 2022, Martin Scheinman issued his recommendation that the Mayor and the MLC adopt the Aetna Advantage Plan.

The legislation enables the Mayor and the MLC to define a “class” any way they wish, which will create “classes” of “haves and have nots.” It takes away choice from employees and retirees. It also permits a new cap on what the City pays for our health care, which the City and the MLC are proposing to be \$7.50 per month, down from the current \$918 per month.

Retirees accepted lower pay and did not get raises for several years, which translates into lower pensions, in exchange for lifetime health care without premiums. The proposed legislation will disproportionately affect the many retirees who are living on small pensions, who are mostly people of color. DC37 has the largest number of retirees who are Black or Latino, and two thirds of those retirees have pensions under \$25,000, with one third under \$10,000. No City retiree has planned for this major increase in cost for their health care, which will be **at least \$200/month per person.**

The City and the MLC have already permitted Emblem Health to impose co-pays of \$15 per doctor visit, procedure, or test. This has already forced retirees to choose between paying their rent or getting needed treatment.

If retirees are forced into a Medicare Advantage Plan (MAP), we will lose access to our doctors (who may drop out of a MAP at any time).

Traditional Medicare doesn’t have pre-authorizations for tests and procedures. In contrast, under an Advantage Plan, we will face literally hundreds of pre-authorizations and many denials of care. This isn’t something I am just saying to you: the Inspector General of the federal Department of Health and Human Services found that Advantage Plans wrongly delay and deny care. The General Accounting Office has found that seniors in the last year of their lives moved out of MAPs and into traditional Medicare because of delays and denials. We should not have to fight with a MAP over access to health care, because it literally will mean life or death.

The New York Times recently had a front-page article revealing how virtually all insurance companies behind Medicare Advantage Plans deny services and “upcode” patients to make them seem less healthy, to increase their profits. Aetna, the insurance company with which the City is negotiating now to provide an Advantage Plan, is under investigation by the Justice Department right now for fraud. The Mayo Clinic announced a couple of weeks ago that they won’t be accepting Advantage Plans in their locations in several states.

If this bill is adopted, retirees will be thrown out of senior care “STEP facilities”—those are places where retirees can start in independent living and transition if needed to nursing care – because retirees sign a contract to maintain traditional Medicare and their Medicare

Supplement in order to live there. If this bill is adopted, retirees likely will be denied hospice care, because many such facilities do not accept MAPs or if they do, the MAPs require pre-authorizations which take time which those who are dying simply do not have.

Also, retirees on Medicaid long-term home health care will lose that care if they are forced into an Advantage Plan because these plans do not permit any other coverage. Further, Advantage Plans do not permit any outside drug plans.

The alleged “savings:

Putting retirees into an Advantage Plan appears to save money because there is a federal subsidy. But, if the federal subsidy for the Advantage Plan is reduced in the future, either the City will have to pay more, benefits will be diminished, or retirees will have to absorb the costs. This happened with HIP VIP, a Medicare Advantage Plan, in 2017, and benefits were reduced. The City and the UFT claim that the “savings” from this deal will be \$600 million (coincidentally, the amount of money that the unions owe the City in recurring savings). This number is overstated for a couple of reasons:

OLR provided a document recently that states that it costs the City \$439 million for Medicare coverage for these retirees, considerably less than the \$600 million estimate.

Another reason that the \$600 million number is overstated is because Aetna, the company with which the City/MLC is negotiating right now for an Advantage Plan, has recently lost a star in its rating by the Center for Medicare Services, a government agency. CVS Shares Drop on Expected 2024 Aetna Hit From CMS Star Ratings Downgrade - MarketWatch (Advantage Plans are evaluated based on a rating of one to five stars for several quality measures and the ratings are based on patient satisfaction and other quality indicators such as screenings.) The reduced rating will mean that the federal government will reduce the subsidy provided to the company, making it more expensive for the Mayor to contract with Aetna.

Remember that any so-called “savings” won’t go into the City’s general fund: it will go into the Health Insurance Stabilization Fund (“Fund”) which is jointly controlled by the MLC and the Mayor and is supposed to be used for health care. Instead, the Mayor and the MLC have used it as a slush fund without any oversight by the Comptroller or Council, and it has been misused several times.

The real motivation of the MLC in promoting this legislation is to provide money for the MLC’s obligation, under 2014 and 2018 agreements with the City, to pay back about \$1 billion to the City.

The MLC took \$1 billion from the Health Stabilization Fund for raises for teachers and promised the City another \$2.4 billion in savings, \$600 million of it recurring, and is trying to get this money on the backs of retirees.

At the September 8, 2022, MLC meeting, the attorney for the MLC stated that the City will “eat the debt” if the MLC supports changing the Administrative Code; permits the City to place retirees into an Advantage Plan; and issues an RFP for current City employees’ healthcare. **In other words, the City’s labor union bosses – the two men who head UFT and DC37, who under the State’s Taylor Law cannot represent retirees, negotiated this deal with the Mayor behind closed doors to give away retirees’ and current employees’ health care benefits.**

The MLC’s claims:

In an email to his members sent on Saturday, October 29, UFT President Mulgrew claims that the legislation is needed so he can negotiate to preserve **choices** of health care, but if you look at the language of Administrative Code section 12-126, it provides that the City must offer a choice of health plans, up to a maximum cost set forth in the statute. **It is the current language of the Code that preserves choice of health plans, so the current law must be kept intact.**

The MLC claims that the legislation is needed because the judge in our case took away the MLC’s ability to bargain over health benefits, but that’s not true: a 1992 agreement between the City and the MLC requires that the City negotiate all aspects of health care with the MLC. The MLC claims that this is an emergency, but the Council has many options. The MLC claims that the Stabilization Fund is “belly up,” but the balance in the Fund is approximately \$1 billion and would be more if the MLC hadn’t used it as a slush fund. The MLC claims that the Advantage Plan mirrors the Senior Care plan, but Advantage plans are inferior to traditional Medicare because of limited networks and prior authorizations.

Again, before you consider any proposal to alter 12-126, the Council, along with the Mayor, should immediately appoint a Blue-Ribbon Commission to address healthcare costs and potential savings -- with all stakeholders at the table.

Some suggestions for savings on healthcare:

There should be competitive bids for the Senior Care Medicare Supplemental plan. Two leading insurance companies have told the NYC Organization of Public Service Retirees that the City is over-paying by at least \$50 million a year.

There should be competitive bids for a PPO program pegged to the HIP-HMO cap. The City is subsidizing EmblemHealth by \$165 million annually – from the Health Insurance Stabilization Fund – allowing Emblem to avoid having to find savings or efficiencies.

There should be consolidation of the MLC’s welfare funds for increased purchasing power and reduced administrative costs.

Drugs covered by PICA should be put into the medical plan and/or made it a rider for which everyone pays a small premium.

There should be auditing of the eligibility rolls.

The City Council should also ask for the last three years of Emblem's annual "Statement of Experience" which details members' usage of the GHI-CBP plan – the City has refused to share them despite our FOIL requests.

We were promised and deserve quality health care, and we hope that you feel an obligation to retirees and current employees based on our many years of service to the City.

Thank you.

Sue Ellen Dodell

Bronx, NY 10471

suedodell@gmail.com

From: Susan Eschmann <rnrachit2@aol.com>
Sent: Tuesday, January 10, 2023 12:34 PM
To: Testimony
Subject: [EXTERNAL] NYC retirees

My husband, Gerard Eschmann was a NYC Fire Department employee for 32 years, ending his career in the position of captain. He worked in some of the busiest firehouses in the city, risking life and limb each and every time he went to work. In exchange for his dedication and service, NYC promised free health care to him for life. Now, in his senior years, NYC wants him to switch to a "lesser" plan, possibly switching doctors and networks when he is most reliant on his prior health insurance. To me, this is reprehensible on the part of the city, who is also refusing to look at other cost saving options for the seniors to keep the status quo. You, the city council, are the only people able to protect the "little guy" from getting steamrolled by the bureaucracy. I implore you not to go that route.

Now for my story. I was a nurse case manager for many years in hospitals on Long Island. I saw time and time again, the pitfalls of managed care. I fought for my patients over and over again to get them the services they needed. Sometimes it worked and sometimes it didn't. The insurance companies saw the patient through a different lens than I. They saw a piece of paper with a name attached. I saw the patients in their entirety. Big difference. When the issue of changing our healthcare first came up, I told my husband NO WAY. Experience told me this was no way to go. Again, I implore you, don't let this happen. It's the right thing to do. Susan and Gerard Eschmann

Sent from my iPhone

My name is Susan Herzog. I am a retired science teacher. I loved teaching, and I have been told that I had an important influence on many of my students' lives. I always supported the UFT. I organized a group of my colleagues to march when the union demanded a contract from Mayor Bloomberg, and served as a representative of my chapter in the delegate assembly.

Now I am devastated, not only that my union would sell away its member's hard-earned retirement benefits, but that the leader of my union would **slander** his own retirees who stood up for their rights, calling us union busters! And that they would resort to lies to frighten people: that the judge said there can only be one plan – **he did not** (I am retired so had the time to read it); that it prevents the unions from being able to bargain collectively - **it does not**; that the Mayor can unilaterally eliminate all plans except one – **he cannot**.

I have also learned that so-called Medicare Advantage is not advantageous for me. Two years ago, during the City's first bungled attempt to force us into this plan, I discovered that some of my doctors here in New York (one of whom literally saved my life) would not participate, even though the company claimed them as "in-network." Since then, I have read numerous reports of how Medicare Advantage insurance companies, including Anthem, the city's former choice, and Aetna, with whom we hear they are negotiating now, have engaged in fraudulent and predatory practices to keep their costs low and profits high at the expense of its policy holders.

My husband and I pay for Medicare part A coverage every month, and for our drug coverage. The City only has to reimburse us for part B, as promised, and the modest cost of the Medicare supplement insurance which covers only the 20% of the Medicare-established rates for services – which are actually much below the regular medical and hospital charges.

Why, after more than 50 years, is this an unbearable burden on the City-- which requires an amendment to its administrative code? Apparently, because the MLC made a bad deal, that has now come back to bite them.

Because the courts said 12-126 protections made the deal illegal, they needed to create a new "class" of municipal employees for which they can make up any rules for coverage. For now, this "class" would be Medicare-eligible retirees -- to force us into an Advantage plan. But the amendment's language allows them to create any other classes in the future.

The Mayor and the MLC want **you** City Council representatives **to take the blame** for doing this to us. Do you really want to vote to take away the only legal protection municipal employees have for their health care coverage?

My husband and I are life-long New Yorkers. We met at City College. We have lived for more than 45 years in our apartment in the West Village where we are represented in the Council, and on this committee, by Erik Bottcher. We experienced the great indispensable support of our councilman's office several years ago, when our predatory landlord broke a gas pipe during illegal construction, and we were left with no heat or cooking gas during the coldest winter. Cory Johnson's office, fought hard with the landlord and Con Ed to get our heat back on. Erik was Corey's chief of staff.

We have confidence that Erik and all of you whose many constituents would be harmed by this amendment, **will be our heroes** and vote **NO**.

Susan Herzog, New York, NY 10014

From: Susan Immergut <suzyimmergut@hotmail.com>
Sent: Friday, January 6, 2023 10:33 AM
To: Testimony
Subject: [EXTERNAL] Testimony regarding Admin Code 12-126

January 6, 2023

Dear Council Member,

In addition to my librarian duties at the elementary school where I worked, I did lunch duty 5 days a week in the extremely noisy environment of the cafeteria, auditorium, and schoolyard. I attribute my hearing loss in part due to the excessive noise which I was exposed to for 11 years.

Considering my hearing disability due to the work environment, I felt somewhat compensated by having traditional Medicare with which I am happy. To have the rug pulled from underneath my feet at the old age of 77 after working for the city for 30 years is reprehensible. I do not want to be placed in a Medicare Advantage program.

Please vote no to changing Administrative Code 12-126.

Thank you very much.

Sincerely,
Susan Immergut

From: Susan Pickman <susan.pickman@gmail.com>
Sent: Thursday, January 5, 2023 9:40 PM
To: NYC Council Hearings
Subject: [EXTERNAL] My spouse is a NYC Retiree

My spouse is a retiree with a well-established network of physicians and other healthcare providers. The Medicare Advantage program has never been fully disclosed, but seems to provide lesser care and more disruptions to the most vulnerable of NYC's most loyal long-term employees.

Mayor Adams and others pushing this program should really be ashamed! After over forty years of service, my spouse and others deserve much better than this!

Respectfully.

Susan Pickman

--

Susan L. Pickman, Ph.D., CFE
Assistant Professor
Security, Fire and Emergency Management
John Jay College Of Criminal Justice
524 W. 59th St., HH430
New York, NY 10019
212-842-9676

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[SEP]

Flotilla Staff Officer, John Jay College Detachment, Lower Manhattan Flotilla
United States Coast Guard Auxiliary
"2016 Sector New York United States Coast Guard Auxiliarist of the Year"

From: GMAIL <susan.pickman@gmail.com>
Sent: Thursday, January 5, 2023 11:59 PM
To: NYC Council Hearings
Subject: [EXTERNAL] My spouse is a NYC Retiree

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Forward suspect email to phish@oti.nyc.gov as an attachment (Click the More button, then forward as attachment).

My spouse is a retiree with a well-established network of physicians and other healthcare providers. The Medicare Advantage program has never been fully disclosed, but seems to provide lesser care and disruptions to the most vulnerable of NYC's most loyal long-term employees.

Mayor Adams and others pushing this program should really be ashamed! After over forty years of service, my spouse and others deserve much better than this!

Respectfully.

Susan Pickman

My name is Susan McKay. I am a 78 years old NYC retiree from the DOE. I served the children of our city for 36 years. After retiring, I relocated to Pennsylvania. In 2019, I was diagnosed with bladder cancer and began treatment at Memorial Sloan Kettering Cancer Center. I see my oncologist every three months for observation. At the same time, I am being monitored at Sloan for the possibility of cancer in my digestive system. This consists of occasional blood work, CAT scans and MRI's. I have had bladder surgery three times in the past three years for the removal of tumors which my oncologist has advised me will most likely be recurrent for the remainder of my life.

When NYC first proposed moving its retirees into a Medicare Advantage plan, I checked with my oncologist, as did others to see if he would accept this new plan, and he stated that although MSKCC finally agreed to participate in the plan, he would not. That would leave me without continued care from the doctor who I trust and depend on to provide me with excellent medical management and keep me alive.

Furthermore, Advantage plans, for the most part, are regional. If I'm forced into one, I along with countless other NYC retirees residing outside of New York, would virtually be uninsured because our doctors will assuredly be out of their limited networks, one of the many shortcomings of these substandard plans. The majority of retirees would be unable to pay out of pocket in the hope of being reimbursed. We are not in the same financial position as the MLC bigwigs and Mayor Adams who tout these plans as being equal to, or superior to our current coverage. I'm not so sure that they would relinquish their benefits and join us in a plan we did not ask for and do not want. So being denied the expertise of my Sloan oncologist and being forced into a substandard plan that will not serve me, what are my prospects of staying healthy when an insurance company, rather than my doctor, makes medical decisions for me?

Voting to amend 12-126 will be a death sentence for many and I question the values and motives of those who legislate away our only protection. They are either callous and cruel or ignorant as to the impact their actions will have on those who can least protect themselves and only wish to live out their remaining years with peace of mind.

Sincerely,
Susan McKay
2001 retiree, DOE

From: Susan Moisoff <smoisoff2@gmail.com>
Sent: Saturday, January 7, 2023 9:10 PM
To: Testimony
Cc: nycorgofpublicserviceretirees@gmail.com
Subject: [EXTERNAL] Save Administrative Code 12-126

Dear Council Members,
I taught elementary school in the Bronx and in Queens. My total time teaching was 32 years. I became a teacher because I felt it was my calling. Others in private industry earned higher salaries, but I knew that I could rely on covered healthcare when I retired.

After 32 years of paying into Medicare, I expected to have Medicare as my primary insurance. Medicare is superior to the Medicare Advantage Plan that the City and my union (UFT) is trying to force on us. Medicare Advantage exists to make a profit for healthcare companies. Many Medicare Advantage plans have been shown to shortchange their clients so they can spend less and make more money for themselves. Because the MLC raided the Health Stabilization to fund raises of active members, retirees should not be made to suffer. Medicare allows patients to receive care all over the USA. In my case, I receive expensive injections twice a year from my endocrinologist. The doctor's office said the practice would not accept a Medicare Advantage plan. Under Medicare and Senior Care, my visit is covered, except for a co-pay. Under Medicare Advantage, it would be harder for me to find care. There are already months waiting time to see an endocrinologist locally.

Furthermore, the retirees and in-service members want you to know that the Scheinman report is NOT a ruling. It is an opinion and NOT binding. Although the 2018 Agreement between the City and the MLC allows Scheinman to arbitrate certain disputes between the City and the MLC, there is no dispute between the City and the MLC now. Both are trying to force Medicare Advantage on retirees.

NYC Organization of Public Service Retirees has stated that it identified at least \$300 million in cost savings that offer an alternative solution to amending the Administrative Code. The Office of Management and Budget (OMB) knows about some of these savings options, and has not implemented them, nor has it informed the city council. The OMB is unaware of others. All options for finding funding for Healthcare should be explored immediately.

Please Do NOT make any changes to Administrative Code 12-126. Look for other options to finance the healthcare we were promised.

Sincerely,
Susan Moisoff
Retiree UFT
Former teacher PS 69 Bronx, PS 193 Queens, and PS 17 Quuens

**TESTIMONY OF SUSAN PETITO
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON CIVIL SERVICE AND LABOR
IN OPPOSITION TO INTRO. NO. 874
JANUARY 9, 2023**

Madam Chair and Members of the City Council, I am Susan Petito, lifelong City resident from Chelsea. I served for 33 years as an attorney with the Police Department, retiring in 2015 as Assistant Deputy Commissioner, Legislative Affairs. I chose to work very hard for a very long time, notwithstanding the possible rewards of private or corporate legal practice over those many years.

I am therefore appalled that the City has broken my trust.

You know about the inherent flaws and rampant fraud associated with Medicare Advantage plans. You also know about the misrepresentations which the City and the MLC promulgated in order to convince retirees that their new, specially-designed, Medicare Advantage plan would provide better health coverage for them. That was completely untrue and reflects the fact that retirees were never consulted. The City's unions do not represent retirees and sold them out without hesitation.

I'm lucky. I can afford to pay for good Medigap coverage. Many City retirees are not so lucky. But there is also a dirty little secret embedded in this controversy. The City's plan will likely have a racially disparate impact. Based on the City's employment patterns and history, retirees who earned lower salaries and receive lower pension payments will more likely be people of color. They will be less financially able to choose to opt out, and will suffer the consequences. This is an unacceptable result.

The City and MLC are trying to entangle you in their scheme. They say it's about protecting retiree choice, when in fact they want you to provide a fig leaf for their illegal intentions. If they decide to force all retirees into a Medicare Advantage plan, let it be on their heads. Without your help.

The City and its unions can find more responsible ways to address spiraling health care costs, without scapegoating retirees. They should bring the retirees into the conversation and see what happens.

City employees rely upon the promise of Section 12-126. For many employees, this is an important element of their decision to enter and remain in City service. I know it was for me. Our lives were devoted to making the City work, and our future health care should be a promise kept, rather than destroyed.

Thank you.

I am a retiree from the NYC Department of Education and would like to begin my statement by declaring I am not against healthcare savings. I am a lifelong New York City resident and have been proud to have lived and worked in the city. I provided 32 ½ years to the City as a Supervisor of Teachers of the Blind and Visually Impaired. I am most concerned with keeping a current insurance plan that is critical in retaining access to my doctors and ensuring continuity of care. I AM STRONGLY ASKING THE COUNCIL NOT TO AMEND ADMINISTRATIVE CODE 12-126.

I am against Medicare advantage plans that give private insurance companies the power to overrule primary care physicians-and to say which procedures will be permitted. A major and additional concern is having to endure dangerous prior authorization protocols imposed by a private insurance company.

The retirees have pinpointed more that \$300 million in annual recurring savings and have identified a way for the City to tap hundreds of millions of dollars in federal funds without the dangers of prior authorizations. As I mentioned above, I am not against healthcare savings. However, the arbitrator did not meet with the NYC Organization of Public Service Retirees to hear of the recommended savings. The process leading up to this hearing was not transparent or fairly conducted.

I am asking that you represent all constituents in making an appropriate and judicious decision NOT to amend Administration Code 12-126.

Susan Smith

From: suzanne colt <suzannekcolt@gmail.com>
Sent: Saturday, January 7, 2023 11:43 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Fwd: Upcoming Hearing on Proposed City Retiree Health Care Legislation - Mon., Jan. 9

VOTE NO ON 12-126!

Dear City Council –

I am writing to protest the efforts to take away my Medicare health insurance. I worked for the City of New York Law Department for over 33 years. My position paid less than I might have earned in the private sector but this was made up for by the benefits I received and the gratification of the work.

When I retired in 2014, I was promised benefits from the city for myself and my husband; that was part of the deal I made with the City of New York in 1980: Hard work at low pay in return for a rewarding job, a decent pension, and good health care FOR THE REST OF MY LIFE. As a result of poor management, unsavory practices by unions that do not represent me, and fraud in taking funds from the healthcare stabilization fund to pay for raises for active workers, the city where I lived and worked for my whole professional life, is seeking to make up for the poor management, unsavory practices, and fraud by taking away my earned health insurance now that I am almost 81 and vulnerable. Does that seem fair to any of you?

I urge you to vote NO on the bill to amend AC 12-126. This is a brazen effort to take away our Medicare and substitute a subpar Medicare Advantage plan (MAP). Why should the city balance its budget on the backs of retired workers? And why should the forward-thinking City Council agree to a step that would substitute a private insurance company with a profit motive to save money by minimizing health care to retirees for Medicare?

Here's what makes any Medicare Advantage plan subpar:

1. Beneficiaries spend more out-of-pocket on a Medicare Advantage plan than they would on a Medicare Supplement plan.
2. Coverage does not travel with you – if you like to travel when you are retired you are out of luck with a MAP.
3. There is a much smaller networks of doctors who accept MAP making getting appropriate care more difficult if not impossible.
4. Plan benefits change annually so you never know what will or will not be covered.
5. There is a constant need for referrals and approvals.
6. Higher out-of-pocket costs.
7. Doctors in general don't like MAP and say they find it difficult to provide adequate care and to get paid.

Finally, if for no other reason, vote no on the bill to amend AC 12 – 126 so that retirees who don't deserve this treatment can at least have our day in court if the mayor should decide to take action that results in such an amendment. Let us put our arguments in front of a judge, something we will not be able to do if the City Council takes this despicable step to undermine our benefits.

Sincerely,

Suzanne Colt

West 181st Street

New York, NY 10033

City Council Hearing, 1/9/21

My name is Suzanne Knabe, a retired NYC teacher and UFT member. At this time, my husband is very ill; my primary health insurance is Medicare A & B and my secondary insurance is Emblem Health Senior Care (GHI).

I do not support amending Administrative Code 12-126 for the following reasons: the code was enacted over 50 years ago to protect and guarantee city retirees and their families as well as the long term health insurance benefits of active NYC municipal workers. **The city pays the entire cost of health insurance coverage for city employees and their dependents in commensurate to the H.I.P.H.M.O. rate.** Admin. Code 12-126 offers equality and choice in our healthcare for all municipal workers. We are offered a wide variety of plans: GHI, Cigna, Empire, HIP, Humana and Aetna and Medicare. The code also pays and provides provisions for our Welfare Fund.

Why is the city, OLR and some unions proposing to amend Admin. Code 12-126? The money that was allocated in the stabilization fund for our health insurance was spent on teachers' salaries etc. Now the city is hard pressed and scrambling to save money on the backs of retired municipal workers and eventually this change will effect active workers. Our health insurance is nonnegotiable and cannot be privatized. By attacking the most vulnerable during the Covid-19 Pandemic, when municipal workers are dying; you are demonstrating a depraved indifference to our senior population. Employing coercive tactics: misinformation and a chaotic rollout /implementation plan, you attempted to force us into an Anthem and later an Aetna Medicare Advantage Plan. The judges in the Appellate and NY Supreme Court voted down unanimously to not allow the City to offer us only one plan. By all accounts, a plan that is inferior to our present Medicare benefits: subject to denial of claims, providers and hospitals not accepting MAP plans and the preauthorization of procedures and surgery, etc. The Scheinman report is not a final decision but merely an opinion; he is a consultant hired by the City. He does not represent us.

In conclusion, on October 15, 2021 Mayor Elect, Eric Adams stated, "When you start talking about cuts in health care, they're my cuts. I know what people are going through... because it's going to traumatize our retirees- this is devastating."

Admending Code 12-126 is the City's last vain and desperateP recourse to privatize our health insurance in order for the city to purely save money.

From: Steven Levine <slpargolf@aol.com>
Sent: Saturday, January 7, 2023 10:10 PM
To: NYC Council Hearings
Cc: Testimony
Subject: [EXTERNAL] [SUSPECTED SPAM] Fwd: Proposed Amendment 12-126

Begin forwarded message:

From: STEVEN LEVINE <slpargolf@aol.com>
Subject: Proposed Amendment 12-126
Date: January 7, 2023 at 9:56:13 PM EST
To: Steven Levine <slpargolf@aol.com>

My name is Suzanne Levine, Retired teacher who was employed for 30 years at a school located on the Lower East Side. I am providing a written statement in opposition of the bill to amend 12-126 of the NYC Administrative Code.

The MA plans are inferior and require prior authorizations that delay necessary treatments. As I age my husband and I , develop new medical conditions which require Cat Scans, MRIs, X-Rays and etc . If the City Council amends the code, these treatments will be delayed while medical providers who are not our doctors decide if these treatments are relevant. Many of our medical providers do not accept MA plans . In addition, doctors and hospitals are allowed to drop out of the Medicare Advantage plans each year, and many do so because of the harm to patients with the prior authorizations which delay treatment.

I know I am not alone in the concerns expressed. The NYC Organization of Public Service retirees(NYC) has indicated on their website: www.nycretirees.org , and on their Facebook page our concerns. We as retirees are not unsympathetic to the City's attempt to achieve more healthcare savings. it should not be done on the backs of retirees. It is recommended that the City Council set up a Blue -Ribbon committee to explore money saving suggestions made by the NYC Retirees

Examples include: having the City self insure, merging union welfare funds, and auditing current recipients of health care coverage and pressure hospitals to reduce costs.

In summary, there is no rush for the City Council to push through an amendment to the Administrative Code. This respected body does not answer to the Municipal Labor Committee. There is no dispute for the arbitrator to resolve
The so called arbitrator has no power over the City Council.

Please do not amend Section 12-126 of the New York City Administrative Code. Let the pending litigation against the City work its way through the courts, which will appropriately resolve many of the issues.

Please do not remove these protections that City Council put in place for City employees and retirees in the 1960's.

As a City employee, I knew I would never be rich but I would have a pension with quality health care. Please do not diminish our Health Care when as we age we required more rather than less care.

Sincerely

Suzanne Levine
Retired Teacher

, N.J. 08831

Sent from my iPhone

**SUBJECT: Upcoming Hearing on Proposed City Retiree Health Care Legislation –
Mon. Jan. 9**

My name is Suzanne Muller. I am a retired Educational Administrator (EA) who worked for the DOE from 1978-2009 and then continued working part time periodically until 2019.

I am hoping that my testimony today and that of my fellow NYC retirees will convince members of this City Council Committee on Civil Service and Labor to vote **NO** on the resolution to amend Section 12-126 of the NYC Administrative Code put before you today by Chairperson Carmen DeLaRosa and Speaker Adrienne Adams at the request of Mayor Adams.

When the money was taken from the Health Insurance Stabilization Fund retirees had no say. Now the MLC and the City want to recoup those funds used improperly to provide pay raises at our expense. I say **NO**. I do not want to be placed in a Medicare Advantage Plan. I want to be able to keep my traditional Medicare coverage and the Senior Care I currently have. I want the city to continue providing this coverage that I was promised when I was originally hired all those years ago. Unfortunately, I have numerous health issues and worry that if I am forced into an Advantage Plan my doctors will no longer accept my coverage. I worry that any tests I might need, specialists I might have to see or procedures I might have to have done will not be provided in a timely fashion due to preauthorization requirements.

The City Council must continue to support the city's retirees as has been done since the 1960s. This committee must vote **NO** today to amend Section 12-126 of the Administrative Code. Do not be party to the plan being put forth by Mayor Adams and the MLC to take away benefits earned by all of us. Allow this resolution to fail right here in Committee so that the **NYC Organization of Public Service Retirees** can fight and win in court with the current version of Section 12-126.

Thank you.

Suzanne Muller
Retiree 2009, DOE

Honorable Council Members,

My name is Suzy Sandor, I worked at OMB for 23 years and am represented by Council Member Julie Menin.

May I respectfully ask you take a moment to look at us and think of those who are too old or too sick or too far away or too poor to be able to be here today.

All together we are city retirees who worked on average 20, 30 , 40 years for the City. We are Labor. We were hired under 12-126, a law that keeps us on the Healthcare we had during our working years. You are now considering stripping away our promised Medicare/Medigap plan and moving us into a privatized for-profit plan that is called Medicare Advantage, but is in fact not Medicare and once one is enrolled in it, it is very very hard to return to traditional Medicare/Medigap health insurance. In addition, many of our doctors won't accept those plans because they pay the provider very little, are full of preauthorizations, and are under countless investigations including congressional, because of denials and delays of care -- and even fraud.

Medicare/Medigap provides national coverage, but Advantage plans do not. Although the advantage policies generally offer alluring perks such as free a pair of glasses, a dental cleaning, a Fitbit watch, some transportation to close-by doctors, a few hot meals after surgery, and some sort of exercise classes, none of that makes up for the endless preauthorizations and denial and delay of care under the Advantage plans.

We were promised no-cost healthcare of our choice when we reached retirement on the day we signed up -- and again on the day we retired. Please keep your promise!

NYCRetirees.org is more than willing to share with you the extensive information and suggestions they have amassed on ways to reduce New York City's outlay for employee healthcare without reducing coverage.

In closing, I respectfully suggest that you call your own doctors, your parents' doctors and your grand parents' doctors and ask them if they accept the advantage plans.

Sincerely,

Suzy Sandor

Dear People's Representatives,

Breaking promises and downgrading the quality of NYC Employees health care coverage is not the answer or any solution to the skyrocketing cost of health benefit . If this guaranteed benefit is canceled this time, what will be taken back from city retirees and active workers next time the health care cost increase even more.

The permanent solution to this ongoing problem is for the City and City Council to take some or all of the steps which are in their power, as suggested by the workers' advocates like the PSC-CUNY and other unions.

You guys are smart and may have ideas of your own in addition to considering the list at the bottom of this letter, that can be put in place to keep this monster in-check that is ever-increasing cost of healthcare for all of us by both the non-profit organizations eg. Hospitals and the for-profit corporations mostly the Insurance and Pharmaceutical Industries.

As you very well know these small contributions that the City wants retirees to pay start out little but balloon up after a few years so that a retiree will have to pay for higher healthcare cost if they want it badly and eat cat food for some of the meals. (although pet food are becoming more expensive too, but inflation is a separate and very important discussion. Clue to The solution to that problem is, that when any corporation makes double the income , they should be taxed at a higher rate. But that is something that needs to be done at the Federal level.)

Early on in my 32 year career at the City College of New York I had some opportunities to leave the city workforce and go to work at private University to get a higher salary but every time I opted to work towards a better pension plan and guaranteed healthcare coverage by the City.

It is not fair and downright morale-busting the attempt to extract health care savings from City workers by amending the City's Administrative Code section 12-126,
I urge you to VOTE NO on the proposed change when it comes up for a vote.

The proposed amendment would not only clear a path for the City to begin charging substantial

premiums to retirees who opt to remain in their traditional Medicare program, Senior Care; it would also open the door for the City to increase health insurance costs or reduce benefits for in-service employees.

Here is what the City Administration should be driving towards

First of all, consult and compare all type of steps taken by other big Cities in the nation that have helped with controlling healthcare cost for city employees and residents. Including, going after the hospitals for exorbitant charges, addressing the skyrocketing costs of prescription drugs, and auditing current insurance providers and mega-hospital systems who are making extra profits and claiming inflation as the reason, not mentioning THEY are the cause of this inflation, includes healthcare companies and Supermarket chains.

NY C should not try balancing the budget on the backs of workers and their dependents.

There are other ways to contain costs, and the City should seriously consider them.

1. Some cities in the United States self-insure.
2. Some use the huge purchasing power of their municipal workforce to engage in collective drug purchasing.
3. Some deal much more aggressively with hospitals that charge exorbitant rates and have huge salaries of top executives.
4. New York City administration is not doing any of the above. Why Not?

Please do the right thing for Your People and reject the proposed change to Administrative Code 12-126.

Sincerely, your constituent,

Syed Abdali

From: SYLVIA EGAL <sylsomal@msn.com>
Sent: Sunday, January 8, 2023 10:28 AM
To: NYC Council Hearings
Subject: [EXTERNAL] NYC Retiree Health Coveragr

Hello:

Please do not change Retiree Health Benefits! We retirees worked many years at lower wages than those at private corporations to ensure that we would have the health benefits we were promised upon retirement.

Keep the promise and do not change the law!

Sincerely,
Sylvia Egal

Sent from my iPhone

From: T G <tee51g@yahoo.com>
Sent: Sunday, January 8, 2023 6:54 PM
To: NYC Council Hearings
Subject: [EXTERNAL] I agree to Amend Administrative Code on Health Care Plans

Dear Council Member(s),

I'm a New York City public school educator. I'm writing to tell Council Members to vote yes to amend and pass the city's administrative code because city retirees deserve a choice in health care plans and city employees deserve to keep their premium-free health care.

I want to be able to keep my current health care plan and have choices not taken away from me. I've worked 38 and a half long and hard years and deserve that dignity and respect to have plans available to me and not be very limited in a one only plan deal that is being proposed. This is not a one size fits all proposal going through different medical needs!

Please let us choose and have options!

Thank you.
T Gonzales

From: Takisha A. Dozier <takisha@bronxchildrensmuseum.org>
Sent: Friday, January 13, 2023 11:59 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Inquiry: Submitted Written Testimony

Good afternoon,
Regarding the January 12th Oversight Hearing on NYC's Immigrant Communities and the Arts, we'd like to submit written testimony. I understand that you can do so 72 hours after the hearing. Because the hearing was on a Thursday and Monday is a holiday, please let me know when the testimony would need to be submitted.
Thank you,
Takisha

--

Takisha A. Dozier (She/Her)
Executive Assistant & Community Liaison
Bronx Children's Museum

takisha@bronxchildrensmuseum.org
www.bronxchildrensmuseum.org



The Bronx Children's Museum seeks to inspire children and families to learn about themselves within the diversity and richness of their surroundings, the environment and the world beyond.

<https://youtu.be/Pvf2doofOK8>

From: Tamara Johnson Paternoster <litany1tj@icloud.com>
Sent: Saturday, January 7, 2023 2:00 PM
To: NYC Council Hearings
Subject: [EXTERNAL] DO NOT amend code 12-126

DO NOT amend code 12-126. Stop balancing your budgets on the backs of teachers. Where would we all be without teachers? We deserve respect.

Sent from my iPhone

From: Tamara Sevastyanova <seva788@icloud.com>
Sent: Wednesday, January 11, 2023 7:40 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Written testimony

Dear Chair De La Rosa and members of Civil Service and Labor committee!

My name Tamara Sevastyanova, I have been worked in NYC DEP during 20 years and now I am retiree from 6/30/2018 and live in state of New Jersey.

I kindly ask you do not support the bill, have been introduced 1/9/2023 by Civil Service and Labor Chair De La Rosa for amendments to administrative code 12-126 for the City of New York in relation to health insurance coverage for city retirees, and their dependents.

Retired city workers are the people who built this city and made it great. They deserve what they were promised, and above all, they deserve the assurance of good health care in their later years.

The City's Medicare Advantage scheme could instead saddle retirees with higher costs, smaller networks, and greater administrative obstacles to accessing health care and preferred doctors, especially in State of New Jersey with long commute to the doctor. No any meals, transportation, GYM could substitute my availability of getting the service from the preferred doctors located in my living area.

A promise made should be a promise kept. These retirees were promised solid health plans at no cost and that is what they should be guaranteed.

No retiree should be forced to pay more to get the same coverage or lose coverage they currently have.

But this is even more than about what's fair and what's right.

This is also about placing retirees under undue financial stress for the purposes of saving the city some money.

Cost savings should not be brought to bear on the backs of retirees. For that, the city should look elsewhere.

Today hardships already impact housing and cost living; let's not add health care to the mix by making it more expensive for retirees to see their doctor.

A promise made should be a promise kept. That's what older adults deserve.

If there is change to retirees' health insurance-and, again, any alternative plan must offer what retirees get now at the same no- cost basis - there must be an education effort to support retirees and help facilitate them making a transition. So many things today are confusing enough, let's not add health insurance transition to the list for our former city workers.

Thank you.

Sent from my iPad

My name is Teresa Moran. I retired from City Service in 2002. I am a resident of Council District 23, represented by the Honorable Linda Lee.

In 2009, my doctor discovered that I had cancer. Treatment included surgery, radiation and taking meds for life. Without the medications I will die. Plus, I must have different tests at various intervals to be sure the cancer hasn't come back. So when this Medicare Advantage talk started, I followed up with my doctors--none of whom would participate in *any* Medicare Advantage Plan. The strongest reason was "constant denials for permission to order necessary tests and procedures". My research shows that various government and media investigations support this as fact. I certainly don't trust the MLC's word that they will now prevent this from happening to me, since it was the MLC who decided to replace my Medicare/Emblem Health plan with an Advantage plan to cover their numerous financial raids on the Health Stabilization Fund giving me no choice but to opt-out. Would paying \$191 a month to keep Emblem Health be a hardship? It certainly would. Due to the effect drinkable radiation had on my teeth, plus my huge medicine bills, the

deductible medical amount I reported on my taxes for 2021 was more than twenty thousand dollars. In 2023, it is going to cost even more. I went back to work several years ago to be sure I could pay those bills but as I am now nearing eighty, I do wonder how much longer I can work. The NYS Supreme Court and the Appellate Bench agree that, thanks to the protection of Administrative Code section 12-126, I should not have to endure further financial hardship. 12-126 is protecting me and every New York City employee and retiree, and all of us are relying on you to protect 12-126, just as your predecessors have done for more than fifty years when there have been calls to abolish 12-126 and make the employees and retirees bear the brunt of the City's fiscal mismanagement.

Lastly I would like to offer a shout out to all City Council staff because I began my career in the 1970s as a Legislative Aide to Council Member Matthew J. Troy of Queens, so I know what it is like to answer those phones—and I thank you for doing so.

Do NOT Amend Administrative Code 12-126

Dear Council Members,

My name is Terry Lieber. I'm a retired NYC teacher and a member of the UFT. I taught for over 32 years. I chose to work for the city rather than in the private sector for more pay because of the health benefits in retirement. I was promised the same health plan as I had while in service. That healthcare is now being threatened.

Our healthcare will be severely compromised by a Medicare Advantage plan. Prior authorization for tests and procedures will be life threatening. My husband has Non-Hodgkin Lymphoma. With our Traditional Medicare/Senior Care, he was able to be tested and start to receive chemo infusion within one week. If he had a Medicare Advantage plan, it would have taken months before starting treatment. He could have died by then.

The UFT and MLC have thrown us under the bus. Instead of supporting us, they are doing the mayor's "dirty" work, by forcing us into a Medicare Advantage plan or charge us \$191 per person/per month (\$382/couple to keep our Traditional Medicare/Senior Care that we were promised with no charge. It's a plan, for the record, that only covers 20% of medical costs as Medicare covers 80%. Many NYC retirees are living on small pensions and cannot afford to pay a fee.

Every City Council before you has protected 12-126. Scheinman offered an "opinion" only, and has no jurisdiction over the City Council nor over the retirees.

I request that you do NOT support the bill being introduced by Civil Service and Labor Chair De La Rosa.

Protect our health benefits of retirees and active members.

Do not empower the Mayor and MLC to side-step the law.

Do not allow the authority of the City Council to be diminished.

Demand other options be explored.

Vote AGAINST changing the NYC Administrative Code 12-126.

Thank you.

Terry Lieber terrylieber@gmail.com

From: Thelma Grossman <thelsey@optimum.net>
Sent: Thursday, January 12, 2023 12:09 PM
To: Testimony
Cc: Thelma Grossman
Subject: [EXTERNAL] Vote no

Dear City Council Representatives,

My name is Thelma Grossman. I am a retired NYC teacher. Next week the City Council is about to call for a vote

on whether or not to amend ADMINISTRATIVE CODE 12-126, a code which has protected city workers health insurance

Since 1967.

I URGE YOU TO VOTE NO TO AMEND CODE 12-126.

Sincerely,

Thelma Grossman
30 years as NYC teacher

Coram, NY 11727

From: Theresa <terryh5@optonline.net>
Sent: Thursday, January 5, 2023 3:05 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Proposed changes to retiree health benefits

Unfortunately I am not able to attend the hearing on Jan 9th because I am having a medical procedure done on that day. I am very concerned about moving to a Medicare advantage plan because based on the previous attempt to move to a Medicare advantage I know at least one of my current doctors do not participate.

I am 81 years old, can not afford to stay on original Medicare if the plan calls for \$190 a month to stay on original Medicare.

We were promised health benefits as a loyal city employee . Don't force me to pay for it.

Theresa Haflich

DC 37 retiree

Sent from my iPhone

My name is Theresa Roth. I am a constituent of Councilmember Erik Bottcher's District 3. I am providing this testimony to the New York City Council to express my opposition to the Council's pending bill to amend Section 12-126 of the NYC Administrative Code. I retired in 2020 from The Teachers' Retirement System of the City of NY (TRS) the majority of my service as a Supervising Investment Analyst. I joined the City 25 years ago specifically for the City's health benefits for employees as well as a secure future pension instead of continuing my career with major Wall St. Firms paying much higher salaries. The Director/Deputy Director of Investment Administration at TRS offered promotions to management, instead of my Supervisory position. These promotions would have afforded increases in salary, yet I always refused the offers instead preferring the future security of NYC civil service benefits instead. Agreements that stated the insurance we had in employment would continue into retirement, until our death and as retirees, we were also entitled to Medicare B reimbursement. So strong was my belief in the civil service system I volunteered my own personal time & attention to serve for a term as an Executive Board Member / Shop Steward for DC 37 Local 1407.

Then after 9/11/2001 Mayor Giuliani send us back to our non essential work @ 220 Church St. 49 Worth St. On the day Christie Todd Whitman insisted "the air was safe" minimal electricity, no PC's, No A/C, no phone service, Windows wide open & a car towed from the pile was smoldering on Church St. Directly below my open window. A parade of trucks carrying contents from the pile passed below on Church st. all day & periodically someone would hose down the street with water. I gave my all during this time, literally. Gladly knowing that agreement between DC37 & the City of NY provided that my health insurance in retirement would be free & would provide the same coverage as for an active employee. I relied upon that promise in making my long-term plan to hopefully live to retire as a civil servant. Health issues began. I used all my sick & vacation leave then had to take leave w/o pay. Even though I had been with my agency for years HR would not grant use of future time for documented necessary surgeries.

In 2004 I was diagnosed with Thyroid Cancer surgically removed & treated by MSKCC, follow up with specialists, scans & tests that followed, then swallowing radioactive iodine to destroy any remaining tissue. Still my agency would not grant use of future time to cover any necessary & documented medical leave time. Before the Affordable Care Act was enacted (which prevents carriers from denying coverage to people with pre-existing health conditions), the fact that **the City offered a group health insurance plan to ALL employees was one of the most important reasons I remained**, no worrying about not qualifying for health insurance **and as the City offered a group Medigap policy to those of us vested in a City pension plan, I also would not have to worry that I might be ineligible for supplemental coverage to Medicare, as a retiree.**

When Hurricane Sandy displaced my agency from 55 Water St. for months & we worked out of & commuted to a Long Island City industrial bldg. (NYCERS) or trailers filled with pc's parked in Long Island Supermarket parking lots. Even thru this I still gave my all in my work & commitment to protect the Teachers' Retirement assets & implementing & following the TRS Board investment direction.

I had been assured and told on numerous occasions by DC37 union officials, just as pre election Brooklyn Borough President & retired Police Captain Eric Adams stated "You don't become a civil servant to

become a billionaire. You become a civil servant to have stable health care, a stable pension and a stable life" and that it would not destabilize after I retired . Yet my copays increased from \$10 to \$15 to \$25. to present day \$250 + copays each for a recent ER Stroke visit as well as MSKCC surgical removal of some rare Malignant Neuro endocrine tumors in my Doudodoum **For retirees such as myself with an already extensive list of pre-existing conditions to manage, & frequently emerging new medical issues, how is it fair to force us into a Medicare Advantage plan with a narrow network of specialists and hospitals, as well as the hundreds of pre-approvals the plans typically require, and which Medicare does not? Many of my specialists accept NO Medicare Advantage plans; most accept just a few.**

I retired early at 62, & God willing I turn 65 this summer. The City of New York should keep its promise to provide me with its premium-free EmblemHealth GHI Senior Care Medigap plan (aka "GHI Senior Care") in retirement. I am well aware that **the majority of doctors** across the USA, accept traditional Medicare and as such must accept any Medigap policies, including GHI Senior Care – but they **do not have to accept Medicare Advantage plans.** Thus, with GHI Senior Care the City's attempt to force retirees into a Medicare Advantage plan which would only cover retirees in New York City and to some extent, the surrounding counties, means that retirement plans made years ago by many other retirees, would be completely upended. How is this fair?

Also doctors & hospitals are allowed to drop out of Medicare Advantage plans each year, & many do, because of the harm to patients from delayed care due to pre-approvals, the administrative burden created by the pre-approval process, & the consequent delayed payments. In contrast, doctors & hospitals which accept traditional Medicare usually continue to accept it. **Forcing me into any Medicare Advantage plan would severely limit my ability to receive timely treatment for my conditions. This would negatively impact my overall health.**

I know that I am not alone in the concerns expressed above. The 19,000 of us who are members of New York City Organization of Public Service Retirees ("the NYC Retirees) have previously expressed the same concerns to members of the New York City Council, the Mayor, the New York City Office of Labor Relations, and the Municipal Labor Committee, in emails, phone calls, and letters, as well as in postings on the NYC Retirees' website (www.nyc retirees.org/) and Facebook pages, and in the press. **While we retirees are not unsympathetic to the City's attempt to achieve more healthcare savings, this should not be done on the backs of retirees.** Instead, the City Council should continue its long history of supporting healthcare for the most diverse municipal labor force in the country, and set up a Blue-Ribbon committee to explore the concrete money saving suggestions made by the NYC Retirees, which are backed up by research, including from government and industry. There already are over \$300 million in savings which have been identified, including having the City self-insure, merging union welfare funds, and auditing current recipients of health care coverage (which has only been done once by the City, last under Mayor Michael Bloomberg)

Finally, **there is no rush for City Council to push through an amendment to the Administrative Code. The City Council does not answer to the Mayor, nor does it answer to the Municipal Labor Committee. The Council is not a party to collective bargaining agreements, and it certainly cannot be a party to an already expired agreement. As such, any so-called "arbitrator" has no power over the City Council.**

Beyond this, an arbitrator needs a dispute between the parties to an existing (and not expired) collective bargaining agreement to have any power. But in the case of the City and the Municipal Labor Committee, these two parties are working in concert; there is no “dispute” for the arbitrator to resolve.

In conclusion, **please do not amend Section 12-126 of the New York City Administrative Code. Please let the pending litigation against the City work its way through the courts, which will appropriately resolve many of the issues. Please don't remove the very protections that City Council put in place for City employees and retirees in the 1960s.**

Thank you,

Theresa Roth

NY, NY 10036

Honorable Council Members

I'm giving a Written Testimony instead of Verbal Due to WTC/911 Cleanup, That now I have a Medical Condition from.

My name is Thomas Higgins and I am a retiree of the NYC Dept of Sanitation. I gave over 38 years of hard work and dedication to keep NYC safe and healthy. Through snow storms, 9/11, hurricanes, blackouts and whatever else that the city has been through. When I was hired I was promised if I worked to retirement that I would get my pension and the same choices of health coverage. I gave up higher pay and better health coverage for that promise. Even Democratic mayoral candidate Eric Adams said. "You don't become a civil servant to become a billionaire. You become a civil servant to have stable health care, a stable pension, and a stable life. And we can not destabilize it after they retire,"

Changing Administrative code 12-126 will break those promises and will cause hardship for me and the other retirees that are on a limited income, by having to pay \$4800 for me and my wife to keep the same coverage, or suffer by not having the same coverage, doctors or being denied services by a company that's main concern is profits, and this on top of the high costs of Medicare to start with.

Retirees do not have the same representation in our unions as active members and then in turn the MLC after retiring because we can no longer vote. So we need someone to stand up for us. So please don't turn your back on us who have sacrificed for the city, like the people in the military defending are freedom. By not amending Administrative code 12-126. But instead make sure that the retirees have a true voice in what effects us. Like the NYC Organization of Public Service Retirees. Whom have informed us about this injustice and have been fighting for our rights.

So in conclusion please do not take our rights away that we have sacrificed years of our lives for. By leaving Administrative code 12-126 as is.

Thank you for your support in this matter

Thomas Higgins

Sanitation 1981 to 2020

Dear Honorable Councilmembers

As a retired/disabled NYC firefighter I must say that helping all New Yorkers was paramount for me. I loved serving the community. Starting in 1978, I worked primarily in The Highbridge section of the Bronx and in Jamaica, Queens. I also worked details in Manhattan and Brooklyn. Every day, firefighters engage in incredible acts of heroism, bravery and community outreach to all New Yorker without prejudice. We provide a very valuable service that helps keep our communities safe. Unfortunately, after almost 20 years, I became disabled after falling through a roof at a fire. I wanted to return to service, but after several neck and ankle surgeries, my body would just not let me. After that, I also developed stage 4 cancer for which I have been undergoing treatment for the past 7 years. Good healthcare is extremely critical for my personal survival, without good healthcare I am confident I would not be here today.

I live in South Carolina where I receive some of my care but also travel up to Memorial Sloan Kettering Cancer Center in New York as my primary provider for cancer care. Many of the doctors in South Carolina do not accept Medicare Advantage (MAP). It was even challenging for Blue Cross Blue Shield – the originally planned MAP provider to get Sloan Kettering on board with accepting *their* MAP. Many of the MAP are under investigation by CMS, Congress, and multiple government agencies for fraud and abuse. They are run by private insurance corporations that have a goal of making money (unlike those in public service!) – this money in part comes from denying necessary tests and treatments. Even CMS has confirmed this statement. Again, without those tests and treatments, I know I would not be here today.

I served the city well for many years. In fact, I gave up my independence to serve the city. I know you are all councilmembers because you want to serve your constituents as well. Now is the time I am asking that you consider those, like myself, who will suffer if we are forced onto a Medicare Advantage plan that is far inferior to what we currently have with Senior Care. For some, I truly believe this can be the difference between quality of life and no quality of life and perhaps life and death.

This is a huge concern for all retirees given our current economy. Many, in particular older individuals and individuals with disabilities and illnesses, have no ability to supplement their income by taking on additional work to be able to access the much needed medical care they were promised when they signed on as public service employees.

There are monies to be saved elsewhere. The New York Organization of Public Service Retirees has done their homework and can offer numerous suggestions if you would take the time to hear them out. I know you are all very busy with many constituent issues. What I would ask is that you request a Blue-Ribbon Commission to fully explore all avenues for healthcare savings rather than simply taking the expedient way out by obtaining the savings on the backs of retirees. In fact, if Administrative Code 12-126 is changed, it will not only impact retirees, but it will also impact all active public service members in New York. It will be like opening Pandora's Box.

Please help us now by keeping Administrative Code 12-126 intact so we have the option to keep our current medical benefits. NYC Public Service individuals with disabilities and retirees are a very diverse group of individuals; one size does not fit all. Keeping 12-126 as is, will ensure that we have a choice and that not all retirees and disabled workers are placed into a one size fits all Medicare Advantage Plan.

Please VOTE NO to changing Administrative Code 12-126.

Thank you for your consideration

Thomas P Plack, FDNY- Retired

Tplack917@gmail.com

Landing Lane

Bluffton, SC 29909

My name is Tiffany Huang and I am a City worker at Department of Health and Mental Hygiene. I am writing in strong opposition to Intro 874. I urge the Council not to support the Mayor's and the Municipal Labor Committee's attempt to force City retirees into a Medicare Advantage plan and undermine the health benefits City workers have been legally entitled to for decades.

The campaign from the administration and the MLC has described this proposed change to administrative code 12-126 as a way to "preserve choice" for retirees in their health care. In fact, the premium that will be attached to traditional Medicare (Senior Care) if the change goes through will be out of reach for many retirees on their incomes and would make it infeasible for them to remain with their current standard of care. Medicare Advantage has also been the subject of much reporting regarding fraud with the program and I am very concerned that this will be functionally the only option for many retirees who have been legally guaranteed a certain standard of benefits for decades.

As active workers, we have been told by our union leadership that it is necessary to put the Medicare Advantage switch in place in order for the City to fund our raises, or that we will be forced into paying health care premiums if the switch does not go through. I strongly object to retirees and active workers being pitted against each other when the City and unions could pursue other options. Retirees and the Professional Staff Congress have identified several alternative approaches to lower healthcare spending such as the City creating a self-insurance plan or all City workers' union welfare funds being consolidated for better leverage and group purchasing. I urge the Council to meet with these groups and hear about their proposals. For other active workers like myself, this change to the administrative code opens the door for our own healthcare benefits to be altered or for more "classes" to be created with diminished health care benefits, such as new hires. The City is already hemorrhaging workers, and gutting benefits will make it even more impossible to hire and retain talent while our essential agencies are already dangerously understaffed.

The Council should not play into the Mayor's and the MLC's plan to get around their legal obligations to retirees and should not pass Intro 874. Thank you,

Tiffany Huang, Department of Health and Mental Hygiene employee and DC 37 member

To Whom It May Concern:

My name is Timothy McDermott. I work for New York City Department of Environmental Protection. I have three toddler-aged children. One of my children has disabilities and receives services. I am in need of the free health care that was offered. I cannot afford to pay for services and basic healthcare being that we live in the most expensive state in the country. I work hard for the city fixing water mains, sewers and providing the city with water on a daily basis. My department and I worked through the pandemic with no hazard pay and very little appreciation. We have been out of a contract for two years and trying to make sure we are treated fairly. The new contract mentions taking away our health care and charging us; this is absurd in a world where inflation is at an all-time high and prices are soaring daily. It is unacceptable and I need good healthcare for the sake of my family. This deal was made without our knowledge and it is unfair to all the hard working men and woman on the job. We hope that you take this into serious consideration and review our requests to maintain our healthcare.

Thank You,

Timothy McDermott

From: Tracey Mantrone <tmantrone0905@gmail.com>
Sent: Tuesday, January 10, 2023 5:37 PM
To: Testimony
Subject: [EXTERNAL] section 12-126

Hi:

I am a city employee of 24 years with a brother who is a retired city employee. We worked long hours in often unsafe conditions in a public library and a high school. I have has covid twice since 2020 due to exposure at my library.

It is unwise and unfair to amend Admin Code 12-126. You are not only threatening the health care coverage of dedicated city employees, but according to the IBO report, you are moving the money to a fund with poor oversight. Many employees may not be able to keep their current providers. I also fear that with minimal oversight, the fund may be drained to further threaten the well- being of retirees.

Please do not amend Admin code 12-126.

Thank you,

Tracey Mantrone

Richmond Hill, NY 11418

NYC City Council Committee on Civil Service and Labor Hearing at 9:30am, January 9, 2023:
Hearing on Proposed Legislation to Amend the Administrative Code

Contact info: Ridgewood, NY 11385, , aka.oes@hotmail.com

My Council Member is Jennifer Gutierrez

Honorable Chair De la Rosa and Honorable Committee Members,

My name is Tracyavon Ford. I have been a School Social Worker with the NYC Department of Education for 24 years. I object to the Mayor wanting to use healthcare as a target for budget cuts. I object to Speaker Adams pressuring the city council members to vote on a bill that may force NYC retirees into a Medicare Advantage Plan and make other unknown changes to the health care of active workers and retirees.

I was working at PS 142 in lower Manhattan on September 11, 2001. In the months after, as part of my job, I walked to day care centers just blocks from ground zero everyday,. I passed the smoldering remains of the World Trade Center as I walked. The smell of death lingered for months in PS 142. I continued to work at PS 142 in the years following 9/11. I was diagnosed with Upper Respiratory Disease/ Chronic Rhinosinusitis. My conditions are chronic, and I will need the same specialized medical treatment I receive now when I retire in five years. Any Medicare Advantage plan will deny the treatments that I need. I receive treatment at the NYU Langone Health Center, affiliated with the NYU School of Medicine. NYU Langone Health does not accept Medicare Advantage plans.

I will live with the Respiratory Disease and Chronic Rhinosinusitis for the rest of my life. It is the direct result of my proximity to the World Trade Center on 9/11 and for the subsequent extended time that I worked at PS 142. I receive treatment at NYU Langone for the two auto immune diseases as well.

The City Council should not participate in voting for a bill that will compromise the healthcare of any NYC retiree or current employees. Your job is to protect New Yorkers from the ravages of greedy politicians and healthcare companies. You have the option to protect those you have sworn to serve

so that no other city retiree or active will have to go through this again. Understand that there are alternatives to changing the administrative code. Remember that Mr. Scheinman's statement is just an opinion and recommendation and not a legally binding decision. Mr. Scheinman has no jurisdictional or legal authority whatsoever over this situation. He is the paid employee of those that have already decided, without considering options, to change the law and insurance of the most vulnerable municipal retirees: Medicare eligible New Yorkers.

The City can look at other funding options to keep their end of the bargain.

If you amend 12-126, coverage can be pegged to classes of active workers and retirees. A diminution of benefits may result in altering or stopping my treatment and impede my finding competent doctors. I serve this city in good faith, going above and beyond my obligations to give to and support my students and their families.

My story is intended to inform City Council members' decision to oppose any changes to the Administrative Code and continue to protect the hundreds of thousands like myself who have given selflessly to "The Big Apple".

We earned our benefits, and were promised these benefits time and time again by the same organizations that are now relentlessly pushing to diminish the benefits after knowingly depleting the NYC Healthcare Stabilization fund. Shame on the OLR and the MLC leadership for doing this to the multitude of human beings who responded to fires, accidents, protected people and valuables, taught the children that became the future of the city, collected garbage, and made the city a desirable and functioning place to live, work and visit.

This will be your legacy, make your vote one you will be proud of in the decades to come.

Tracyavon S. Ford, LCSW-R

Licensed Clinical Social Worker

Testimony – Committee on Civil Service and Labor

9 January 2022

Hearing on a Local Law to amend the administrative code of the city of New York, in relation to health insurance coverage for city employees, city retirees, and their dependents.

First, some history of Managed Care systems (more accurately described as “Mangled Care”).

When this system was first proposed, and legislation was presented to then-president Richard Nixon, he was extremely resistant to supporting or signing the legislation into law, because he thought it would provide health care to people. Once it was explained to him that it was actually a system designed to profit the insurance carriers, not to provide either preventive or medical care for illness beyond a bare minimum to provide “cover” for profit, he was amenable, and this system was made legal.

As subsequent administrations, and changes in Congress have responded to lobbyists and the money poured into campaign coffers, the system of Managed Care has been systematically manipulated for maximum profit and minimal care. The process of deflection and denial of care, particularly to the very ill, successfully killing people before appeals have any chance of success, metamorphosed into Mangled Care, which continues to worsen provision of care for all but the very wealthy and, of course, politicians, who provide themselves with regular wage increases, fully funded pensions and, of course, quality health care. The intent is to privatize wholly Medicare or end it, despite its low overhead and popularity. Congress has been chipping away at Medicare benefits, while simultaneously looting reserves from both Medicare and Social Security.

The intent to force retired workers, current workers, and their families into Medicare Advantage, and to deny them the right to have and decide whether to remain on traditional Medicare, constitutes a form of theft from the workers—still on the job and already retired—of both wages and benefits.

Retirement/pensions and health care for retired (and current) workers (civil service employees specifically, for the purposes of this testimony) are forms for deferred wages. Workers agree to defer wages and benefits as a form of savings for their retirement and in the expectation that these wages and benefits are and will be available for their use for the duration of their lives. It is compensation owed by the employer (the City of New York) and agreed upon when these contracts were made.

Medicare Advantage is the privatization of health care which enriches insurance companies (please review the compensation of Medicare Advantage CEOs) at the expense of the rights, income and health care of workers. Privatization has no benefit for municipal workers—or the “taxpayers” it purports to serve, using a propaganda of “cost savings” which aren’t.

The intent to force workers into this system is a form of political manipulation which pretends to create “savings” for the city which are a facade, covering up a goal of austerity, but only for workers.

The mismanagement of the COVID-19 pandemic—which is ongoing, and now at its sixth and most infectious variant—is an excellent example of the consequences of political manipulation

around public health in lieu of established standards of epidemiology and public health protocols. Unnecessary suffering and death and, most importantly, the exposure of the disgraceful state of health care—and the lack thereof, yet nothing has been learned from a created catastrophe.

Rather than embrace real health care and an honest recognition of the deferred—and earned—wages and health care benefits of workers, and provide what is due, the city is seeking to deny essential provision of health care in the falsified language of “savings” which ultimately cost more not only in medical expenses but in the consequences of the denial of real health insurance.

Egregiously, this law, and the political machinations and profiteering it represents, also ignore the longstanding, ongoing criminal fraud of Medicare Advantage insurance carriers, which cost taxpayers millions in overcharges, manufactured diagnoses and, of course, denials of care which result in actual worsened health and higher costs (and profits). This theft is more diffuse and easier for politicians at the municipal level to pretend is somehow not a consequence of forcing the unwilling into these systems. This is systemic corruption.

The committee should carefully read the following:

The New York Times, October 8, 2022

‘The Cash Monster Was Insatiable’: How Insurers Exploited Medicare for Billions

By next year, half of Medicare beneficiaries will have a private Medicare Advantage plan. Most large insurers in the program have been accused in court of fraud.

<https://www.nytimes.com/2022/10/08/upshot/medicare-advantage-fraud-allegations.html>

and

NPR, December 12, 2022

Health Inc.

How Medicare Advantage plans dodged auditors and overcharged taxpayers by millions

<https://www.npr.org/sections/health-shots/2022/12/12/1141926550/medicare-advantage-plans-overcharged-taxpayers-dodged-auditors>

As a starter in understanding and acknowledging the real context of this “plan”.

The tactic is also one of attacking the perceived weakest link in what constitutes the intent to destroy unions and union contracts which represent the strongest forms of occupational health and safety and access to necessary medical care. Major municipal labor unions colluding in this process are also acting as corporate entities which have stopped supporting workers they are

Testimony – Committee on Civil Service and Labor
9 January 2022
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supposed to represent, and have sought perquisites for the few “leaders”. They have betrayed those workers. This is the definition of corruption that gives corporate unions a bad reputation; they are also stealing from workers.

Notably, this attack is occurring at a time of increased union activism by real unions and workers, and is intended to pre-empt efforts to seek real health care, which the city should provide as a matter of basic decency and justice.

These attacks are bipartisan, again in pursuit of political power and profiteering—and hoped for rewards and benefits. DeBlasio hoped to campaign for governor on such practices. Mayor Adams described himself as a “Conservative Republican” until he wanted to be mayor, and has certainly reverted to type; he has championed the assault on tenants, homeless people, gutting of essential services, while inflating a standard shriek of “crime, crime, everywhere crime” in an attempt to frighten the public and add a few more unnecessary billions to police.

And when the bodies pile up, what we get is not responsive government, but “thoughts and prayers”, lip service to “compassion” that is nonexistent. Then more of the same greed, corruption and theft.

Surprise us all. Act ethically, humanely, and with common decency.

Do not support this assault on the medical rights of retirees, workers, and their families. And certainly do not attempt to boondoggle the rest of us with lies about “cost savings” and how this “won’t cost anything”, knowing full well it represents multiple levels of theft and corruption from everyone, not just those directly targeted.

Trina Semorile
10 January 2023

Dear Council Members,

I am almost 70 years old. As a professional musician since my late teens and a public school retired educator I have been a union member most of my life.

Yet, my union is not supporting me and my 81 year old husband as promised. In fact they are throwing us under the bus by trying to force us to enroll in Medicare Disadvantage instead of our traditional Medicare that we love,

Our City government claims it will save \$600 million a year, about a half a cent per dollar in its \$100 billion budget, on the backs and bodies of its own retirees. This is unconscionable and a social/ political crime, either of incompetence or corruption or both. Our big union leaders, led by UFT and AFSME DC37, have let us all down.

Tiny increases in Wall Street taxes on stock and bond transactions; slightly higher corporate real estate taxes; and challenging Washington to spend less on endless wars are all possible. Of course statewide universal healthcare would eliminate the problem. The choice is clear; we must unite to demand what we need.

Please do the right thing, the moral thing and do not change administrative code 12-126.

*Sincerely,
Trudy Silver*

Retired Teacher Advocate Solidarity Member

NOW, during our retirement years. Why should I pay almost \$5,000 more a year to keep our traditional medicare plan? This is wrong! PLEASE DO NOT CHANGE ADMINISTRATIVE CODE 12-126 TO ALLOW OUR UNION LEADERS AND THE MAYOR TO FORCE MEDICARE DISADVANTAGE OR MAKE US PAY ALMOST \$5000 MORE A YEAR TO RETAIN OUR TRADITIONAL MEDICARE.

WHY ARE YOU LOOKING FOR OTHER SOURCES OF RENENUE FROM THE RETIRED AGING WORKERS INSTEAD OF TAKING THE BILLIONS OF DOLLARS OF STATE TAXES FROM WALLSTREET, FROM THE CORPORATE BANKSTERS. THIS IS CRUEL!!

THANKS TO OUR OWN CARLINA RIVERA AND SHAHANA HANIF TO NAME TWO WHO UNDERSTAND AND SUPPORT US!!

From: Tsee Lee <TseeNoEvil@gmail.com>
Sent: Sunday, January 8, 2023 4:32 PM
To: Testimony
Subject: [EXTERNAL] Do not amend public retirees' health care

We have no right to take away benefits guaranteed to public servants. At least these should be openly negotiated, but as a public school teacher, I can't even vote on this betrayal. Union leaders have lied about not knowing about these planned cuts, and they lied about not having a say. Do not aid and abet these liars.

Best,
Tsee Lee

From: Vera Faynberg <verafaynberg@gmail.com>
Sent: Wednesday, January 11, 2023 9:57 PM
To: NYC Council Hearings
Subject: [EXTERNAL] NYC retirees Health benefits

Dear NYC Council members,

I am a former employee of the NYC DEP, retired in 2012 after 22 years in service.

Just would like to write a few words about how stressed and worried I feel, as all my friends/coworkers, about possible change of our medical insurance.

One of the most important reasons for me to start working for the city in 1990, after 12 years working for a very prestigious private Consulting Company, was guaranteed benefits during working years and after retirement.

And now all that can just disappear, now, when you're older and have to visit doctors more. None of my doctors are in MAP network, and told me that they absolutely are not going to except it. Their reasons for that: good medical care can't be provided for people who have Medicare advantage plans. Clerical worker, not medical doctor, makes a decision how to treat patients, what tests, what procedures should be done. It's doesn't sound good for sure.

I opted out right away in 2021, but it's not easy pay \$200.00 per month, still better than have horrible insurance coverage.

Please do not allow to eliminate Administrative Code 12-126, protect our workers and retirees Health insurance. Retirees earned it to feel secure and not so vulnerable.

Thank you for understanding!

Vera Faynberg

**New York City Council - Committee on Civil Service and Labor
INT 0874-2023 - Health Insurance Coverage for City Employees, City Retirees and
Their Dependents**

Jan 9, 2023, 9:30 am, Council Chambers, City Hall,

Testimony by Veronika Conant, M.L.S.

vaconant@yahoo.com

Dear Civil Service and Labor Committee Chair DeLaRosa and Members of the Committee,

I am unable to be present in person and am sending this testimony to you digitally.

I am Veronika Conant, a retired (2003) CUNY faculty member who worked for over 18 years at Hunter College, first as Science Librarian, and later as Head of the Health Professions Library at the Brookdale Campus (1985-2003). The salary I received never equaled the level and extent of the service I provided, and it was the other benefits (health and retirement) that made it into an acceptable deal. I, and many other retirees like me, did our jobs, and now it is the City's duty to keep its promise to us. Why, in the middle of a major global Pandemic, is the City attempting to institute major changes in our health care just to save money?

I am currently enrolled in the City's Medicare SeniorCare (traditional Medicare and GHI) and am against the City's current legislative efforts, introduced by Civil Service and Labor Committee Chair DeLaRosa, to change Administrative Code section 12-126, and through this the compact we had for many decades.

I am a widow in my early eighties, living alone with high blood pressure, cardiac issues, and other health problems. It is very important for me at this point to remain in traditional Medicare with which I am satisfied and which is accepted by my trusted group of physicians. Keeping all this is important for the mental health of us retirees as well. Please do not allow unfair changes to increase our existing concerns. Please vote No to amending Adm. Code 12-126.

There are over 130 Unions in the Municipal Labor Committee (MLC) which normally negotiate their own contracts. Over two years ago, under the previous Administration, the City wanted to move about 250,000 City retirees into a Medicare Advantage Plan (MA). The City and the MLC agreed to this plan using weighted votes, allowing the two biggest unions, DC37 and the UFT, to override that of my PSC/CUNY Union (~30,000 members) and of others who opposed this decision. The process lacked transparency and accountability.

Along with about 60,000+ other City retirees, I opted out of the bad plan. Thanks to a retiree group's lawsuit, in the end the plan fell through, and in 2022 the MA insurers withdrew from the MA Plan.

<https://www.nytimes.com/2022/10/08/upshot/medicare-advantage-fraud-allegations.html?action=click&module=Well&pgtype=Homepage&ion=Health>

I am deeply concerned about Mayor Adams's latest attempt to extract health care savings from City workers by amending the City's Administrative Code section 12-126, which establishes the monthly HIP-HMO rate as the City's minimum contribution to the cost of health care for City employees, retirees and their dependents. I urge you to vote No on the proposed change.

Reducing benefits to City retirees would affect the stability and quality of the entire current and future City employee system.

Instead, please look at the sustainable and forward thinking Proposal, developed by PSC/CUNY for the NYC Employee Health Benefits Program:

PDF: <https://psc-cuny.org/wp-content/uploads/2022/12/PSC-Proposal-on-NYC-Healthcare-and-Legislation-12-30-22.pdf>

Other alternatives:

- 1. Give strong support to the New York Health Act**, a single payer system for NYS.
- 2. Create a single payer national health care system, independent of one's employers, as every other industrial country already does.** This would prevent employers from making unfair changes to an employee's health coverage.

I lived in two other countries before immigrating to the US in 1963: communist Hungary, from which I escaped in 1956; and the UK. Both at the time offered free, well run, national health care. As a refugee, in 1957 I filled out a simple form in the UK and, after that, received excellent free care whenever I needed it. Preventive care is economically significant, and will result in a healthier population at less expense. As legislators, please turn your attention to supporting sensible, long term, economic solutions instead of making short-sighted decisions which are simply bandaids.

Thank you.

Veronika Conant M.L.S., retired from Hunter College Libraries, CUNY, in 2003 after over 18 years, Member, PSC/CUNY
past Pres., West 54 - 55 Street Block Association
New York, NY 10019
vaconant@yahoo.com

Dear City Council Members,

My name is Victor Willert, a retired Assistant Principal. I retired in 2014. We, the retired City of New York Employees, ask that you save Administrative Code 12-126 because we were promised Comprehensive Health Care after devoting our working lives to the needs of the City of New York. A change in the Administrative Code will alter the health benefits we were promised.

Don't let the Mayor Adams dictate to the City Council that Administrative Code 12-126 on doing his dirty work. Save Administrative Code 12-126 so he, and he alone, will be responsible for the changing the code. Let him feel the power of the retired voters wrath come election time. Not the Members of the City Council. Remember, you could always come and re-visit, this matter at a later date AFTER Mayor Adams has changed it himself. All we, the Retired City of New York Employees, ask is give us our chance in court. Give us a chance to fight Mayor Adams in court and most importantly, WIN! Remember, Mr. Scheinman's recommendation is just that, a recommendation. It is does not carry the force of a law!

After devoting 26.5 years to the children of the City of New York, please save Administrative Code 12-126 and deny Mayor Adams a misguided money grab at the expense of the retirees who worked to build New York City the great city that it is! Save 12-126!!!! Thank you for your time and consideration.

Sincerely,

Victor Willert

Retired City of New York Educator/ 26.5 years

Vincent Dee, , Brooklyn, NY 11201

My Name is Vincent Dee. I have lived in City Council District 33 since 2008 and my Council Member is Lincoln Restler.

I'm testifying on behalf of my parents. My Mom is a DC37 retiree and worked for the NY Public Library for 18 years. Her pension is under \$20,000; she still works on call as a librarian at a local library to supplement her pension. She does not deal in misinformation.

My parents live modestly. They did not plan to have to pay almost \$400 a month for their healthcare because the City had promised they would provide their retirees with quality and affordable healthcare.

In Spring 2020, at the height of the pandemic, my Dad suffered a retinal occlusion in his left eye. His eye doctor called it a "stroke in his eye." He will require retinal injections every 4-6 weeks for the rest of his life. No problem with traditional Medicare and Emblem Health as his supplemental plan, except for the \$15 co-pays the City initiated in 2022. However, with a Medicare Advantage Plan, he could face pre-authorizations delaying his injections, causing further retinal damage. I don't want this to happen to my father, or anyone else's.

I know the City needs to save money. I urge the Mayor to listen to alternative moneysaving plans proposed by the retirees.

Administrative Code 12-126 has protected City retirees and employees since 1967. There is no reason to amend it now. This provision of the Code alone provides choice. Amending that provision opens the door for the City to decimate the healthcare retirees and active employees were promised. No previous City Council has amended 12-126. Do you really want destroying this protection to be your legacy, as well as your fate? I urge the City Council to vote NO to amend the Code. Thank you.

From: vincent giaimo <vincentgiaimo35@gmail.com>
Sent: Wednesday, January 11, 2023 12:06 AM
To: Testimony; Louis, Farah; Holden, Robert
Subject: [EXTERNAL] Motion to amend NYC Administrative Code 12-126
Attachments: Commissioner James W. Hendon NYC Department of Veterans' Services.pdf; ALEXA D'ANGELO.pdf; WENDALL POTTER.pdf; Reparations Movement_ CQR SEE AETNA.pdf; judges_order ref AETNA UNJUST ENRICHMENT SLAVE TRADE REPARATIONS.pdf; THE DEBT – Hartford Courant.pdf; Should corporations be held accountable for slavery_ - CSMonitor.com.pdf; Black labor and the fight for reparations.pdf

Hello Honorable Council Members

I am respectfully asking you not to amend the Administrative Code 12-126.

I listened carefully to the testimony and did my own due diligence.

I have concluded as both a City retiree and Army Veteran that unjustly coercing City retirees into an Aetna Medicare Advantage Plan in the unfair manner being proposed is a moral and public policy outrage.

I especially researched the declarations of Councilman Charles Barron with reference to his allegations pertaining to Aetna's insuring slaveholder's for their slaves who were considered property then.

Without a doubt I declare the proposed amendment is anti-social justice, anti-equity, discriminatory to low income retirees, anti-women, anti-aging and anti-veteran (as it impacts deleteriously on my Department of Defense Tri-Care for Life Veteran Health Insurance).

Please examine the attached documents that I downloaded.

Thank you for your consideration of this matter.

Vincent Giaimo

Thank You For Filling Out This Form.

Shown below is your submission to NYC.gov

Wednesday, November 2, 2022, at 11:46:29 AM

This form resides at:

<https://www1.nyc.gov/site/veterans/contact/message-the-commissioner.page>

The following data was submitted:

Name Vincent Giaimo

Phone

Email vincentgiaimo35@gmail.com

Comment Dear Commissioner Hendon: I attended the Ft. Hamilton Retiree Appreciation Day (RAD) Event on last Friday. Your words were very inspiring and I will let my veteran friends know. I am writing to ask for your support in telling the Mayor that the plan to amend NYC Administrative Code 12-126 will have a

negative impact both financially and healthwise on veterans like me who have Tricare for Life (TFL). I learned this from Ms.Rhonda Harrison-Morris, Director of Marketing, US Family Health Plan (212)356-4780 a speaker at the event. I must have Medicare Parts A and B to retain my eligibility for TFL. Enrolling in the proposed Medicare Advantage Program to avoid paying \$191 per month to stay in GHI Senior Care is not a prudent health decision. As an elderly veteran I need the best health care. Thank You for your help in this matter. Vincent Giaimo MSG USA RETIRED

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What's fair on fares

going to have to raise fares as periodic inflation-linked increases accepted as routine. Our could have been this year and actually, the fare bump was set the regular every-other-year schedule well for everyone since to help fix the authority's mess in 2008.

standably pushed the 2021 fare hike, Gov. Hochul, facing an election, ruled out 2022. Now the authority instead of seeking the typical 5.5%, it will be 5.5%.

2021 fare hike (beside the billions in federal cash is drying up and depleted, and the return of fare slowly, well under the rosy

projections of the MTA's consultants.

Today, a few months shy of three years since COVID arrived on our shores, ridership is at 61% of pre-COVID numbers and less than 50% during rush hour. The virus isn't keeping riders away, the new world of work from home is, the same phenomenon that's keeping too many Manhattan storefronts boarded up and many empty floors in office towers.

The lack of riders is also what is contributing in a major way to the MTA's worsening finances, as state Comptroller Tom DiNapoli warns. Twenty-five cents extra for a trip isn't what's dissuading passengers.

When we objected to the delay in fare hikes last year, we noted that while Hochul was quite pleased to share the good news with straphangers, we doubted that she would be the one telling people when future hikes were needed. Turns out that we were right on that too, as the governor is far away from the MTA's grim budget pronouncements.

At their discretion

past a carjacking in progress or littering, you might rightly be about the officer's under-

ly robotic approach to ap- or less what a single federal posed on Immigration and agents nationwide with an out Homeland Security Sec- orkas' prioritization scheme and deportation. It is up to set things right again.

mp-appointed District Judge ly blocked ICE from having to focus their efforts, mean- legally obligated to pursue her they're a hardened meth mom volunteering and rais- Bronx.

sn't magically give ICE the y single undocumented per- y've never had that). Rather,

it incentivizes the agency to go after the so-called low-hanging fruit — the very type of people who live peacefully in communities around the country and are not even attempting to evade detection and capture. The real public safety threats rejoice.

Discretion is a longtime principle in any enforcement agency, and the Biden administration rules were really just a return to form after Trump foolishly did away with prioritization in a misguided effort to seem tough. The high court erred in refusing to stay Tipton's injunction this summer, but it now has the power to fully close the door on this dangerous and ahistorical interpretation of the law with a final ruling in the administration's favor after hearing arguments in the case this week.

Finding against the government could have wide-ranging negative implications, creating a precedent for activist states to find favorable judges to take control over federal enforcement functions and sow chaos not just around immigration, but any agency that exercises judgment to keep the wheels of justice turning.

Keep on track

ts have the right to band gain collectively for better — and unions are generally l. That's why we've cheered anize Amazon warehouses, nd other workplaces. And ove, employees have a right ; or strike. But this is where

strike — the result of four of g a solid compromise deal administration in September ad, multibillion-dollar daily an economy already strug- cord inflation. It would knot s, risk clean drinking water y of the chemicals treatment elivery of perishable goods , drive fuel prices back up by ments, and much more.

jects that in just the first two ,000 people could lose their

jobs as economic consequences cascade.

The House, in a strong bipartisan vote, passed a bill imposing the Biden agreement and overriding the strike, and Thursday the Senate followed suit. Such legislative intervention should not be taken lightly. On the House side, Democrats wary of undercutting the unions and upset that most rail workers get no paid sick time (they do have short-term disability, vacation and personal leave days) won passage of a second bill adding seven days of paid sick leave annually for workers covered under the agreement. Unfortunately, that bill failed in the Senate.

The perfect is not the enemy of the necessary. The overall compromise, backed by the railroads and most of the unions, would deliver 24% raises — the biggest boost in pay the workers have gotten in generations — and \$5,000 bonuses retroactive to 2020, as well as an additional day of paid leave. It may not be perfect, but it's far preferable to plunging the economy into grave peril. President Biden is right to pull the emergency brake and avert the strike.

Millennials can save Medicare

BE OUR GUEST

BY ALEXA D'ANGELO

We are entering the final week of Medicare enrollment for 2023. As a 30-year-old public health researcher who receives private insurance through her job, one might question the relevance of Medicare in my life. Hear me out.

As our parents become Medicare-eligible in the coming years, they will be faced with a choice: choose a traditional Medicare plan, paired with a supplemental plan to cover what Medicare won't cover — or choose a Medicare Advantage (MA) plan. Medicare Advantage plans are typically low-premium plans that claim to cover all services that traditional Medicare covers and then some.

However, the devil is in the details with MA plans, and the details can mean life or death, retirement or bankruptcy. Unlike traditional Medicare plans that are overseen by the government, MA plans are administered by a private insurer that receives a flat rate per enrollee from the government. To control their costs and maximize their profit for investors, MA providers intentionally delay care through medical management practices (i.e. "prior authorizations") and restrict patients to narrow physician networks — issues that traditional Medicare enrollees typically do not experience. All told, if your parent gets really sick, their Medicare Advantage plan likely won't have their back.

A study this year by the U.S. Department of Health and Human Services' inspector general found that MA plans "sometimes delayed or denied Medicare Advantage beneficiaries' access to services, even though the requests met Medicare coverage rules."

In 2021, my dad turned 65 and was faced with his Medicare choice. At the time, he was just starting to deal with a blood disorder that would later turn into a diagnosis with MDS — a complex blood cancer. I asked him whether he was planning to go the traditional route or opt for a Medicare Advantage plan, to which he responded, "You mean Medicare Disadvantage?"

Despite the allure of a lower-cost plan, he went traditional. Months later, he was lying on a bed at Memorial Sloan Kettering Cancer Center that was covered by his insurance. Memorial Sloan Kettering does not accept most Medicare Advantage plans.

His foresight in making that decision was invaluable. Indeed, a recent study in the *Journal of Clinical Oncology* reported that MA recipients were less likely to receive cancer care from a high-volume cancer provider and had higher 30-day mortality rates when compared to traditional Medicare enrollees.

Unlike my father, many seniors are enrolling in Medicare Advantage

plans each year. In 2007, just 19% of Medicare beneficiaries were enrolled in an MA plan; today, that number has grown to nearly half of Medicare-eligible seniors, an estimated 28 million people.

The inadequacies of traditional Medicare are at least partly to blame for creating a market for MA. For one thing, traditional plans fail to cover hearing, vision and dental, and leave enrollees with a 20% coinsurance fee for physician care, necessitating additional coverage through a supplemental plan. Moreover, rising Medicare premiums make Medicare Advantage plans that much more enticing. These issues require urgent legislative action to expand Medicare coverage and control out-of-pocket costs for seniors.

Rising enrollment in MA plans may come as no surprise to those over the age of 65, who have experienced the pushy letters, phone calls, and TV and online advertisements that target their demographic. Aggressive and often deceptive advertising for MA plans promise superior coverage without reliably disclosing the downsides.

Indeed, in 2022 the federal Centers for Medicare and Medicaid Services has begun to rein in deceptive TV advertising by MA insurers. However, we are far from controlling the beast. A recent *New York Times* exposé reported that overbilling from MA insurers accounted for somewhere between \$12 billion and \$25 billion in taxpayer spending during the 2020 fiscal year. This suggests that MA engenders both a personal cost to families as well as a fiscal cost to the American taxpayer.

Watching your parents age is both a blessing and a poignant reality. The truth is that they will likely face some health challenges at one point or another — as will we. When that time comes, it will be difficult no matter what. No one should have to fight with their insurance for life-saving medical treatments, or face losing whatever savings they've managed to accumulate for their retirement.

In the 2010s, a series of accusatory (and often misguided) opinion pieces blamed millennials for killing a great many industries, including luxury goods, department stores, cable TV, cruises, beer and canned tuna. My personal favorite title read, "Promiscuous Millennials Are Killing McDonald's." Given that we already shoulder a reputation for industry murder, I propose we add just one more industry to our hit list: Medicare Advantage. For the sake of our parents and eventually, for ourselves.

D'Angelo is a doctoral student at the CUNY School of Public Health & Health Policy.

WENDELL POTTER NOW: Judge halts New York City's plan to redirect tax dollars to private health insurance companies

1 message

Rob Spencer <robspencer@osaunion.org>

Wed, Nov 30, 2022 at 3:21 AM

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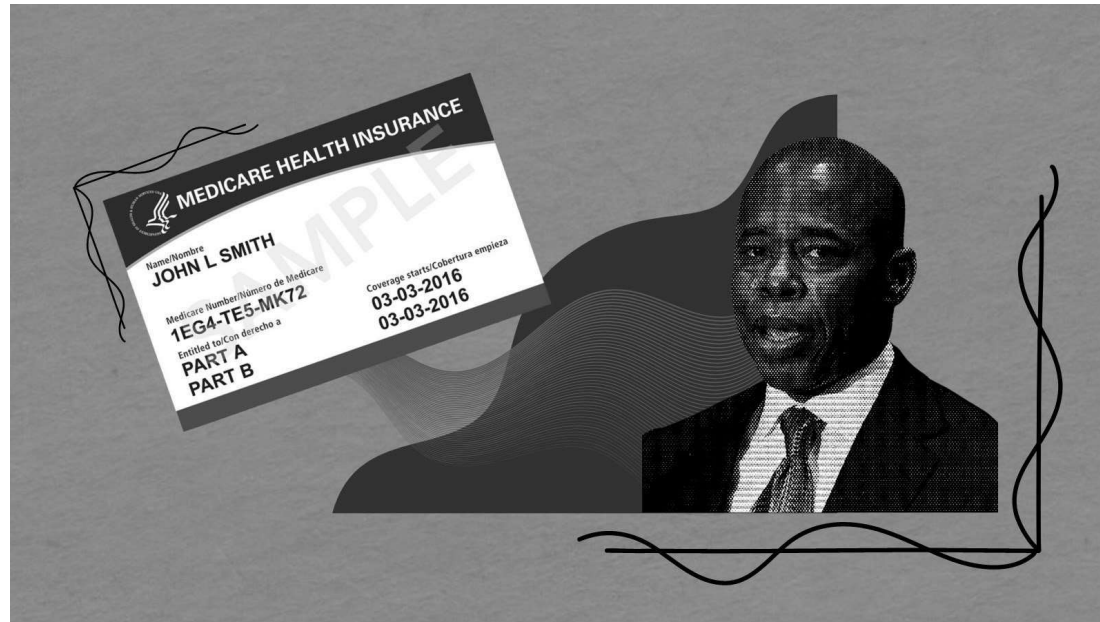
Judge halts New York City's plan to redirect tax dollars to private health insurance companies

Wendell Potter Now

Nov 29



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New York City municipal retirees got a reprieve last week from being forced by Mayor Eric Adams into a commercial insurance company's Medicare replacement plan, thanks to a judicial decision that could also save American taxpayers billions of dollars in coming years.

Last Tuesday, a Manhattan appellate court upheld a lower court ruling that found a key part of Adams' plan to herd all 250,000 municipal retirees into a so-called Medicare Advantage plan unlawful.

Adams maintains that the city would save \$600 million a year if he's allowed to move forward—but only if all retirees agree to be switched out of the traditional Medicare program and into a private insurer's plan. Those that don't agree to the switch would have to pay a penalty of \$192 a month—or \$2,304 a year—for the privilege of remaining in the traditional Medicare program.

It was the penalty that both courts agreed would be in violation of a New York city law.

As the New York Daily News reported last week, the \$600 million in promised savings would come through a partnership with an as yet unnamed private insurer—and, importantly, at the expense of New York City's and New York State's other hard-working taxpayers. Not only that, but taxpayers across the country—thousands of miles from the Big Apple—would also be forced to chip in to make Adams' budget savings materialize.

The Daily News noted that Adams' windfall is contingent on receiving federal subsidies. Where do those subsidies come from? From you and me and everyone else who pays federal taxes. Those of you in Peoria, as well as me here in Philly, would be helping Mayor Adams balance his budget. Talk about a transfer of wealth.

Coincidentally, the appellate court ruling came a day after Kaiser Health News published a major investigative piece by Fred Schulte and Holly Hacker. Schulte, in particular, has been reporting on rampant and continuing fraud in the Medicare Advantage program for nearly a decade. I'll write more about his dogged determination to expose that fraud in a future post.

Schulte and KHN had to sue the Center for Medicare and Medicaid Services to get federal audits of private insurers who participate in the Medicare Advantage program, which was created in its current form in 2003 during the George W. Bush administration. After reading Schulte's reporting, you can understand why CMS wanted to keep the audits under wraps. As Schulte wrote:

Newly released federal audits reveal widespread overcharges and other errors in payments to Medicare Advantage health plans, with some plans overbilling the government more than \$1,000 per patient a year on average.

When you consider that 29 million people are now enrolled in Medicare Advantage plans—thanks to aggressive and often misleading advertising—that can add up to a tidy sum of money that American taxpayers are unknowingly sending to private insurers to further enrich their shareholders. Most Medicare Advantage plan participants are enrolled in plans operated by large for-profit companies like Aetna and UnitedHealthcare and the companies where I used to work, Cigna and Humana. They and other big insurers have reported record profits in recent years—including during the pandemic—thanks largely to the overly generous payments from the federal government.

Speaking of thanks, taxpayers should be grateful to the NYC Organization of Public Service Retirees, a grassroots group that filed the lawsuit to block the Adams administration from moving them against their will into Medicare Advantage plans. The group, which comprises retired EMTs, firefighters, cops, and other city workers, has argued that a Medicare Advantage plan would result in a reduction in their health coverage. They are on firm ground here. Many studies, including several by federal agencies, have shown that Medicare Advantage plans can and do keep enrollees from getting medically necessary care.

Unlike traditional Medicare, private insurers that operate Medicare Advantage plans routinely subject beneficiaries and their doctors to burdensome prior authorization requirements. Many procedures and medications are delayed or denied by the insurers, putting the health of many beneficiaries at risk.

Also unlike traditional Medicare, Medicare Advantage plans have limited and often inadequate provider networks. Many Medicare Advantage enrollees who seek care outside of those geography-bound networks—even while traveling on vacation—can face thousands of dollars in out-of-pocket expenses. (People enrolled in traditional Medicare plans can also be on the hook for high out-of-pockets if they don't buy a Medicare supplement policy.)

The court decision last week also came on the heels of a major investigative story in the New York Times last month under the headline, “‘The Cash Monster Was Insatiable’: How Insurers Exploited Medicare Advantage for Billions.” Here's a key paragraph from that story:

As a result (of overpayments by the government), a program devised to help lower healthcare spending has instead become substantially more costly than the traditional government program it was meant to improve.

The story went on to explain how insurers claim many Medicare Advantage enrollees are sicker than they really are to get more money from the feds. It noted that:

The government now spends nearly as much on Medicare Advantage's 29 million beneficiaries as on the Army and Navy combined. It's enough money that even a small increase in the average patient's bill adds up: The additional diagnoses led to \$12 billion in overpayments in 2020, according to an estimate from the group that advises Medicare on payment policies—enough to cover hearing and vision care for every American over 65.

It would be hard to imagine that Mayor Adams and members of the NYC City Council didn't see that article. You can be sure Marianne Pizzitola did. She's a former Fire Department EMT who is president of the NYC Organization of Public Service Retirees. She told the Daily News that with the appellate court ruling against the Adams administration, "justice prevailed in a true David vs. Goliath story."

She went on to say:

"This attack on our most vulnerable population must end. Senior citizens and 9/11 responders are not for sale."

I talked to Pizzitola a few weeks ago and learned right away that she's a fighter. She is working with other advocates and organizations like the Midtown South Community Council, led by John Mudd, because she knows Goliath has other cards up his sleeve.

Adams reportedly is trying to get the NYC City Council to pass a bill that would do away with the provision of existing law the mayor's plan violates. If that doesn't work—and so far no City Council member has agreed to sponsor such a bill—the mayor is considering "instructing" an independent arbitrator to step in to rule in his favor, according to the Daily News.

Full disclosure: I've also spoken to Mudd's group and have agreed to provide information about health insurers and the Medicare Advantage program that could help their cause.

I'll keep you posted.

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Reparations Movement

June 22, 2001 – Volume 11, Issue 24

Should payments be made for historical wrongs?

By [David Masci](#)

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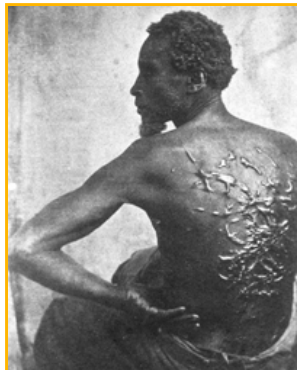


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Introduction



Gordon, an escaped Louisiana slave, bares his scars for the camera in 1863. Reparations advocates argue that the legacy of such mistreatment still affects the African-American community. (AP Photo/ Illinois State Historical Library)

After the Civil War, efforts to compensate former slaves were blocked. Now calls are getting louder for payments to the ancestors of slaves to help the nation come to terms with a gross historical injustice. But opponents worry that reparations would only widen the divide between the races. Meanwhile, survivors of the Nazi Holocaust have had considerable success in obtaining restitution from governments and corporations linked to Hitler's "final solution." Seeking reparations is not about money, they say, but about winning justice for the victims. But some Jewish Americans argue that the reparations movement has turned a historical tragedy into a quest for money. Other mistreated groups recently have picked up the call for reparations, including World War II "comfort women" and Australian Aborigines.

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Overview

Rep. John Conyers Jr. is not a man who gives up easily. Six times since 1989, the feisty 19-term Michigan Democrat has introduced a measure in the House of Representatives to create a commission to study paying reparations to African-American descendants of slaves. Each time, the bill has died.

But Conyers is optimistic. He claims that beating the same legislative drum so long has helped bring the reparations issue

to the attention of the American people.

"Twelve years ago, most people didn't even know what reparations were, and now it's a front-burner issue," he says. "It's like those first [unsuccessful] bills making Martin Luther King's birthday a holiday: You have to build up a critical mass of support, or you don't get anywhere."

Indeed, several local governments have passed resolutions favoring reparations, and the issue has caught the attention of a growing cadre of prominent black advocates and scholars, who have begun holding conferences and symposia on the subject. "It's time to address this issue we've so long denied — the lingering effects of slavery," said Johnnie Cochran, former counsel for O.J. Simpson and a member of a "dream team" of attorneys preparing to sue the federal government and others for slavery reparations. ¹



Children were among the survivors in April 1945 when Russian soldiers liberated the Nazi concentration camp at Auschwitz, Poland, where hundreds of thousands of Jews were murdered. Billions of dollars

In addition, several African nations are trying to put the issue on the agenda of the upcoming United Nations World Conference Against Racism, in Durban, South Africa. They hope the United States and former colonial powers like Britain and France will increase aid to African countries to compensate for centuries of slave trading.

Until 50 years ago, debates over reparations for victims of persecution were largely theoretical. But in the wake of World War II, reparations increasingly have been seen as a viable means of addressing past injustices — not just to Jews slaughtered in the Holocaust but to Japanese-Americans, Native Americans and even Australian Aborigines. In fact, the debate over slavery reparations comes on the heels of a string of victories for groups seeking restitution.

In 1988, for instance, Congress passed a law authorizing the U.S. government to apologize for interning Japanese-Americans during the war and award \$20,000 to each surviving victim. More recently, European countries and

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have been paid to Holocaust survivors. (AFP Photo)

companies from Bayer AG to Volkswagen have paid billions of dollars to victims of Nazi Germany's effort to exterminate Europe's Jews and other "undesirables."

Now it is time for slavery reparations, proponents say. Randall Robinson, author of the bestseller *The Debt: What America Owes to Blacks*, argues that acknowledging the nation's debt to African-Americans for slavery and a subsequent century of discrimination will help heal the country's existing racial divide. "We cannot have racial reconciliation until we make the victims of this injustice whole," says Robinson, president of TransAfrica, a Washington, D.C.-based black advocacy group.

Besides raising a moral question, reparations for slavery is also an economic issue, Robinson says. Many of the problems facing black America are directly linked to slavery and the 100 years of forced segregation that followed emancipation in 1865, he says. "It's foolish to argue that the past has nothing to do with the present," Robinson says. "There's a reason why so many African-Americans are poor: It's because a terrible wrong occurred in our history that produced a lasting inequality." Reparations will help right that wrong, advocates say, by helping black Americans reach social and economic parity.

But other black Americans warn that paying reparations for slavery will drive a new wedge between blacks and whites, leading to greater racial polarization. "Doing something like this would create a tremendous amount of resentment among whites," says Walter Williams, chairman of the Economics Department at George Mason University in Fairfax, Va.

Williams says whites and other Americans would understandably be opposed to paying restitution for a crime that ended more than 135 years ago and to a community now making great social and economic strides. "Blacks have come so far; this is nothing but counterproductive," he says.

Opponents also argue that, rather than correcting economic disparity, reparations would take money and attention away from more pressing social and economic issues facing black Americans, such as a substandard education system and high incarceration rates for young African-American men. "This would be such a huge waste of resources, at a time when so much needs to be done in education and other areas," Williams says.

To counter such arguments, slavery reparations advocates have begun modeling their efforts on successful techniques used by Holocaust victims. Recent battles for Holocaust-related reparations have netted survivors and their families more than \$10 billion in compensation for slave labor, recovered bank accounts and unclaimed life insurance policies.

But some argue that compensating victims of injustice cheapens their suffering. Indeed, a group of mostly Jewish-American scholars and journalists has criticized some of the efforts to obtain relief for Holocaust survivors. They say the lawyers and Jewish groups involved have turned the legitimate quest for restitution into a shameless money grab that degrades the memory of the millions who perished.

"Fighting for money makes it much harder to see a tragedy in the right light," says Melissa Nobles, a professor of political science at the Massachusetts Institute of Technology (MIT) in Boston.

"They have hijacked the Holocaust and appointed themselves saviors of the victims — all in the name of money," says Norman Finkelstein, a history professor at Hunter College in New York City and author of *The Holocaust Industry: Reflections on the Exploitation of Jewish Suffering*.

Finkelstein points out that those representing the victims have used hardball tactics to "blackmail" Germany, Switzerland and other countries into paying huge sums to satisfy what are often dubious claims. Besides cheapening the historical legacy of the Holocaust, he argues, such actions could potentially trigger an anti-Semitic backlash in Europe.

Supporters say they are only working aggressively to obtain some small measure of justice for the victims. "We are trying to compensate slave laborers and return the assets of survivors," says Elan Steinberg, executive director of the World Jewish Congress, one of the groups leading the Holocaust reparations efforts. "In doing this, we must uncover the truth, which is often hard for these countries to confront."

He says Holocaust victims should not be denied their assets or rightful compensation just because confronting European countries with their past might lead to an anti-Jewish backlash. "Survivors have a right to pursue legitimate claims," he insists. "This is about justice."

"It is good that we try to make some effort to acknowledge someone's suffering, even if it is inadequate," says Tim Cole, a professor of 20th century European history at the University of Bristol in England. At the very least, reparations are important symbolic gestures to the victims from the victimizers, he adds.

As the debate over reparations continues, here are some of the questions experts are asking:

Should the United States pay reparations to African-American descendants of slaves?

For much of its 250-year history on these shores, slavery was America's most divisive and controversial issue. The Founding Fathers fought over the status of African slaves when drafting both the Declaration of Independence and the Constitution. And of course, in 1861 slavery helped trigger the nation's most costly conflict, a four-year Civil War that tore the country apart.

Today, few Americans of any race would disagree that slavery was the most shameful and tragic episode in American history. Many would also agree that African-Americans as a whole, including the descendants of slaves, are still suffering from its effects.

Proponents say compensation is justified on a variety of levels, beginning with the fact that African-Americans remain severely handicapped by the legacy of slavery, lagging behind the nation as a whole in virtually every measure. As a result, supporters say, they need and deserve extra help to overcome the economic and social disadvantages they face.

"Our entire economic sector has been and remains truncated because of slavery," says Ronald Walters, a political science professor at the University of Maryland. "We need something to help reverse this terrible harm done to blacks in this country."

"You have an enormous, static and fixed inequality in America due to a 350-year human-rights crime," Robinson says. "We have an obligation to compensate the people still suffering for the wrong that occurred."

Robinson, Walters and others argue that reparations are justified by the fact that the United States grew prosperous largely through the toil of unpaid African-Americans. "Exports of cotton, rice and tobacco swelled the coffers of the U.S. Treasury, yet the people who produced it were never paid," Robinson says.

However, an overwhelming majority of Americans do not believe the nation owes black Americans reparations. A March poll found that 81 percent of registered voters oppose reparations, while only 11 percent support them. ²

Some Americans feel that the nation has already paid reparations for slavery by passing civil rights and affirmative action laws and by funding myriad social programs designed to help African-Americans and other disadvantaged peoples. "Since the War on Poverty in the 1960s, the nation has spent \$6 trillion on fighting poverty," Williams says.

Others dismiss the whole idea of reparations for slavery out of hand, citing the potentially astronomical cost. Compensating for slavery's injustices could cost as much as \$10 trillion, according to some estimates, dwarfing the estimated \$10 billion paid to Holocaust victims so far.

Nevertheless, supporters say, reparations would ease African-Americans' feeling that the nation cares little about their plight. "The socio-economic inequality that exists today because of slavery means that the American promise of egalitarianism remains unfulfilled for blacks," Walters says. "It would make the idea of America and American democracy meaningful to blacks."

Paying reparations would benefit the entire nation by creating a more conducive environment for racial reconciliation, supporters say. "We'll never have any harmony or stability between the races until there is commitment to make the victim whole," Robinson says. "Whites need to realize that we'll have no chance of cohering as a nation in the future unless we deal with this issue now."

Conyers agrees that paying reparations would encourage racial healing — for both blacks and whites. "This could create a bridge that unlocks understanding and compassion between people," he says.

But opponents say compensating slavery victims will have exactly the opposite effect — creating new grounds for racial polarization. "I can't think of a better fortification for racism than reparations to blacks," says George Mason University's Williams. "To force whites today, who were not in any way responsible for slavery, to make payments to black people — many of whom may be better off [than the whites] — will create nothing but great resentment."

"It would create a huge backlash against black people, which is something they don't really need," says Glen Loury, director of the Institute of Race and Social Division at Boston University. "It would also be seen as just another example of black people's inability 'to get over it and move on.'"

Indeed, opponents say, reparations might even have the reverse effect: They could significantly weaken the nation's commitment to lifting poor black Americans out of poverty. "This would be a Pyrrhic victory for African-Americans," says Loury, who is black. "It would undermine the claim for further help down the road, because the rest of America will say: 'Shut up: You've been paid.'"

In addition, Loury says, pushing for restitution detracts from the real issues facing the black community. "This whole thing takes the public's attention away from important issues, like failing schools and the fact that so many African-Americans are in jail."

Have efforts to collect reparations for Holocaust victims gone too far?

In the last five years, efforts to compensate and recover stolen property for Holocaust victims and their heirs have increased dramatically. What started in the mid-1990s as an action to recover money in long-dormant Swiss bank accounts has snowballed into a host of lawsuits and settlements against European insurance companies, German and American manufacturers and art galleries around the world. ³

By and large, these actions have been hailed as a great victory for victims of oppression. Yet a small but growing circle of critics questions the efforts. They charge the lawyers working on behalf of Holocaust victims — as well as the World Jewish Congress, the International Commission on Holocaust Era Insurance Claims (known as the Claims Conference) and other groups — with exploiting a historical tragedy for monetary gain.

"This whole thing has gone way too far," says Gabriel Shoenfeld, senior editor of *Commentary*, a conservative opinion magazine that examines issues from a Jewish perspective. "This is a case of a just cause that has been traduced by overzealous organizations and some rather unscrupulous lawyers."

Hunter College's Finkelstein goes further, branding those who work on behalf of survivors as "the Holocaust industry" and their actions "nothing short of a shakedown racket."

Shoenfeld and Finkelstein are troubled by the fact that Jewish groups and attorneys working on the cases have taken it upon themselves to represent Holocaust survivors. "Groups like the World Jewish Congress don't really represent anyone," Finkelstein says. "They weren't elected by anyone to do this, and most Jews don't even know who they are."

He argues that such groups are using the survivors' high moral status as a cudgel to beat countries and corporations into submission. "They've wrapped themselves in the mantle of the needy Holocaust victims against the greedy, fat Swiss bankers and Nazi industrialists," Finkelstein says. "They are out of control and reckless."

Shoenfeld says the claims often are either overblown, dubious or simply not valid. "It's clear that they're trying to humiliate these countries into giving in," he says.

Shoenfeld cites a recent case against Dutch insurers, who had already settled with the Netherlands' Jewish community for unpaid wartime insurance policies. "These guys then came in and tried to unfairly blacken Holland's reputation by painting their behavior during the war in an unfavorable light, without acknowledging all of the good things Dutch people did for Jews during that time," he says. "It was all an effort to blackmail them, to extract more money from them."

Even the much-publicized victory against the Swiss banks was marred by unscrupulous tactics, Finkelstein contends. After forcing the banks to set up a commission headed by former U.S. Federal Reserve Chairman Paul A. Volcker to investigate claims, they demanded a settlement before the commission finished its work, he says.

The Swiss caved in and paid \$1.25 billion, Finkelstein says, because the groups were creating public hysteria and had American politicians threatening an economic boycott. "They honed this strategy against the Swiss and then turned to the French, Germans and others and used it successfully against them."

Such heavy-handed tactics create unnecessary ill will against European Jews, critics say. "By bludgeoning the Europeans into submission, the Holocaust industry is fomenting anti-Semitism," Finkelstein says.

Shoenfeld says the tactics have already spurred an anti-Semitic backlash in Germany and Switzerland. "Don't Jews have enough problems in the world without bringing upon themselves the wrath of major European powers?" he asks.

But groups pursuing Holocaust reparations say their opponents are misguided. "How can anyone ask [if] we are going too far in attempting to get restitution for people who were driven from their homes, forced into hiding, persecuted and forced to work?" asks Hillary Kessler-Godin, director of communications for the Claims Conference in New York City.

Supporters also argue that their tactics are not "heavy-handed" or designed to blackmail European countries. "We're not out to humiliate anyone," says the World Jewish Congress' Steinberg. "But sometimes the truth is hard and difficult for everyone to accept."

For instance, it would not serve the truth or the victims to sugarcoat Holland's dismal record of protecting Jews during the Holocaust, Steinberg says. "Holland had the worst record of any Western European country," he argues. "Eighty percent of its Jews were wiped out."

He also points out that his group rushed to settle the Swiss case before the Volcker commission finished its work in order to begin repaying survivors before they died. "Many survivors are very old and dying at such a rapid rate — some 10,000 to 15,000 a year. We had to move on this," he says. The commission will continue its work, so that all 55,000 Holocaust-era accounts can be investigated and paid out, he adds.

Proponents also counter the criticism that their actions foment anti-Semitism. "Anti-Semitism is not caused by Jewish actions, but by people who don't like Jews," Kessler-Godin says. "To temper our actions on behalf of people who have suffered the worst form of anti-Semitism possible in the name of not causing anti-Semitism defies logic."

"Holocaust survivors should not have to abrogate their rights simply for political expediency," Steinberg adds, pointing out that most people, regardless of their religious background, understand and support his group's efforts. "At the end of the day, most non-Jews — except those who represent the banks or insurance companies — see this as an act of justice."

Does putting a price tag on suffering diminish that suffering?

On Dec. 7, 1998, the leader of one of the pre-eminent Jewish organizations in the United States shocked many American Jews by publicly questioning efforts to obtain reparations for Holocaust survivors. In a *Wall Street Journal* editorial, Abraham Foxman, national director of the Anti-Defamation League, argued that when "claims become the main focus of activity regarding the Holocaust, rather than the unique horror of 6 million Jews, including 1.5 million children, being murdered simply because they were Jewish, then something has gone wrong." ⁴

Foxman worried that the drive to obtain restitution would shift modern attitudes about the Holocaust from one of reverence for the victims and their suffering to an accounting of their material losses.

"I fear that all the talk about Holocaust-era assets is skewing the Holocaust, making the century's last word on the Holocaust that the Jews died, not because they were Jews, but because they had bank accounts, gold, art and property," he wrote. "To me that is a desecration of the victims, a perversion of why the Nazis had a Final Solution, and too high a price to pay for a justice we can never achieve." ⁵

Foxman's editorial provoked an immediate response from many prominent Jews. Nobel Peace Prize winner Elie Wiesel argued that compensating Holocaust survivors does not sully their

memory but is the right thing to do.

"It is wrong to think of this as about money," said Wiesel, a Holocaust survivor himself. "It is about justice, conscience and morality." ⁶

But critics point out that reparations, almost by their nature, are tainted, because they mix the sacredness of a people's suffering and pain with the world's greatest source of corruption: money. "Although there might be a way to handle this whole thing with dignity, it inexorably becomes a sordid business," Finkelstein says. "I believe money always corrupts things."

"There is a real danger here that most people will say: Hey wait a minute. This is all really about money," says MIT's Nobles. "Money can profoundly obscure the nature of a tragedy."

Some critics also contend that monetary reparations can do victims more harm than good. "People who have been victimized need to become free internally in order to move beyond the tragedy that has occurred," says Ruth Wisse, a professor of Yiddish and comparative literature at Harvard University. "In this sense, reparations can be harmful because they make victims less dependent on themselves."

Instead of monetary payments, she says, nations should take steps to resolve the political problems that led to the suffering in the first place. "Reparations should be made on political terms, not economic terms," she says. For example, she said a country like Turkey, which many historians say exterminated more than a million Armenians at the beginning of the 20th century, might want to help protect Armenia from outside threats.

But advocates for reparations argue that the money is more a powerful symbol than a primary motive. "We're really talking about justice," says the University of Bristol's Cole. "It's a symbolic act, a gesture."

Although, Cole says, "no amount of money can ever compensate for the suffering of history's victims," restitution can aid them in some small way. "There are things we can do to ease people's suffering or bring them some sense that justice is being done."

"Of course you can't put a price tag on suffering," says the University of Maryland's Walters. "But what you can do is ask: What will bring the victims a measure of dignity? Isn't that the most important thing?"

Proponents also contend that, in the real world where victims of past oppression may still be suffering, monetary compensation can make a huge difference in their lives. For instance, says Kessler-Godin, many Eastern European Holocaust survivors live in poverty and need assistance. "It's OK for Abraham Foxman, living his comfortable American life, to say that it cheapens the memory of victims, but there are people who are living hand to mouth who don't have that luxury."

Finally, supporters say, forgoing reparations allows the victimizers to retain their financial wealth. "When you argue that a victim shouldn't pursue restitution, you are essentially rewarding the oppressors," Steinberg says.

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Background

Ancient Notion

The payment of reparations for genocide or other injustices is a relatively new phenomenon, which began with Germany's 1951 pledge to aid Israel and to compensate individual victims of the Holocaust. "Before World War II, nations saw what they did to other people during wartime as a natural byproduct of war," MIT's Nobles says. "The vanquished simply had to accept what had happened to them."

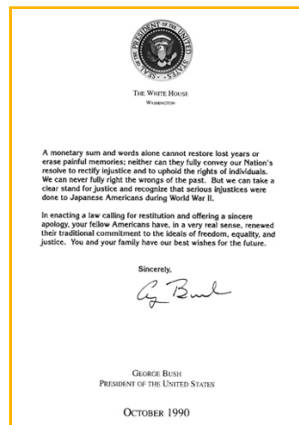
But while the use of reparations may be a relatively new remedy, the ideas behind them have a long, if circuitous, intellectual pedigree stretching back for millennia. For instance, the ancient Greeks and Romans explored the notion that the weak and oppressed deserve sympathy and possibly assistance. The 4th century B.C. Athenian philosopher Plato addressed this issue in his most famous dialogue, *The Republic*. A generation later Aristotle, another Athenian philosopher, wrote that the best kind of government was one that helped those who had been deprived of happiness. ⁷

Judeo-Christian doctrine also grappled with what individuals and society owe to the downtrodden and oppressed. For instance, in the *New Testament*, Jesus Christ singled out the persecuted as being particularly deserving of compassion and assistance. ⁸

The first modern articulation of these principles came in the 18th century during the Enlightenment. Ironically, it was the intellectual father of free market economics — Scottish philosopher Adam Smith — who wrote most forcefully and eloquently about guilt and the resulting sympathy it causes.

In his 1759 treatise, *The Theory of Moral Sentiments*, he wrote: "How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortunes of others, and render their happiness necessary to him, though he derives nothing from it, except the pleasure of seeing it. Of this kind is pity or compassion, the emotion we feel for the misery of others, when we either see it, or are made to conceive it in a very lively manner." ⁹

Smith argued further that this sympathy is a cornerstone of justice. It is necessary for creating and maintaining general social order, he believed.



In October 1990, Japanese-Americans interned during World War II received this letter of apology from President George Bush, in addition to a check for \$20,000.

Native Americans

In the 18th and 19th centuries, compassion for the plight of others — whether out of Christian duty or to promote the greater good — fueled movements to abolish slavery and the slave trade in Europe and the United States. Later, these impulses led the United States, albeit very slowly, to consider compensating Native Americans for the government's taking of their land and the resulting destruction of much of their population and culture.

The expansion of the American frontier during the 19th century resulted in American Indians being forcibly moved to reservations, where many remain today. Millions of acres, primarily in the Great Plains, were taken from tribes with little or minimal compensation.

But the U.S. government did not consider compensating Native Americans for the loss of this property until 1946, when Congress established a Claims Commission to handle Indian land claims. The body soon became bogged down in the flood of claims, many of which were substantial. When the commission was eliminated in 1978, it had adjudicated only a fraction of the disputes between tribes and the government and had paid Native Americans only token compensation for the lost land. ¹⁰

Meanwhile, the courts became much more sympathetic to Indian claims. In 1980, for instance, the Supreme Court awarded the Sioux \$122 million for the theft of lands in South Dakota's Black Hills. It remains the largest award for a Native American land claim in U.S. history. (See story, p. 536.)

Today, Native Americans are still pressing land claims, particularly in the Eastern United States. "Many of these claims revolve around treaties made between states and Indian nations early in the country's history," says John Echohawk, executive director of the Native American Rights Fund, an Indian advocacy group in Boulder, Colo. Since the U.S. Constitution leaves the power to negotiate Indian treaties with the federal government, many of these agreements with the states are now being challenged, he adds.

One of the biggest such disputes involves three bands of Oneida Indians, who are trying to recover 300,000 acres of land in central New York state. The case hinges on a treaty negotiated in 1838.

Restitution to "Comfort Women"

On the other side of the globe, victims of a more recent tragedy — Japan's sexual enslavement of thousands of Asian women during World War II — are also seeking restitution. An estimated 200,000 "comfort women" were forced to serve the Japanese military at its far-flung outposts. They claim they were kidnapped or tricked into working as sexual slaves for the Japanese soldiers, who beat and raped them.

In 1995, then Japanese Prime Minister Tomiichi Murayama officially apologized for the practice, but the government has yet to pay any reparations to the surviving women.

Other groups that have been victimized, like Armenians, also want restitution. And still others — like Latinos, Chinese-Americans and women in the United States — who suffered varying degrees of discrimination over the years, have not organized significant reparations movements, in part because their suffering is perceived as being different from the official policies that led to genocide or slavery.



South Korean "comfort women" who were forced to provide sex for Japanese soldiers in World War II demand compensation during a protest at the Japanese Embassy in Seoul last April. (AFP Photo)

Japanese-Americans

On Feb. 19, 1942, less than three months after the Japanese bombing of Pearl Harbor, President Franklin Delano Roosevelt signed Executive Order 9066, authorizing the removal of Japanese immigrants and their children from the western half of the Pacific coastal states and part of Arizona.

Within days, the government began removing 120,000 Japanese-Americans — two-thirds of them U.S. citizens — from their homes and businesses. Many were forced to sell their property at far below market value in the rush to leave. All were eventually taken to hastily built camps in Western states like California, Idaho and Utah, where most remained until the war was almost over. Some young Japanese-American men were allowed to leave the camps to serve in the armed forces — and many did so with valor — and a handful of mostly young internees were also permitted to relocate to Midwestern

or Eastern states.

The camps were Spartan, but in no way resembled Nazi concentration camps or Stalinist Russia's gulags. Still, the internees were denied their freedom and, in many cases, their property.

During this time, internee Fred Korematsu and several other Japanese-Americans challenged the constitutionality of the internment. Korematsu's case ultimately found its way to the Supreme Court, which ruled that during national emergencies like war Congress and the president had the authority to imprison persons of certain racial groups.

After the war, Congress passed the Japanese-American Evacuations Claims Act of 1948 to compensate those who had lost property because of their internment. Over the next 17 years, the government paid \$38 million to former internees. ¹¹

But efforts to make the government apologize for its wartime actions and pay reparations to internees over and above the property claims remained on a back burner until the 1970s. During that decade, Japanese-American activists — led by the community's main civic organization, the Japanese-American Citizens League (JACL) — began building support for redress.

Initially, only about a third of Japanese-Americans favored reparations. Many felt the painful war years should be forgotten. Others worried that vocal demands, coupled with growing fears among the U.S. public over the rising economic power of Japan, would provoke another backlash against Japanese-Americans. ¹²

But by the end of the decade, a majority of Japanese-Americans supported the effort, and the JACL began effectively lobbying Congress for redress. In 1980, Congress created the Commission on Wartime Relocations and Internment of Civilians to study the issue.

During public hearings over the next two years, the commission heard emotional testimony as former internees shared their personal sagas. Publicity generated by the hearings helped awaken the American public to the injustice done to the internees.

One former internee, Kima Konatsu, told about her family's experience while incarcerated near Gila River, Ariz. "During that four years we were separated [from my husband] and allowed to see him only once," Konatsu told the commission. Eventually he became ill and was hospitalized, she said. "He was left alone, naked, by a nurse after having given him a sponge bath. It was a cold winter and he caught pneumonia. After two days and two nights, he passed away. Later on, the head nurse told us that this nurse had lost her two children in the war and that she hated Japanese." ¹³



Japanese-Americans wait for housing after being sent to the Manzanar, Calif., internment camp in March 1942 following the Japanese attack on Pearl Harbor. The U.S. later paid \$20,000 to each person confined. (AFP Photo)

In 1983, the commission concluded that there had been no real national security reason to justify relocating or incarcerating the Japanese-Americans, and that the action had caused the community undue hardship. A second report four months later recommended that the government apologize for the internment and appropriate \$1.5 billion to pay each surviving internee \$20,000 in reparations. ¹⁴

That same year, a new National Council for Japanese-American Redress (NCJAR) emerged, which opposed what it saw as the JACL's accommodationist approach to reparations. NCJAR filed a class action suit against the government on behalf of the internees, demanding \$27 billion in damages. But the suit was dismissed in 1987 on procedural grounds. ¹⁵

Nevertheless, the lawsuit created restitution momentum in Congress, where support had been building since issuance of the commission's 1983 reports. Because many former internees were elderly, proponents argued that something should be done quickly, before most of the intended

beneficiaries died. ¹⁶

In 1988, Congress passed the Civil Liberties Act, which authorized \$1.25 billion over the next 10 years to pay each internee \$20,000. The law also contained an apology to Japanese-Americans who had been incarcerated ¹⁷ (see p. 540).

On Oct. 9, 1990, the government issued its first formal apologies and checks to Japanese-Americans in a moving ceremony in Washington, D.C. A tearful Sen. Daniel K. Inouye, D-Hawaii — a Japanese-American who lost an arm fighting for the United States during World War II — told the internees and assembled guests that day: "We honor ourselves and honor America. We demonstrated to the world that we are a strong people — strong enough to admit our wrongs." ¹⁸

Since then, some 80,000 former internees have received compensation. ¹⁹

The Holocaust

In many ways, the modern debate over reparations began on Sept. 27, 1951. On that day West German Chancellor Konrad Adenauer appeared before the country's legislature, or Bundestag, and urged his fellow Germans to make some restitution for the "unspeakable crimes" Germany had committed against the Jewish people before and during World War II. His proposal — to provide assistance to the newly founded state of Israel as well as restitution to individual Holocaust survivors — was supported by both his own Christian Democratic party and the opposition Social Democrats.

Ironically, West Germany's offer of reparations was much more controversial in Israel, where a sizable minority, led by then opposition politician Menachem Begin, opposed taking "blood money" from Holocaust perpetrators. Begin and others argued that by receiving compensation from the Germans, Israel would literally be selling the moral high ground. ²⁰

But Israeli Prime Minister David Ben Gurion argued forcefully that Israel had a duty to see that Germany did not profit from its heinous crimes. "He understood that we are obligated to ensure that murderers are not inheritors," says the World Jewish Congress' Steinberg.

Ben Gurion prevailed, in part because Israel desperately needed funds to resettle European Jews who had survived the Holocaust. The German government began paying restitution to Holocaust survivors around the world in 1953 and has since paid out about \$60 billion for both individual claims and aid to Israel. The state-to-state payments ended in 1965, but the German government still sends monthly pension checks to about 100,000 Holocaust survivors.

After West Germany's agreement with Israel, little was done to obtain further restitution for Holocaust victims. Many who had survived the camps were more concerned with getting on with their new lives and wanted to forget about the past. In addition, the Soviet Union and its Eastern bloc allies — where most Holocaust victims had come from — made no effort to aid the quest for restitution. Even the United States was content to let the issue lie, partly in order to focus on integrating West Germany and other Western allies into a Cold War alliance. ²¹

Still, the issue did not disappear entirely. In Switzerland — a banking and finance mecca and a neutral country during the war — the government was taking small, inadequate steps to discover the extent of Holocaust-related wealth. Many Jews killed by the Germans had opened accounts in Swiss banks and taken out insurance policies from Swiss companies before the war as a hedge against the uncertainty created by the Nazi persecution.

In 1956, the Swiss government surveyed its banks and insurance companies to determine the value of accounts held by those who had died or become refugees as a result of the Holocaust. The companies replied that there were less than a million Swiss francs in those accounts.

In 1962, the government once again requested an accounting of Holocaust-related assets. This time, the companies came up with about 10 million francs, some of which was paid to account holders or their heirs. In the 1960s, '70s and '80s, other efforts by individuals seeking to recover Swiss-held assets were largely unsuccessful because the banks and insurers required claimants to have extensive proof of account ownership, proof that often had been lost or destroyed during the war.

But in the 1990s the situation changed dramatically. First, the collapse of communist regimes throughout Eastern Europe opened up previously closed archives containing Holocaust-related records. In addition, many Holocaust survivors lost their reticence about pursuing claims, in part because films like "Schindler's List" brought greater attention to their plight and made it easier to go public.

In the mid-1990s, journalists and scholars began uncovering evidence that Switzerland had been a financial haven for Nazi officials, who had deposited gold looted from Holocaust victims in Swiss banks. The investigation stimulated new interest in dormant bank accounts and insurance policies.

In 1996 a class action suit on behalf of victims and their heirs was filed in New York against Swiss banks and insurance companies. Swiss efforts to get the suit dismissed failed. Meanwhile, pressure from the U.S. Congress and local officials threatening economic sanctions against the companies forced the banks and insurers to acknowledge the existence of a large number of dormant accounts. By 1999, the Swiss had negotiated a settlement to set aside \$1.25 billion to pay out dormant accounts and fund other Holocaust-related philanthropies.

The Swiss case prompted other Holocaust claims. For instance, in 1998 U.S. and European insurance regulators, Jewish groups and others formed a commission — headed by former Secretary of State Lawrence Eagleburger — to investigate claims against European insurance companies outside Switzerland.

The commission was an attempt to bypass lawsuits and to get the insurers — which include some of Europe's largest, like Italy's Generali and Germany's Allianz — to pay elderly claimants before they died. So far, the companies have paid out very little in compensation, because of bureaucratic wrangling at the commission and unwillingness on the part of survivors to accept what have in many cases been only small offers of restitution from the companies. ²²

Meanwhile, former prisoners who had been forced to work without pay for German manufacturers during the war began seeking restitution for their labor. The Nazis had drafted an estimated 12 million people — including 6 million mostly Jewish concentration camp inmates — to provide unpaid labor for some of the biggest names in German industry, including giant automaker Volkswagen. Many were worked to death. ²³

Initially Germany and then-Chancellor Helmut Kohl resisted efforts to pay reparations to slave laborers, citing the 1953 settlement with Israel. But in 1998 the country elected a new leader, Gerhard Schröder, who authorized negotiations to settle the issue.

Last July, the German government and companies that had used slave labor established a \$4.3 billion fund to compensate an estimated 1.5 million survivors. The deal, negotiated with German and American lawyers for the slave laborers and ratified in the Bundestag on May 30, indemnifies German industry from further lawsuits on behalf of slave laborers.

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Current Situation

Reparations for Slavery

Efforts to compensate African-Americans for slavery began formally on Jan. 16, 1865, months before the Civil War ended. On that day, Union General William Tecumseh Sherman issued Special

Field Order 15, directing his soldiers — who were then marching through the South — to divide up confiscated Confederate farms into 40-acre plots and redistribute the land to slaves. Farm animals were also to be redistributed.



Rep. John Conyers Jr., D-Mich., wants Congress to create a commission on reparations for descendants of slaves. "Twelve years ago, most people didn't even know what reparations were, and now it's become a front-burner issue," he says. (CQ/Scott Ferrell)

But Sherman's promise of "40 acres and a mule" was never realized. Four months after the order was signed, President Abraham Lincoln was assassinated. His successor, Southerner Andrew Johnson, largely opposed reconstruction and quickly rescinded Sherman's order. More than 40,000 slaves were removed from farms they had recently occupied.

In the years since Special Field Order 15, the idea of compensating African-Americans arose only occasionally in the public arena and attracted little attention. But lately the idea has gained considerable steam, propelled by several high-profile events, such as academic conferences on the subject and the threat of reparations lawsuits by prominent black attorneys.

In addition, Chicago, Detroit and Washington, D.C., have passed resolutions supporting federal reparations legislation. And slavery reparations has become a hot topic on college campuses, as more and more scholars study the idea. "This is the fourth paper I've delivered on reparations this year alone," University of San Diego Law Professor Roy Brooks said at a May conference on the issue. "That suggests there's much to say about the subject and that reparations is a hot issue internationally." ²⁴

The lawsuits being prepared by several prominent black attorneys and advocates are expected to be filed early next year. They are the brainchild of a legal team that includes TransAfrica's Robinson, O.J. Simpson attorney Cochran, Harvard University Law School Professor Charles Ogletree and Alexander Pires, who recently won a \$1 billion settlement from the Department of Agriculture on behalf of black farmers who were denied government loans.

"The history of slavery in America has never been fully addressed in a public forum," Ogletree said. "Litigation will show what slavery meant, how it was profitable and how the issue of white privilege is still with us. Litigation is a place to start, because it focuses attention on the issue." ²⁵



South Carolina Gov. Jim Hodges helps to break ground for an African-American monument last year in Columbia. In spite of efforts by several states to come to terms with the history and contributions of black Americans, many advocates for slavery reparations say that only restitution will close the racial divide. (AP Photo/Lou Krasky)

The team wants the federal government to officially apologize for slavery and for the century of state-supported discrimination — such as the South's segregationist "Jim Crow" laws — that followed emancipation. Moreover, the lawyers are likely to ask for some kind of monetary remedy, although no agreement has been reached either on how much is owed or how reparations would be dispersed.

Estimates vary wildly over how much black Americans are owed for slavery. Larry Neal, an economics professor at the University of Illinois at Urbana-Champaign, has calculated that the United States owes African-Americans \$1.4 trillion in back wages for work completed before emancipation. Georgetown University Business School Professor Richard America, however, estimates the debt is closer to \$10 trillion. ²⁶

Robinson doesn't want direct cash payments to African-Americans, especially people like himself, who are in the middle- or upper-income brackets. He favors establishment of a trust fund to assist underprivileged blacks. "The question we need to be asking is: How do we repair the damage?" Robinson asks. "We need a massive diffusion of capital to provide poor African-American youth with education — from kindergarten through college — and some sort of fund to

promote economic development."

Most legal experts do not expect Cochran, Ogletree and the others to succeed, noting that the claim is almost 150 years old and thus the statute of limitations expired long ago.

"Even in a friendly court, there are going to be statute of limitations problems," Tulane University Law School Professor Robert Wesley says. ²⁷ Moreover, experts point out, under the doctrine of sovereign immunity governments are protected from most legal actions.

Still, some legal scholars say the suit is not wholly a pipe dream, noting that civil rights attorneys in the 1950s and '60s also faced long odds in their battle to end race discrimination. "This will be a daunting task, but it is certainly not impossible," says Robert Belton, a Vanderbilt University law professor.

Even if the suit does not ultimately lead to redress or an apology, it may succeed on another level, says David Bositis, senior political analyst at the Joint Center for Political and Economic Studies, a think tank focusing on African-American issues. "Even if they just got some federal district judge to hear the case, it would become a much larger news item and so would stimulate discussion and debate," he says. "They would consider that a victory."

The black legal team is also planning to sue private companies that benefited from slavery, including banks, insurance companies, shipping firms and other businesses that may have profited from the slave trade.

Research by New York City lawyer and activist Deadria Farmer-Paellmann revealed that several insurance companies — including Aetna and New York Life — insured slave owners against the loss of their “property.”

“If you can show a company made immoral gains by profiting from slavery, you can file an action for unjust enrichment,” she said. ²⁸ Her work coincides with a new California law requiring all insurance companies in the state to research past business records and disclose any connections to slavery.

In addition, a growing chorus of civil rights leaders, including the Rev. Jesse L. Jackson, has called on insurers to pay some form of restitution. “We call on the insurance companies to search their national files and disclose any and all policies issued to insure slave owners during the period of slavery,” Jackson said. ²⁹

Some black leaders have suggested that culpable corporations establish scholarship funds for underprivileged black students.

But, while Aetna has publicly apologized for insuring owners against the loss of slaves, it has refused to provide compensation, arguing that slavery was legal when the policies were issued. New York Life is withholding comment until it finishes reviewing its historical records.

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Outlook

Starting a Dialogue

Those working to obtain reparations for slavery often compare the fight with the long, uphill struggle faced by civil rights activists in the 1950s and '60s. “The relative powerlessness of our community is not a new thing for African-Americans,” the University of Maryland’s Walters says. “We’ve been here before and have won, and I think we’re going to win this time, too.”

“The uneasiness that some express about reparations is the same uneasiness that we had about integration and about a woman’s right to choose,” Harvard’s Ogletree said. “We’ve gained some important mainstream viability, but these things take time.” ³⁰

For now, reparations proponents say that they hope to get the government to consider the issue, just as it did for Japanese-American internees and Holocaust survivors. “Right now this is about process,” Walters says. “With Japanese-Americans, nothing really happened until after the government took some time to study the issue.”

But opponents and others are confident the effort will fail. “This is going to die out because it makes no sense,” George Mason’s Williams says. “Conyers’ bill is languishing in Congress and will continue to languish in Congress, because white politicians cannot sell this to white America.”

MIT’s Nobles agrees. “The best they can hope for from Congress is some sort of formal apology,” she says. A claim based on an injustice that occurred so long ago is simply too nebulous to warrant serious consideration by lawmakers or judges, she says. “This isn’t like the case of Japanese-Americans, where you had direct survivors of the act in question. [The former internees] suffering was identifiable and for a specific period of time — four years — making it much less complicated.”

Efforts against private firms — like insurance companies — have a better chance of producing some monetary reward, she predicts. “Eventually, some company will feel the heat, cave in and set up some sort of trust fund or something,” she says, adding that Cochran, Ogletree and the other attorneys are unlikely to quit without something to show for their efforts. “To prove that all of this [effort] was worthwhile, they’re going to work for a real win.”

Others agree the movement will probably achieve at least some of its goals. “The less sophisticated supporters may think that they’re going to win reparations, but the more sophisticated ones know that, in the near term, the chance of this happening is very unlikely,” says Bositis, of the Joint Center for Political and Economic Studies.

“For these more realistic people, the principal thing they are trying to do is to start a dialogue on the issue, to get people talking about it,” he concludes.

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Pro/Con

Should the U.S. government apologize to African-Americans for slavery?

<p>Pro Rep. Tony P. Hall D-Ohio. Written for The CQ Researcher, June 2001</p> <p>America’s history has changed the course of humanity. As an enemy of tyrants, an advocate</p>	<p>Con Robert W. Tracinski Fellow, Ayn Rand Institute, Marina del Rey, Calif.. June 2001</p> <p>An apology for slavery on behalf of the nation presumes that whites today, who mostly</p>
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of liberty and a defender of freedoms, America has proven herself again and again. Our achievements stir other peoples' pride, and our history bestows upon us the courage to conquer new challenges.

But our achievements and our history are blemished by the shameful decades when U.S. laws permitted the enslavement of African-Americans. This long chapter ensured that many of the hands that built our young nation were not those of full participants in an emerging American dream, but of men, women and children forced to obey the tyranny of "masters."

In recent years, we have apologized for racist medical experiments that inflicted pain and eventually death on many young, innocent men in Tuskegee, Ala. We have paid reparations for forcibly interning thousands of Japanese-Americans during World War II. And we helped to broker an apology and reparations for victims of the Holocaust.

Of course, the fact we have acknowledged these wrongs doesn't make up for the pain of the past. But if what we've done in these cases wasn't sufficient to fulfill that impossible goal, it was necessary to restore the goodwill needed to change our future. In giving these and other Americans the dignity of an honest admission that our nation was wrong, these apologies have given us all a measure of healing.

Nearly 14 decades after slavery was abolished, its legacy still reverberates through Americans' daily lives. Neither former slaves nor slave owners are alive today, and few Americans trace their own roots to slavery. But all Americans bear slavery's bitter burdens - the lingering racial tensions, the stubborn poverty and dysfunction that is disproportionately high among African-Americans, the persistence that justice has not yet been done.

"I am sorry" are the first words uttered by anyone sincere about righting a wrong. And yet in the case of our nation's greatest moral failing, we have yet to say these words. We have pursued countless policies toward the goal of racial healing. We have been enriched by the determination of African-Americans to overcome the problems rooted in their ancestors' enslavement. But neither their success, nor the blood spilled in our Civil War, excuses our country's continuing silence.

Some critics say an apology may open old wounds. Some say that paying reparations is essential to atonement. But no one can say those three words don't ring true.

oppose racism and never owned slaves, still bear a collective responsibility - simply by belonging to the same race as the slaveholders of the Old South. Such an apology promotes the very idea at the root of slavery: racial collectivism.

Slave owners were certainly guilty of a grave injustice. But by what standard can other whites be held responsible for their ideas and actions? By what standards can today's Americans be obliged to apologize on the slaveholders' behalf? The only justification for such an approach is the idea that each member of the race can be blamed for the actions of every other member, that we are all just interchangeable cells of the racial collective.

Critics of the proposed apology oppose it, not because it embraces this racist premise but because it does not go far enough. They want to apply the notion of racial collectivism in a more "substantial" form, by increasing welfare and affirmative-action programs designed to compensate for the wrongs of slavery. Such compensation consists of punishing random whites, by taxing them and denying them jobs and promotions in order to reward random blacks.

The ultimate result of this approach is not racial harmony or a color-blind society but racial warfare. It is precisely this kind of mentality that has devastated the Balkans, with each ethnic tribe continually exacting revenge on the other in retaliation for centuries-old grievances.

The idea of a national apology for slavery merely reinforces this same kind of racial enmity in America. By treating all whites as the stand-ins or representatives for slaveholders, it encourages the view of blacks and whites as a collective of victims pitted against an opposing and hostile collective of oppressors, with no possibility for integration or peaceful coexistence.

The only alternative to this kind of racial Balkanization is to embrace the opposite principle: individualism. People should be judged based on their choices, ideas and actions as individuals, not as "representatives" of a racial group. They should be rewarded based on their own merits - and they must not be forced to pay, or to apologize, for crimes committed by others, merely because those others have the same skin color.

Americans both black and white should reject the notion of a collective guilt for slavery. They should uphold the ideal of a color-blind society, based on individualism, as the real answer to racism.

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Chronology

1945-1980	After World War II, West Germany moves to pay restitution to Jewish survivors of the Holocaust.
1948	Congress passes the Japanese-American Evacuations Claims Act to compensate Japanese-Americans who lost property as a result of being interned during World War II.
1951	West German Chancellor Konrad Adenauer proposes paying assistance to Israel and reparations to Jewish survivors of the Nazi Holocaust.
1953	Israel and West Germany agree on payment of reparations and aid. Over the next nearly 50 years, Germans will pay more than \$60 billion

	in Holocaust-related restitution.
1956	Swiss government asks banks and insurers to reveal their Holocaust-related assets. The companies say such "dormant accounts" hold less than 1 million Swiss francs.
1962	A second request for an accounting of Holocaust-related assets leads to the discovery of about 10 million Swiss francs in dormant accounts.
1965	West Germany ends state-to-state payments to Israel. Holocaust survivors continue to receive payments from German government through the present.
1980s-Present	Oppressed groups begin seeking reparations.
1980	Congress creates the Commission on Wartime Relocations and Internment of Civilians to study possible reparations for Japanese-Americans interned during World War II.
1987	National Coalition of Blacks for Reparations in America (N'COBRA) is founded.
1988	Congress passes the Civil Liberties Act, which apologizes for the wartime internment of Japanese-Americans and authorizes the payment of \$20,000 to surviving internees. Eventually, 80,000 Japanese-Americans receive an apology and a check.
1989	Rep. John Conyers Jr., D-Mich., introduces legislation to create a commission to study the African-American reparation issue. He will reintroduce the bill five more times in the coming years.
1990	The first Japanese-American internees begin receiving reparations checks.
1995	European and American media exposés document the role of Swiss banks in financing the Nazi war effort and in failing to make restitution to Holocaust survivors.
October 1996	Class action suit is filed in New York federal court against Swiss banks, seeking funds from "dormant accounts" of Holocaust victims.
1998	Though not an apology, President Clinton says in a speech at a Ugandan village school that it was wrong for European Americans to have received "the fruits of the slave trade."
August 1998	Swiss government agrees to pay \$1.25 billion to settle claims against Swiss banks.
December 1998	In a Wall Street Journal op-ed piece, Anti-Defamation League national director and Holocaust survivor Abraham Foxman questions the tactics employed by those seeking reparations for Holocaust survivors.
December 1999	The German government and corporations that used slave labor during the war establish a \$4.3 billion fund to compensate surviving slave laborers.
2000	TransAfrica founder Randall Robinson publishes <i>The Debt: What America Owes to Blacks</i> , a bestselling book arguing for reparations for slavery.
2001	Conservative commentator David Horowitz creates a controversy on many American campuses when he tries to publish an ad in college newspapers entitled "Ten Reasons Why Reparations for Slavery is a Bad Idea — and Racist, Too."
2002	Prominent African-American attorneys promise to sue the federal government and private companies for slavery reparations.

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Short Features

Seeking Justice for Australia's Aborigines

Australian Olympic gold medal winner Cathy Freeman knew all about the "stolen generation" of Aborigines. Her grandmother was one of the thousands of youngsters taken from their parents by white authorities.

Winning the 400-meter dash at last year's Summer Games gave Freeman a chance to speak out on the centuries of mistreatment of Australia's indigenous people.

Aborigines have lived in Australia for at least 40,000 years, most likely migrating from Southeast Asia. Their downfall as a people began in 1788, when British ships brought 1,000 settlers, including more than 500 convicts from overcrowded jails. Clashes began almost immediately, but the Aborigines' primitive weapons were no match for British guns and mounted soldiers.

Because the convicts provided free labor, the white settlers treated the Aborigines as little more than useless pests. Those who were not killed were driven away to fenced reservations in the most inhospitable parts of the "outback" territory. Crimes against Aborigines often went unpunished.

Aborigines, who make up 2 percent of Australia's largely white population of 19 million, were not allowed to vote until 1962; they were not counted in the census until 1967. Moreover, Aborigines' life expectancy is 20 years less than the national average and they occupy the lowest rung of the nation's economic ladder.

But in 1992, they won a significant victory when courts recognized that the Aborigines had "owned" Australia before whites arrived. Today, they own more than 15 percent of the continent, mostly in the remote northern territory.



Olympic gold medalist Cathy Freeman has used her celebrity to call attention to her fellow Aborigines. (AFP Photo/Romeo Gacad)

Nevertheless, some Aboriginal leaders are seeking reparations for perhaps the worst injustice perpetrated against their group — the state-sponsored abduction of Aboriginal children from their parents.

From the early 1900s until the 1970s, as many as 100,000 Aboriginal children were taken from their parents to be raised among whites in orphanages or foster families. State and federal laws that permitted the practice were based on the belief that full-blooded Aborigines would eventually die out and that assimilating the children into white society was the best way to save them.

In 1997, the Australian Human Rights and Equal Opportunity Commission reported that many of the children had been physically and sexually abused and suffered long-term psychological damage from the loss of family and cultural ties.

But Australian Sen. John Herron called the 1997 report "one-sided" and said the stories about removing Aboriginal children from their families was greatly exaggerated." ¹

His comments stung Aden Ridgeway, the only Aborigine senator in Parliament, who angrily compared Herron's statements to "denying the Holocaust." ²

"They were denying they had done anything wrong, denying that a whole generation was stolen," Freeman said. "The fact is, parts of people's lives were taken away." ³

Herron recognizes the removal of Aboriginal children as a blemish on Australia's history, but he claims many were taken with their parents' consent and for their own welfare. He believes amends are the responsibility of states and churches and has suggested that reparations claims be filed individually via the courts.

But reparations proponents say it is difficult to prove abuse in the absence of documents and witnesses. They cite the first stolen-generations case, brought last year, which was dismissed for lack of evidence.

Many advocates for the Aborigines favor creation of a national compensation board to adjudicate all "stolen generation" claims.

But Prime Minister John Howard dismisses the idea. He refuses to issue an apology, stating today's Australians should not be held responsible for the mistakes of past generations. He also points to a \$63 million government program designed to reunite families of the stolen generation.

However, former Prime Minister Malcolm Fraser says an apology is essential. "We can't undo the past, but we can, in an apology, recognize the fact that many actions in the past did a grave injustice to the Aboriginal population of Australia. We have a commitment to recognize that and other past injustices in walking together into a new future." ⁴

Last year, the government spent \$1.5 billion on health, education, housing and job-training programs for Aborigines.

But monetary payments and programs are not enough, say some reparations supporters. Geoff Clark, chairman of the Aboriginal and Torres Strait Islander Commission, which oversees indigenous affairs, wants the government not only to apologize but also to sign a treaty with the indigenous population that would provide limited autonomy for Aboriginal communities. His group cites similar treaties in the United States and Canada.

Howard says a treaty would be too divisive. "One part of Australia making a treaty with another part is to accept that we are in effect two nations," he said in a radio interview last year." ⁵

Ridgeway supports the treaty. "I think the prime minister's kidding himself if he thinks that a treaty's going to be divisive. The goal is about a formal document that better defines black and white relations and the unfinished business of reconciliation." ⁶



At a rally during the 2000 Olympics in Sydney, an Aborigine spokesman calls for the resignation of Prime Minister John Howard, who opposed reparations for mistreated indigenous Australians. (AFP Photo/Torsten Blackwood)

A national election later this year is widely expected to usher in a new prime minister. Howard's rival has supported the idea of a government apology to the Aborigines.

[1] "Separated, But Not a Generation," *Illawarra Mercury*, Aug. 19, 2000, p. 9.

[2] Mitchell Zuckoff, "Golden Opportunity, Australian Aboriginal Activists Hope to Exploit the Olympics to Publicize Their Demands for an Apology, Cash Reparations and Limited Sovereignty," *The Boston Globe*, Sept. 18, 2000, p. 1E.

[3] Michael Gordon, "Beginning Of The Legend," *Sydney Morning Herald*, Sept. 25, 2000, p. 10.

[4] Malcolm Fraser, "Apology Must Be First Step," *Sydney Morning Herald*, April 8, 1999, p. 15.

[5] Tony Wright and Kerry Taylor, "PM Rules Out 'Divisive' Treaty," *The Age*, May 30, 2000, p. 2.

[6] *Ibid.*

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For Native Americans, a Different Struggle

Unlike African-Americans, Native Americans are not seeking a huge settlement to right the wrongs of the past. Instead, they're working on the present.

"We don't want reparations," says John Echohawk, executive director of the Native American Rights Fund, an Indian advocacy group in Boulder, Colo. "What we do want is the government to honor its duty to us — and we want our land and our water back." They also want up to \$40 billion they say the government owes them.

Tribes have been making land claims against the government for more than a century. Today, dozens of claims are being dealt with (see p. 540).

But the biggest fight for restitution has come over allegations of government mishandling of a huge trust fund for Native Americans. Indian advocates say the federal government will end up owing between \$10 billion and \$40 billion to Native Americans when the matter is cleared up.

Since 1887, the federal government's Bureau of Indian Affairs (BIA) has managed many of the natural resources on Indian lands, such as oil and mineral deposits and grazing and water rights. Proceeds from the sale or use of these resources are, in theory at least, put into a trust fund administered by the government on behalf of members of the tribes who own the assets — some 500,000 Native Americans throughout the country.

In the 1970s, Elouise Cobell, a member of the Blackfoot tribe, began to question the government's management of these accounts. Other Indians had long suspected mismanagement, but no one had challenged the BIA officials who controlled the fund.

Over the next two decades, Cobell, who has an accounting background, concluded that billions of dollars had been lost, and that many Indians were being cheated out of money that was rightfully theirs. Her efforts to get BIA officials to pay attention to the problem came to naught. "They tried to belittle me and intimated that I was a dumb Indian," she says.



Penny Manybeads stands beside her hogan at the Navajo Indian reservation in Tuba City, Ariz., in 1993. Native Americans want the government to pay for the mismanagement of their natural resources trust fund. (AP Photo/Jeff Robbins)

In 1996, after years of what Cobell calls stonewalling by federal officials, she and four other Native Americans filed a class action suit in federal court against the Department of the Interior, which controls BIA. "The suit was a last resort, because no one would listen to us," Echohawk says. "No one did anything."

The plaintiffs charged that many records had been destroyed; that officials had improperly invested much of the money coming into the trust; and that no effort was made to keep individual Indians informed about the individual accounts the government kept for them. ¹

Even before the suit was filed, the federal government had made some attempts to address the problem. In 1994, Congress passed the Native American Trust Fund Accounting and Management Reform Act, authorizing the appointment of a special trustee to manage and reform the fund. But the first such trustee, former Riggs Bank President Paul Homan, resigned in protest in 1999, complaining that the Interior

Department was not adequately committed to reform.

Meanwhile, Cobell's suit against the government succeeded. In December 2000, a federal court ruled against the Interior Department and took control of the trust fund. "The government kept arguing that they were doing the best they could, but that just wasn't true," Echohawk says. "Fortunately, the court didn't believe them."

The government lost a subsequent appeal. Most recently, the new Bush administration decided not to continue to appeal the ruling, ending resistance to a court-administered solution.

The parties now must decide how much the government owes the trust fund. "We hope we can avoid a protracted legal battle over damages and settle out of court," Echohawk says, adding that Bush's decision not to continue appealing the ruling is a good sign the administration is committed to solving the problem.

Still, Echohawk is wary. "I'm cautious because until now, the government has fought us every inch of the way," he says. "Federal stonewalling and neglect are part of the story of the American Indian."

[1] Colman McCarthy, "Broken Promises Break Trust," *The Baltimore Sun*, March 7, 1999.

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Italian-Americans Were Also Mistreated

Japanese-Americans were not the only ethnic group to suffer from discrimination during World War II. Many Italian-Americans also were victimized in the name of national security.

The United States was at war with Italy from the end of 1941 until it surrendered to the Allies in 1943. During that time, some 600,000 Italian immigrants were classified as "enemy aliens," even though many had sons fighting for the United States against Italy, Germany and Japan.

Tens of thousands were subjected to search and arrest, and 250 were interned in camps. In California, an evening curfew was imposed on more than 50,000 Italian-Americans. Some 10,000 were forced to move away from areas near military installations. Authorities even impounded the boats of Italian-American fishermen.

While generally recognized as a gross violation of civil liberties, the federal government's mistreatment of Italians was much less far-reaching than the internment suffered by 120,000 Japanese. Indeed, more German-Americans were interned — about 11,000 in Texas, North Dakota and elsewhere. Perhaps that's why Italian-American groups have not demanded reparations. Instead, they have asked the government to "acknowledge" what happened.

In 2000, Congress agreed, passing legislation authorizing the Justice Department to conduct an investigation into the episode. The department's work is expected to be finished by the end of the year.

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The Next Step

Aborigines

Chandrasekaran, Rajiv , "Australia's 'Stolen Generation' Seeks Payback; Aborigines Want Apology for Kidnappings," *The Washington Post* , July 6, 2000, p. A1. Terry Olsen joined Australia's "stolen generation" on a routine visit to a clinic in 1973. While his aunt and grandmother sat in the waiting room, assuming the 18-month-old Aborigine with a milk-chocolate complexion and wavy brown hair was getting an immunization, a social worker spirited the toddler out the back door.

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Contacts

Anti-Defamation League

823 United Nations Plaza, New York, N.Y. 20017
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www.adl.org

Fights anti-Semitism and represents Jewish interests worldwide.

Conference on Jewish Material Claims Against Germany

15 East 26th St., Room 906, New York, N.Y. 10010
(212) 696-4944

www.claimscon.org

Pursues reparations claims on behalf of Jewish victims of the Nazi Holocaust.

Japanese American Citizens League (JACL)

1765 Sutter St., San Francisco, Calif. 94115
(415) 921-5225

www.jacl.org

The nation's oldest Asian-American civil rights group fights discrimination of Japanese-Americans.

Joint Center for Political and Economic Studies

1090 Vermont Ave., N.W., Suite 1100, Washington, D.C. 20005
(202) 789-3500

www.jointctr.org

Researches and analyzes issues of importance to African-Americans.

National Coalition of Blacks for Reparations in America

P.O. Box 62622, Washington, D.C. 20029

(202) 635-6272

www.ncobra.com

Lobbies for reparations for African-Americans.

Native American Rights Fund

1712 N St., N.W., Washington, D.C. 20036

(202) 785-4166

www.narf.org

Provides Native Americans with legal assistance for land claims.

TransAfrica

1744 R. St., N.W., Washington D.C. 20009

(202) 797-2301

www.transafricaforum.org

Lobbies on behalf of Africans and people of African descent around the world.

U.S. Holocaust Memorial Museum

100 Raoul Wallenberg Place, S.W., Washington, D.C. 20024

(202) 488-0400

www.ushmm.org

Preserves documentation and encourages research about the Holocaust.

World Jewish Congress

501 Madison Ave., 17th Floor, New York, N.Y., 10022

(212) 755-5770

www.wjc.org.il

An international federation of Jewish communities and organizations that has been at the forefront of negotiations over Holocaust reparations.

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Footnotes

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July 6, 2005.

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OPINION AND ORDER

CHARLES R. NORGLE, District Judge.

*1 Before the court is Defendants' Joint Motion to Dismiss Plaintiffs' Second Consolidated and Amended Complaint. For the following reasons, the motion is granted with prejudice.

I. INTRODUCTION

This case arises out of the institution of human chattel slavery as it existed in the North American colonies and the later formed United States of America. The allegations in Plaintiffs' Second Consolidated and Amended Complaint ("SCAC" or "Complaint") retell the generally acknowledged horrors of the institution of slavery, and the malignant actions of the sovereigns, entities, and individuals, foreign and domestic, that supported that institution. Plaintiffs' Complaint asks the courts to reexamine a tragic period in our Nation's history and to hold various corporate defendants liable for the commercial activities of their alleged predecessors before, during, and after the Civil War in America. Defendants acknowledge that slavery marked a deplorable period in our Nation's history. However, they assert that Plaintiffs' claims, which arise from that period, cannot be heard in 2005 in a court of law.

II. HISTORICAL OVERVIEW OF SLAVERY IN AMERICA

In essence, Plaintiffs' Complaint is a claim for reparations rooted in the historic injustices and the immorality of the institution of human chattel slavery in the United States. To elucidate the nature of this institution, the court undertakes an analysis, necessarily brief, of the historical events surrounding slavery, including the monumental event that ended the institution of slavery in the United States, the Civil War. The court also undertakes a brief analysis of the present day slave reparations movement, in order to illuminate the larger political context into which this case falls.

A. A Definition of Slavery

In January of 1865, General William Tecumseh Sherman of the Union forces, along with Secretary of War Edwin Stanton, met with former slaves. Ira Berlin, *Generations of Captivity: A History of African-American Slaves* 2 (2003). The conversation focused on two questions: from the point of view of the freed slave, what was the nature of slavery, and what was the nature of freedom? Id. Garrison Frazier, a sixty-seven year old former slave, explained that "[s]lavery ... is receiving by the *irresistible power* the work of another man, and not by his *consent*." Id. Freedom, Frazier indicated, "is taking us from the yoke of bondage, and placing us where we could reap the fruits of our own labor, take care of ourselves and assist the Government in maintaining our freedom." Id. Frazier's definition reminds us of the essential unfairness of slavery: the slaveowner takes, by sheer violence and force, the slave's freedom and labor in order to place himself at the top of a society's economic [hierarchy](#). *Id.* at 3.

B. A Brief History of Slavery in the New World

While slavery seems to have been a part of human history since the "dawn of civilization," African slave trafficking in the New World began in the year 1502. Robert William Fogel, *Without Consent or Contract: The Rise and Fall of American Slavery* 17-18 (1991). Europeans were historically drawn to Africa for two reasons: gold and slaves. Edward Reynolds, *Stand the Storm, A History of the Atlantic Slave Trade* 28 (1985). Those who journeyed to Africa seeking slaves for the New World sometimes simply kidnapped individuals who appeared before them by happenstance. Herbert S. Klein, *The Atlantic Slave Trade* 103 (1999). However, historical evidence indicates that a great deal (perhaps even the majority) of the slave trade was made possible by African leaders who sold African slaves to European slave traders. *Id.*; see also Reynolds, *supra* at 33-46 (providing a detailed explanation of the African slave market, and the economic mechanisms used to facilitate the sale of slaves from local African chiefs to slave traders). Local African leaders acquired these slaves in several different ways: captives were taken in local wars or raids, those imprisoned for crimes or indebtedness were often forced into slavery, and large states would exact slaves as "tribute" from smaller tribes under their control. See Klein, *supra* at 117.

*2 Upon their sale to slave traders, slaves were shipped to the New World in what became known as the "Middle Passage." Slaves' heads were shaved,

their bodies were branded and stripped naked, and their ankles were shackled. See Reynolds, *supra* at 47. They were then led into the holds of slave ships, where they were laid down alongside each other for the journey to the New [World](#). *Id.* at 48. The prevalence of disease, lack of sufficient food and water, and constant confinement took its toll, with up to one-quarter of the slaves on any given ship dying during the "Middle Passage." *Id.* at 48-53.

African slaves in the New World were initially sold into small sugar production operations in Brazil, Mexico, Peru, Cuba, Haiti, Jamaica, the British West Indies, and Dutch [Guyana](#). *Id.* at 20-21. Other African slaves were set to work producing such crops as cocoa, coffee, hemp, tobacco, and [rice](#). *Id.* at 21. By the 1680s, the small farm with its traditional methods of operation had given way to more efficient means of production, and the concept of the large "plantation" was [born](#). *Id.* at 23. Inefficient methods of farming had been "replaced by large gangs of slaves, working in lock step, and moving methodically across vast fields." Id. With this change came an increase in the size of slave operations. By the early part of the 1800s, many plantations in Jamaica and the West Indies contained up to two hundred and fifty slaves. Id.

Slavery in North America began more slowly than slavery in South America and the Caribbean. In 1680, there were 7,000 slaves in the British North American [colonies](#). *Id.* at 29. Slavery as an economic institution in North America, however, rapidly gained momentum over the next fifty years. By the 1730s, roughly 120,000 slaves had been brought to the colonies and forced to work in such industries as farming, tobacco production, and domestic service. Id. By the middle of the 1700s, the institution of slavery in the United States began to concentrate in the Southern colonies. It was in these colonies that plantations emerged, ready to take advantage of the inexpensive labor slaves provided in the production of such crops as tobacco, rice, sugar, and [cotton](#). *Id.* at 31.

During the years 1780 to 1810, the rapid expansion of these industries was accompanied by a significant increase in the number of slaves imported from [Africa](#). *Id.* at 32. The increase in the importation of slaves, along with the natural increase in the slave population, soon gave the United States a dubious distinction. By 1825, the population of slaves in the United States was roughly 1,750,000, making the United States the "leading user of slave labor in the new world." *Id.* at 33. Slavery had become the

dominant economic force in the Southern United States. Historians cite numerous factors for this development, but it seems that two factors are the most significant. First, slave labor was inexpensive compared to other sources of [labor](#). [Id.](#) at 34. Second, slave masters in the Southern states were willing to expend an "enormous, almost unconstrained degree of force ... to transform ancient modes of labor into a new industrial discipline." *Id.* This "new industrial discipline" was based on a division of labor scheme, enforced by brutality, and legally sanctioned.

C. Slavery and American Law

*3 This violent and oppressive system was supported by the United States legal system for a long period of time. Thus slavery was historically more than simply a social and economic institution. It was also an established legal institution. [fEN11](#) For instance, Article 1, Section 9 of the United States Constitution has been traditionally understood to limit Congress' power to regulate slavery. [fEN21](#) It is thought that this Article meant that Congress was denied the power to regulate the "internal slave trade, leaving only importation from Africa to be prohibited after 1808." Walter Berns, *The Constitution and the Migration of Slaves*, 78 YALE L. J. 198 (1968). Also, in 1850, Congress passed a statute supporting the rights of slaveowners to capture escaped slaves. The Fugitive Slave Act provided that:

[EN 1](#) Some Northern state statutes, however, stood firmly in opposition to slavery. *See infra* Part ME (discussing the Personal Liberty Laws enacted in Northern States).

[EN2](#) "The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person." [U.S. Const. art 1, § 9, cl. 1](#).

[W]hen a person held to service or labor in any State or Territory of the United States, has heretofore or shall hereafter escape into another State or Territory of the United States, the person or persons to whom such service or labor may be due ... may pursue and reclaim such fugitive person ... [and may] take and remove such fugitive person back to the State or Territory whence he or she may have escaped as aforesaid.

The Fugitive Slave Act, ch. 60, § 6, 9 Stat. 462

(1850). This Act also provided for fines and/or imprisonment for those who aided escaped slaves, and stipulated that both law enforcement personnel and ordinary citizens were bound by law to aid in the capture of escaped slaves. *Id.* Finally, in the infamous case of *Dred Scott v. Sandford*, Scott, a slave, brought suit to gain his freedom. [60 U.S. 393 \(1856\)](#). The Supreme Court of the United States held that since Scott was a "negro, whose ancestors were imported into this country, and sold as slaves," he could not be a citizen of the United States, and hence had no standing to bring suit in a United States [court](#). [Id.](#) at 403-04.

D. Slavery and Morality

The immorality of the institution of slavery is obvious. However, scholars have attempted to explain exactly what it is about this institution that offends moral sensibilities. Two moral indictments of the institution are significant. First, "slavery permitted one group of people to exercise unrestrained personal domination over another group of people." Fogel, *supra* at 394. The slave was subject to abject cruelty, both physical and psychological, by his or her masters in order for the master to maintain domination. *Id.* In one sense, "[t]he extreme degree of domination required by this system ... is the essential crime." *Id.* Second, the slave was denied the fruits of his or her [labor](#). [Id.](#) at 395. Slaves were forced to work at physically grueling tasks for very long hours without pay, thus it was impossible for the slave to improve his or her economic position within society. *Id.* The slave simply had no resources or "opportunity ... to rise on the economic ladder by acquiring land, labor skills, and other forms of capital." *Id.*

E. Slavery as a Cause of the Civil War

*4 Historians have long debated whether slavery was the single driving force behind the regional tensions in the United States that eventually led to the Civil War. "Although some scholars have held that slavery was the cause [of the Civil War], others have developed complex analyses that draw distinctions between immediate and ultimate causes and that explore a variety of ways other than war that could have settled or at least contained the issue of slavery." [Id.](#) at 411. This much, however, is clear: by 1861, tensions between the North and the South had escalated to the extent that maintaining peace would have required that the Northern states allow the permanent "existence of an independent confederacy dedicated to the promotion of slavery." [Id.](#) at 413. In

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other words, by 1861, tensions between the North and the South had increased to such a pitch that the only way slavery would be abolished throughout the entire nation was through armed conflict.

A great deal of the tension between the North and the South had to do with the Northern states' promulgation of Personal Liberty Laws. "In his annual message to Congress of December 3, 1860, [President] James Buchanan warned that the South 'would be justified in revolutionary resistance to the Government of the Union' if northern states did not repeal their Personal Liberty Laws." Thomas D. Morris, *Free Men All: The Personal Liberty Laws of the North 1780-1861* 202 (1974). These laws were devised and implemented by many Northern states to make it very difficult for slave owners to capture escaped slaves who had taken up residence in those states.

The court does not claim objective knowledge of the ultimate cause of the Civil War. Certainly, however, tensions marked by the North's moral outrage at the institution of chattel slavery, and the South's indignation at the North's promulgation of Personal Liberty Laws, contributed significantly to the advent of war.

F. The Civil War

Fort Sumter, located in the Charleston harbor, South Carolina, was one of just four Federal fortifications left in Confederate territory in 1861. Shelby Foote, *The Civil War, A Narrative: Fort Sumter to Perryville* 44 (Vintage Books 1986) (1958). The government of South Carolina had made protests to Washington regarding the presence of a Federal fortification within its borders, but those protests were ignored. *Id.* Instead, Washington decided to reinforce Fort Sumter with men and supplies. *Id.* However, when local gunmen opened fire on a Union steamer attempting to bring these reinforcements to Fort Sumter, the steamer was forced to turn away. *Id.* By March of 1861, Fort Sumter was surrounded by Confederate forces, and was cut off from fresh supplies. *Id.* By April of that year, the Federal forces inside Fort Sumter were in danger of starving to [death](#). *Id.* at 48. The time had come for Washington to make a decision--abandon Fort Sumter, or again attempt to resupply it. Washington was aware that another attempt to bring supplies to Fort Sumter might well provoke an attack on the fort [itself](#). *Id.* at 47. This time, however, the attack would not come from local gunmen, but from Confederate forces. *Id.* Washington decided not to cave in to Confederate

pressures, and attempted to bring fresh provisions and reinforcements to the [fort](#). *Id.* at 47. On the morning of April 12, 1861, with Union supply ships within sight of Fort Sumter, the Confederacy fired the first shot of the Civil [War](#). *Id.* at 49.

*5 The four-year Civil War was fought by means of a series of pitched battles, each one seemingly more horrific than the last. The first true battle of the war, the battle of Bull Run, resulted in the deaths of roughly 2,700 Union soldiers and 2,000 Confederate soldiers. *The Price in Blood, Casualties in the Civil War*, at <http://www.civilwarhome.com/casualties.htm>. Other battles, at places like Gettysburg, Antietam, Fredericksburg, Wilson's Creek, Spotsylvania, Cold Harbor, and Franklin took the lives of tens of thousands of Union and Confederate soldiers. *Id.* The final campaign of the war, fought in the vicinity of Appomattox, Virginia, resulted in a combined 17,500 battle deaths. *Id.*

Following the Appomattox campaign, on April 9, 1865, Union General Ulysses S. Grant received Confederate General Robert E. Lee at Appomattox Courthouse, where the two generals agreed upon the terms of Lee's surrender. Shelby Foote, *The Civil War, A Narrative: Red River to Appomattox* 945-51 (Vintage Books 1986) (1974). Shortly thereafter, Grant rode out towards his headquarters, where Union batteries were firing in [celebration](#). *Id.* at 950-51. Grant insisted the batteries stop firing, worried that the noise might spark a skirmish between his troops and the nearby, and still armed, Confederate [soldiers](#). *Id.* at 951. There was, however, another more important reason Grant considered it "unfitting" for his troops to be firing their weapons at that point: "The war is over," he told his staff. "The rebels are our countrymen again." *Id.*

All in all, approximately 620,000 Americans died in the Civil War; Union forces fighting to end slavery suffered 360,000 of these deaths. James M. McPherson, *Battle Cry of Freedom: The Civil War Era* 854 (Oxford University Press 1988). There were 178,975 African-American Union troops that fought in the Civil War, and 36,000 of those troops died during the war. *The Price in Blood, Casualties in the Civil War*, at <http://www.civilwarhome.com/casualties.htm>. An analysis as brief as this cannot do justice to the tremendous sacrifices made by both Union and Confederate soldiers in this war. Since the Civil War, America has been involved in a number of armed conflicts, but, by some estimates, the fatalities America suffered in the

Civil War exceeds the total number of fatalities America has suffered in all its other wars. *Id.* The Civil War, the war that ended the institution of chattel slavery in the United States, was truly America's bloodiest war.

G. The Abolishment of Slavery

On January 1, 1863, in the midst of the Civil War, President Abraham Lincoln issued the Emancipation Proclamation. That document reads in part: "I do order and declare that all persons held as slaves within said designated States ... are, and henceforward shall be free...." Abraham Lincoln, The Emancipation Proclamation, Exec. Proclamation No. 17 (Jan. 1, 1863), reprinted in 12 Stat. 1268 (1863).

*6 Following the war, Congress acted to formally abolish slavery by proposing the Thirteenth Amendment to the United States Constitution. That Amendment was ratified on December 6, 1865. Section 1 of that Amendment reads: "Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." U.S. Const. amend. XIII, § 1.

Also, the Fourteenth Amendment to the United States Constitution was ratified on July 9, 1868. Section 1 of that Amendment reads: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." U.S. Const. amend. XIV, § 1. In effect, the Fourteenth Amendment overruled the *Dred Scott* decision, making freed slaves citizens of the United States.

Following the Civil War, the South was bankrupt, and an estimated four million African-Americans assumed the responsibilities of freedom as nationalism emerged. These lingering effects led to the Reconstruction era, a significant period in our Nations history, which addressed the numerous issues raised by the abolition of slavery and the war fought to achieve that end.

H. The Modern Slave Reparations Movement

Plaintiffs' Second Consolidated and Amended Complaint falls within the broader context of a present and ongoing social and political movement for slave reparations in America. In order to properly place this suit within the context of that movement, the court offers a brief analysis of recent efforts

undertaken by various groups to gain reparations for the historic injustices of slavery.

1. A Definition of "Reparations"

A complete definition of the term "reparations" will answer, at least, the following questions. What political, moral, or legal justification is there for the assertion that descendants of slaves are owed some sort of reparations? What are the arguments against reparations? Assuming reparations are justified, what form should these reparations take? Which specific individuals or groups will pay these reparations? To which specific individuals or groups will these reparations be paid?

In general, reparations advocates argue that reparations are justified because America itself owes a debt to the descendants of slaves. America owes this debt, advocates assert, simply because the slaves themselves were never paid for their labor. "[B]lack people worked long, hard, killing days, years, centuries--and they were never *paid* There is a debt here." Randall Robinson, *The Debt: What America Owes to Blacks* 207 (2000). In other words, the basic moral principle of fairness, and the fundamental legal principle that parties must repay their debts, justifies reparations. "[B]elief in the fairness of reparations requires at the intellectual level acceptance of the principle that the victims of unjust enrichment should be compensated. Under reparations, Blacks more readily may position themselves as creditors seeking payment of an overdue debt, rather than as racial supplicants seeking an undeserved preference." Robert Westley, *Many Billions Gone: Is It Time to Reconsider the Case for Black Reparations?*, 40 B.C. L. REV. 429, 436 (1998).

*7 Other advocates argue that reparations are justified as a way to "repair a country by creating a sense of mutual, interracial trust, respect, and shared destiny." Note, *Bridging the Color Line: The Power of African-American Reparations to Redirect America's Future* 115 HARV. L. REV. 1689, 1689-90 (2002) (hereinafter, "Note"). Still others argue that reparations for descendants of slaves are justified because other groups that have suffered historical harms have been able to obtain reparations. See Alfred L. Brophy, *Some Conceptual and Legal Problems in Reparations for Slavery*, 58 N.Y.U. ANN. SURV. AM. L. 497, 499 (2003) (hereinafter "*Conceptual and Legal Problems*") (noting that "Native Americans, Holocaust victims, [and] Japanese Americans interned during World War II")

have obtained reparations).

However, opponents of slave reparations identify a number of reasons, they assert, that reparations are unjust or unwise. Alfred L. Brophy, *The Cultural War over Reparations for Slavery*, 53 DEPAUL LREV. 1181, 1201-02 (2004) (hereinafter "Cultural War"); see also David Horowitz, *Uncivil Wars: The Controversy over Reparations for Slavery* 12-16 (2002) (identifying ten separate arguments against reparations). The court will briefly summarize what seem to be the most cogent of these arguments. Some assert that there is no genuine moral or legal liability on the part of those who are currently asked to pay the reparations. Cultural War, *supra*, at 1202-06. This argument focuses on the fundamental notion that "one should be liable only for the harms one causes...." *Id.* at 1202. Since today's Americans do not hold slaves, the argument goes, today's Americans are not morally or legally liable for the evils of slavery. *Id.* Others argue that the reparations asked for have, in fact, already been paid.

Since the passage of the Civil Rights Act and the advent of the Great Society in 1965, trillions of dollars in transfer payments have been made to African-Americans in the form of welfare benefits and racial preferences (in contracts, job placements and educational admissions).... It is said that reparations are necessary to achieve a healing between African-Americans and other Americans. If trillion-dollar restitutions and a wholesale rewriting of American law (in order to accommodate racial preferences) is not enough to achieve a "healing," what is?

Horowitz, *supra*, at 14; see also CHICAGO, ILL., ORDINANCE 2-92-420 et seq. (providing that "Minority-owned business[es]," including those businesses owned by African-Americans, are to receive at least twenty-five percent of the dollar value of any contract, purchase order, or agreement awarded by the City of Chicago). Some also argue that the Civil War itself was payment, in blood and human lives, for slavery. Cultural War, *supra*, at 1208; see also Horowitz, *supra*, at 15 ("If not for the sacrifices of white soldiers and a white American president who gave his life to sign the Emancipation Proclamation, blacks in America would still be slaves"). Finally, a common argument made against reparations is that reparations talk is divisive, and continues to enmesh African-Americans in a culture of victimhood. Cultural War, *supra*, at 1209-10 ("[talk of reparations] makes blacks think that whites as a group are their oppressors; it makes whites who have no responsibility for the sins of the past feel like oppressors and plays on feelings of guilt").

*8 Advocates of reparations differ in their assessments of exactly what form reparations ought to take. Some reparations advocates assert that reparations should start with a formal apology from America, as well as the establishment of "truth commissions" to investigate the complicity of various groups or organizations in slavery. Cultural War, *supra*, at 1185-1189; see also CHICAGO, ILL., ORDINANCE 2-92-585 (requiring parties entering into contracts with the city to search company records, and provide "full and accurate disclosure to the public about any slavery policies sold by any companies, or profits from slavery by other industries (or their predecessors) who are doing business with the city"); S. Res. 39, 109th Cong. (2005) (formally apologizing for the Senate's failure to enact anti-lynching legislation, and expressing sympathy to the descendants of victims of lynching). Apologies, "truth commissions," and local ordinances requiring companies to disclose ties to slavery, are thought by some to be a first step along the road to full reparations. "By preparing people to understand the nature of the harm and why reparations are needed, they are a way of making the claim before the public." Cultural War, *supra*, at 1188.

Most commonly, however, the term "reparations" simply means some sort of financial compensation for descendants of slaves. Some reparations advocates have proposed that reparations take the form of a "trust ... established for the benefit of all Black Americans." Westley, *supra*, at 470; see also Robinson, *supra*, at 244-45. This trust "should be financed by funds drawn annually from the general revenue of the United States," and the funds would "be expendable on any project or pursuit aimed at the educational and economic empowerment" of African-Americans. Westley, *supra*, at 470. Specifically, advocates of reparations assert that trust funds should be used to finance the creation of special schools for black children found to be "at risk in unhealthy family and neighborhood environments." Robinson, *supra*, at 244-45. These funds could also be used to finance the work of black political and advocacy groups. *Id.* at 245-46. Other reparations advocates propose that reparations take "the form of subsidies to black-owned businesses, investment in education programs and scholarships for black youths, training programs for black workers, affirmative action programs, resources for community-based organizations in predominantly black communities, and development and implementation of programs designed to educate the country about the legacy of slavery." Note, *supra*, at 1690.

The reparations movement has thus moved towards the notion that reparations should be directed towards certain groups of people, rather than specific individuals. "Pro-reparation positions more readily see harm to entire groups and want to repair that economic and psychological harm." *Conceptual and Legal Problems, supra*, at 509; *see also* Robinson, *supra*, at 244-46 (advocating group reparations). The group entitled to receive reparations would obviously consist of descendants of slaves, and determining exactly who is and is not a member of this group could be done in a number of different ways. *See* Kevin Hopkins, *Forgive U.S. Our Debts? Righting the Wrongs of Slavery*, 89 GEO. L.J. 2531, 2542 (2001) (proposing that genealogical research, blood testing, or genetic mapping could be used to determine whether one is a legitimate descendant of slaves).

*9 However, there may well be no perfect method of determining exactly who is a descendant of a slave, and thus a member of the group entitled to receive reparations. *See id. at 2542-2547*. Genealogical research "often fails to provide significant information about a persons ancestry." *Id. at 2543*. The blood, or "one-drop," test (whereby anyone with any trace of African ancestry is deemed part of the group entitled to receive reparations) "fails to differentiate between descendants of U.S. slaves and those of other nationalities with African heritage...." *Id. at 2544*. Genetic mapping, or DNA testing, is more promising than the above two methods, but "alone is insufficient to provide a decisive link to a homeland...." *Id. at 2547*.

The question of who ought to pay the reparations is also complex. The value of slaves' unpaid labor, reparations advocates argue, was scattered amongst numerous entities: "plantation owners, northern entrepreneurs, state treasuries, the United States government." Robinson, *supra*, at 207. In the case presently before the court, the Plaintiffs have chosen to bring suit against private entities, the corporations who allegedly held slaves, and their successors in interest. For example, the first named Defendant is FleetBoston Corporation, which Plaintiffs allege is a successor in interest to Providence Bank, which allegedly financed and profited from the slave trade. SCAC, ¶ 116-126. Many reparations advocates, however, focus their attention on the United States government as the proper party to pay reparations. *See* Note, *supra*, at 1700 ("Reparations are not intended to hold individual Americans living today morally responsible for the acts of their forefathers,

but rather to insist that the country apologize for its wrongful acts and take the necessary steps to bridge the racial divide and to alleviate the economic and social disparities that resulted from those acts."); *see also* Hopkins, *supra*, at 2551-52 (advocating that the United States government pay these reparations).

The following general definition of slave "reparations" thus emerges. "[R]eparations mean truth commissions that document the history of racial crimes and the current liability for those crimes, apologies that acknowledge liability, and payments to settle the account." *Cultural War, supra*, at 1190. These payments may be made in the form of a trust, with the descendants of slaves named as trust beneficiaries, or other forms of subsidies given to the descendants, and could be made by private entities who have allegedly profited from slavery (as the plaintiffs in the instant suit urge). The reparations movement more commonly insists, however, that the United States government should make these payments. Reparations are justified, advocates argue, on several grounds, including that of an alleged moral and legal debt owed to descendants of slaves, and the historical precedents of reparations for the victims of other historical injustices. However, there are a number of cogent arguments against reparations, including the arguments that present day Americans are not morally or legally liable for historical injustices, that the debt to African-Americans has already been paid, and that reparations talk is divisive, immersing African-Americans in a culture of victimhood.

2. Previous Attempts at Slave Reparations

*10 Reparations advocates identify five different time periods during which reparations for slavery were seriously discussed in one form or another. *See* Vincene Verdun, *If the Shoe Fits, Wear It: An Analysis of Reparations to African Americans*, 67 TUL. L. REV. 597, 600 (1993). First, during and immediately after the Civil War, both Congress and President Lincoln attempted to confiscate property from former slaveowners, and to redistribute that land to former slaves. *Id. at 600-01*. These attempts ultimately failed in 1865, when President Johnson ordered that lands be returned to their "pre-Civil War owners." *Id. at 602*.

The second period of attempts at slave reparations, occurring near the turn of the century, included attempts to establish pension funds for former slaves. *Id. at 602-03*. The third attempt at reparations, occurring during World War II, was not a proposal to

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pay African-Americans a sum of money; the proposal was rather to "provid[e] for the migration and colonization of negroes to newly acquired territories." [Id.](#) at 603. The fourth period of attempts at reparations coincided with the civil rights movement of the 1960's. *Id.* Various black activists such as James Forman, Audley Moore, and Dr. Martin Luther King, Jr., demanded, or in some cases, hinted at, slave reparations for [African-Americans](#). [Id.](#) at 603-05. For example, in his celebrated "I Have a Dream" speech, Dr. King asserted that "America has given the Negro people a bad check, which has come back marked 'insufficient funds.'" [Id.](#) at 604.

Finally, the fifth, and current period of attempts at slave reparations began with the Civil Liberties Act of 1988. [Id.](#) at 605-06. This Act provided \$20,000, and a formal apology from the United States government to Japanese-Americans who were interned during World War II. [Pub.L.No.100-383 102 Stat. 903 \(1988\)](#); see also [Korematsu v. United States](#), 323 U.S. 214 (1944) (upholding the constitutionality of military and executive orders issued during World War II which excluded individuals of Japanese descent from the West Coast, and provided for the detention of those individuals in "assembly or relocation centers"). Seizing on what appeared to be Congress' willingness to right the wrongs of history, reparations activists began their efforts anew. Numerous grassroots organizations formed to advocate slave reparations. Verdun, *supra*, at 606 nn.26-27. In 1989, U.S. Representative John Conyers introduced a bill that would have established a commission to study the effects of slavery on present day African-Americans, and to study whether reparations would be appropriate. H.R. 3745, 101st Cong. (1989). The preamble to Conyers' proposed legislation stated that its intent was

to acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to examine the institution of slavery, subsequent de jure and de facto racial and economic discrimination against African Americans, and the impact of these forces on living African Americans, [and] to make recommendations to the Congress on appropriate remedies, and for other purposes.

*11 *Id.* Conyers has introduced similar legislation to each Congress since 1989, but none of these bills has made it out of committee. See, e.g., H.R. 40, 108th Cong. (2003), H.R. 40, 107th Cong. (2001).

3. The Legislature as the Proper Forum to Achieve Slave Reparations

Despite Representative Conyers' lack of success before Congress, some reparations activists today still assert that the legislature, rather than the courts, is the best forum in which to introduce their claims. See, Westley, *supra*, at 436 ("It is Congress, and perhaps the legislatures of the former slave states, that must be persuaded to enact reparations"); Note, *supra*, at 1704 ("There are concrete benefits of working in the legislative branch rather than the judicial branch"). Activists acknowledge that there are significant problems involved with bringing the issue of reparations for slavery before a court of law.

The specific problem with bringing this issue before a court is that courts are equipped for, and charged with the responsibility of, "dealing with claims by well-identified victims against well-identified wrongdoers...." See *Conceptual and Legal Problems*, *supra*, at 502. Claims asserting harms against groups of long dead victims, perpetrated by groups of long dead wrongdoers, are particularly difficult to bring in modern American courts of law. "First, the victims are making claims against people who are not themselves wrongdoers. Furthermore, that defendant class may not have any current benefit from the harm.... Often the perpetrators cannot be identified with specificity or are no longer alive." [Id.](#) at 503. For these reasons, plaintiffs in reparations suits will inevitably face the conceptual problems of standing and statutes of limitations. Westley, *supra*, at 435. However, reparations advocates who bring their claims before legislatures face no such problems. "[L]egislatures may hold hearings, make findings, and pass resolutions or laws on any matter affecting the public interest and within the scope of constitutional power. Substantively, legislatures provide a friendlier forum than courts for racial remedies." *Id.*

In addition to reparations offered to Japanese individuals interned during World War II, at least one state legislature has passed a bill authorizing reparations for past racial injustices. See C. Jeanne Bassett, *House Bill 591: Florida Compensates Rosewood Victims and Their Families for a Seventy-One-Year-Old Injury*, 22 [FLA. ST. U.L.REV.](#) 503 (1994). In January 1923, the small town of Rosewood, Florida, inhabited entirely by African-Americans, was burned to the ground by a group of whites after a white woman claimed she had been raped by an African-American [man](#). [Id.](#) at 505-07. In addition, at least eight African-Americans were murdered. *Id.*; see also Martha Minow, *Not Only or Myself- Identity, Politics, and Law*, 75 [OR. L.REV.](#)

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647, 679 (1996). In 1994, Florida passed House Bill 591, which authorized compensation for the victims of this massacre, and their direct descendants. Bassett, *supra*, at 517-18. The compensation included up to \$150,000 for each survivor, and college scholarships for their descendants. *Id.*

*12 Legislatures, both federal and state, are thus sometimes inclined to award compensation to victims of historical injustices. *See Pub.L. No. 100- 383, 102 Stat. 903 (1988)* (awarding compensation to Japanese individuals interred during World War II); *see also* Bassett, *supra*, (describing how the Florida legislature awarded compensation to victims and descendants of victims of the 1923 Rosewood, Florida massacre). Courts of law, however, are constrained by judicial doctrine and precedent, including concepts of standing, statutes of limitations, and the political question doctrine. Legislatures, both state and federal, face no such conceptual and doctrinal constraints. For that reason, advocates of slave reparations may resolve to bring their concerns and demands to the legislative and executive branches of the government, rather than the adjudicative and adversarial judicial branch.

111. OVERVIEW OF THE PROCEEDINGS

A. Parties

1. Plaintiffs

Beginning in 2002, a number of lawsuits were filed by descendants of slaves seeking reparations from private corporations that were alleged to have unjustly profited from the institution of slavery. On October 25, 2002, the Judicial Panel on Multidistrict Litigation transferred these actions to this court for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See In re African-American Slave Descendants Litigation, No. 1491-231 F.Supp.2d 1357 (Jud.Pan.Mult.Lit., Oct. 25, 2002)*. This litigation then consisted of nine individual lawsuits. As directed by the court, the individual Plaintiffs filed a consolidated complaint, which, upon later review, the court dismissed without prejudice. The court held that the Plaintiffs had failed to state a cause of action, had no standing to bring the suit, and that the suit was barred by the political question doctrine and statutes of limitations. *See In re African-American Slave Descendants Litigation, No. 1491-304 F.Supp.2d 1027 (N.D.111.2004)*. The court then granted Plaintiffs leave to file a second amended complaint. Plaintiffs have since filed their Second Consolidated and Amended Complaint, which also consists of nine individual suits. *See* SCAC. (FN31

The Plaintiffs in the SCAC include the following: Deadria Farmer-Paellmann, (FN41 Mary Lacey Madison, (FN51 Andre Carrington, (FN61 John Bankhead, as administrator of the Estate of Edlee Bankhead, (FN71 Richard Barber, Sr., (FN81 Hannah Hurdle-Toomey, as administrator of the Estate of Andrew Jackson Hurdle, (FN91 Marcelle Porter, as administrator of the Estate of Hettie Pierce, (FN101 Julie Mae Wyatt-Kervin, (FN111 the Estate of Emma Marie Clark, (FN121 Ina Bell Daniels Hurdle McGee, (FN131 Cain Wall Sr., and seven other individuals who assert they were formerly enslaved, (FN141 and Antoinette Harrell Miller. (FN151 These named Plaintiffs (hereinafter collectively referred to as "Plaintiffs"), on behalf of themselves and the classes they seek to represent, (FN161 seek reparations on behalf of all "formerly enslaved Africans and their descendants," and all living "former enslaved African-Americans and their descendants...." *See* SCAC, 1 48. Specifically, Plaintiffs seek an accounting, disgorgement of profits, the creation of an "independent historical commission" to study Defendants' actions, a constructive trust, restitution, and compensatory and punitive damages arising out of the named Defendants' alleged past and continued wrongful conduct relating to the institution of slavery. *See id.* 1 3.

FN3. The citations in this Opinion are to the paragraphs as styled in Plaintiffs' Complaint; however, in certain instances the numbering of paragraphs does not proceed in chronological order.

FN4. Farmer-Paellmann alleges that she is the "great-great-granddaughter of Clara and Abel Hinds, Africans who were enslaved on a South Carolina sea island rice plantation." *See* SCAC, 1 65.

FN5. Madison alleges that her "ancestors were slaves in the agricultural, cotton, and tobacco industry in Virginia and North Carolina." *See* SCAC, 1 68.

FN6. Carrington alleges that his maternal and paternal ancestors "were slaves in North Carolina, and ... were involved in the cotton and tobacco industries." *See* SCAC, 1 71.

FN7. The Estate of Edlee Bankhead alleges that Bankhead's parents were enslaved in Mississippi. *See* SCAC, 1 74.

FN8. Barber alleges that his ancestors were

born into slavery, and were enslaved in the agricultural industry and other industries. *See* SCAC, 19[76-79.

EN9. Hurdle-Toomey alleges that her father, Andrew Jackson Hurdle, was a slave who was sold into slavery when he was ten years old. *See* SCAC, 9[81.

EN10. Porter alleges that her great grandmother, Hettie Pierce, was a slave in North Carolina. *See* SCAC, 9[84.

EN11. Wyatt-Kervin alleges that she is the daughter of former slaves, Jake and Louise Wyatt. *See* SCAC, 9[85.

EN12. Clark's Estate alleges that Clark was a slave in Louisiana from 1927-1934. *See* SCAC, 1 86.

EN13. McGee alleges that she is the "great grand-daughter of Andrew Jackson Hurdle, an enslaved African." *See* SCAC, 1 90.

EN14. *See* SCAC, 9[92-100.

EN15. Miller alleges that she is a descendant of a former slave, Carrie Richardson. *See* SCAC, 9[102.

EN16. Plaintiffs refer to a proposed class of plaintiffs, and assert that this suit may be brought as a class action under Federal Rule of Civil Procedure 23(a) and (b). *See* SCAC, 1 49. Plaintiffs have not, however, filed any separate motion for class certification pursuant to the Federal Rules of Civil Procedure.

2. Defendants

*13 The named Defendants (hereinafter collectively referred to as "Defendants") are seventeen present-day companies whose predecessors are alleged to have been unjustly enriched through profits earned either directly or indirectly from the Trans-Atlantic Slave Trade and slavery between 1619 and 1865, as well as post-Emancipation slavery.

Defendants include the following companies: FleetBoston Financial Corporation, CSX Corporation, Aetna Inc., Brown Brothers Harriman & Company, New York Life Insurance Company, Norfolk Southern Corporation, Lehman Brothers

Corporation, Lloyd's of London, Union Pacific Railroad, JP Morgan Chase, R.J. Reynolds Tobacco Company, Brown and Williamson, Liggett Group Inc., Canadian National Railway, Southern Mutual Insurance Company, American International Group ("AIG"), and Loews Corporation. [EN17]

EN17. Loews Corporation does not join in the present motion to dismiss. Loews has filed a separate motion to dismiss, based on grounds it asserts are unique to it.

Plaintiffs allege that FleetBoston, through its predecessor bank, made loans to slave traders and also collected custom duties and fees on ships engaged in the slave trade. *See id.* 1 y[125-26. Plaintiffs further allege that "FleetBoston engaged in a self-concealed business enterprise so that the Plaintiffs and others similarly situated would not be aware of the existence of this enterprise," and, in more recent times, "made various misleading statements to the Press from March 2000 to February 2002, attempting to disassociate its predecessor company from its current company." *Id.* 1 128.

Plaintiffs allege that CSX "is a successor-in-interest to numerous predecessor railroad lines that were constructed or run, at least in part, by slave labor." *Id.* 9[129. Plaintiffs further allege that "CSX engaged in a self-concealed business enterprise as the plaintiffs and others similarly situated would not be aware of the existence of this enterprise," and, in more recent times, "withheld information or made a misleading statement to the Press regarding their participation in and profiting from slavery." *Id.* 19[131-33.

Plaintiffs allege that "Aetna's predecessor in interest, provided the instrumentality of slavery by underwriting insurance policies for slave owners against the loss of their African slaves...." *Id.* 1 136. Plaintiffs further allege that "Aetna engaged in a self-concealed business enterprise as the plaintiff class and/or plaintiff ancestors would not be aware of the existence of this enterprise" and, in more recent times, "withheld information or made a misleading statement regarding their participation in and profiting from slavery." *Id.* 9[142-43.

Plaintiffs allege that Brown Brothers Harriman "is the successor corporation to Brown Brothers & Co.," which "loaned millions directly to planters, merchants and cotton brokers throughout the South." *Id.* 1 1 145-46. Plaintiffs also allege that "Louisiana court records dating back to the 1840's ... reveal the firm's ownership of at least two cotton plantations

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totaling 4,614 acres and the plantations' 346 slaves...." Id. 91 148. Plaintiffs further allege that "Brown Brothers Harriman engaged in a self-concealed business enterprise as the plaintiff class and/or plaintiff ancestors would not be aware of the existence of this enterprise" and, in more recent times, "withheld information or made a misleading statement based on press reports in an attempt to disassociate itself from its predecessor's business." Id. 11 151-52.

*14 Plaintiffs allege that "New York Life's predecessor-in-interest, Nautilus Insurance, earned premiums from its sale of life insurance to slave owners." Id. 91 155. Plaintiffs further allege that "New York Life engaged in a self-concealed business enterprise as the plaintiff class and/or plaintiff ancestors would not be aware of the existence of this enterprise" and, in more recent times, "withheld information or made misleading statements regarding their participation in and profiting from slavery." Id. 19 159, 162.

Plaintiffs allege that Norfolk Southern "is a successor-in-interest to numerous railroad lines that were constructed or run, in part, by slave labor." Id. 1 163. Plaintiffs further allege that Norfolk "participated in the institution of slavery in that it derived the benefits of unpaid slave labor and it provided financial supports to slave owners and slave traders." Id. 91 165.

Plaintiffs allege that the founder of Lehman Brothers, Henry Lehman, and his brothers "grew rich as middlemen in the slave-grown cotton trade." Id. 168. Plaintiffs further allege that Lehman Brothers owned slaves. Id. 1 171.

Plaintiffs allege that Lloyd's of London "insured ships utilized for the Trans-Atlantic slave trade." Id. 1 173. Plaintiffs further allege that "Lloyd's engaged in a self-concealed business enterprise as the plaintiff class and/or plaintiffs' ancestors would not be aware of the existence of this enterprise...." Id. 91 174.

Plaintiffs allege that Union Pacific "is a successor-in-interest to numerous predecessor railroad lines that were constructed or run in part by slave labor." Id. 91 177. Plaintiffs further allege that "Union Pacific engaged in a self-concealed business enterprise as the plaintiff class and/or plaintiffs' ancestors would not be aware of the existence of this enterprise" and, in more recent times, "withheld information or made a misleading statement regarding their participation in profiting from slavery." Id. 178-79.

Plaintiffs allege that "two of [the] predecessor banks that merged to become J.P. Morgan Chase were behind a consortium to raise money to insure slavery." Id. 91 181. Plaintiffs further allege that "J.P. Morgan Chase engaged in a self-concealed business enterprise as the plaintiff class and/or plaintiffs' ancestors would not be aware of the existence of this enterprise," and, in more recent times, "withheld information or made a misleading statement regarding their participation in and profiting from slavery." Id. 91 182.

Plaintiffs allege that R.J. Reynolds Tobacco Company, Brown & Williamson, Liggett Group, and Loews Corporation (parent company of Lorillard Tobacco Company) were all once part of the American Tobacco Company. Id. 9 197. As parts of this larger enterprise, Plaintiffs assert, these Defendants are "all beneficiar[ies] of assets acquired through the forced and uncompensated labors of enslaved African-Americans." Id. 91 185; *see also id.* 11 201, 204, and 210.

*15 Plaintiffs allege that Canadian National Railway "is the successor-in-interest to seven predecessor railroad lines, that were constructed and/or run in part by slave labor." Id. 91 213. Plaintiffs further allege that "Canadian National engaged in a self-concealed business enterprise as the plaintiff class and/or plaintiff ancestors would not be aware of the existence of this enterprise...." Id. 91 215.

Plaintiffs allege that Southern Mutual Insurance "issued policies on the lives of slaves in Louisiana." Id. 91 219. Plaintiff further alleges that Southern Mutual "aided and abetted those who engaged in the maintenance of slavery through the intentional infliction of emotional distress." Id. 1 218.

Plaintiffs allege that AIG's predecessors "provided instrumentalities of slavery by selling insurance policy [sic] to cover the lives of enslaved Africans with slave owners as beneficiaries." Id. 9 221. Plaintiffs further allege that AIG's predecessors "aided and abetted those who engaged in the maintenance of slavery." Id. 91 223.

As evidenced by Plaintiffs' allegations, and as the court shall further discuss, their SCAC is devoid of any allegations that connect the specifically named Defendants or their predecessors and any of the Plaintiffs or their ancestors.

B. Pleadings

1. Factual Allegations of Plaintiffs' Second Consolidated and Amended Complaint

Plaintiffs' SCAC begins with a narration of the historical background of the Transatlantic Slave Trade in America. The Complaint proceeds to describe the Slave Codes, which various States enacted in order to perpetuate the institution of slavery. The Complaint also chronicles how the forced labor of enslaved Africans helped to build our Nation and enrich early American industry, while simultaneously dismantling a culture and impoverishing a race of fellow men and women.

The SCAC then outlines the beginnings of laws that outlawed the trafficking and trade of slaves, which progressed into a body of law that found the institution of slavery to be contrary to the Natural Law of Man. The Complaint proceeds to allege that despite this body of law that found the institution of slavery to be contrary to the Natural Law of Man, the vestiges of slavery, in the form of racism, have resulted in modern-day disparities between descendants of slaves and the remainder of our society.

Ultimately, the SCAC alleges that "Defendants' actions caused Plaintiffs economic losses and cultural psychic scars and heretofore without remedy." SCAC, ¶ 41. Plaintiffs allege that the practice of slavery has caused the following specific social inequities:

twenty-six (26) percent of African-Americans in the United States live in poverty compared to eight (8) percent of whites 14.7 percent of African-Americans have four-year college degrees, compared with 25 percent of whites.... [A] black person born in 1996 can expect to live, on average, 6.6 fewer years than a white person.... African-Americans are more likely to go to jail, to be there longer and ... to receive the death penalty.... [African-Americans] lag behind whites according to every social yardstick: literacy, life expectancy, income and education. They are more likely to be murdered and less likely to have a father at home.... Black families earn only \$580 for every \$1000 earned by white families.

*16 Id. ¶ 41 n. 1.

2. Counts of Plaintiffs' Second Consolidated and Amended Complaint

Count I of Plaintiffs' SCAC is styled: "Conspiracy." Plaintiffs allege that "[e]ach of the defendants acted

individually and in concert with their industry group and with each other, either expressly or tacitly, to participate in a plan that was designed in part to commit the tortious acts referred to herein." Id. ¶ 258.

Count II is styled: "Conversion." Plaintiffs allege that "[t]he enslaved Africans had a property right in themselves." Id. ¶ 270. Plaintiffs then allege that "[t]his property right was wrongfully and illegally taken." Id. ¶ 271. Plaintiffs further allege that "defendants have willfully and wrongfully misappropriated and converted the value of [slave] labor and its derivative profits into defendants' own property." Id. ¶ 278. Plaintiffs' prayer for relief under Count II seeks an accounting of profits earned from slave labor, a constructive trust imposed on such profits, restitution, equitable disgorgement, and punitive damages. *See id.* ¶ 280.

Count III is styled: "Unjust Enrichment." Plaintiffs allege that "[d]efendants' failure to pay for the labor provided by the slaves without receiving any compensation, has allowed defendants to retain a benefit at the expense of plaintiffs and their ancestors." Id. ¶ 284. Plaintiffs further allege that "[d]efendants have failed to account for and or return to plaintiffs and the plaintiff class the value of their ancestors' slave labor and/or the profits and benefits the defendants derived therefrom...." Id. ¶ 283. Plaintiffs' prayer for relief under Count III seeks an accounting of profits earned from slave labor, a constructive trust imposed on such profits, restitution, equitable disgorgement, and punitive damages. *See id.* ¶ 288.

Count IV is styled: "Replevin." Plaintiffs allege that "defendants hold personal property that was never properly vested in them ... because the enslaved person's work was unpaid, stolen, and forcibly held." Id. ¶¶ 290- 91. Plaintiffs further allege that defendants "fraudulently concealed the cause of action from the heirs or the estates [of Plaintiffs], so that the statute of limitations does not begin to accrue until the full facts of the cause of action are revealed to the heirs and the estate [of Plaintiffs]." Id. ¶ 296. Plaintiffs' prayer for relief under Count IV seeks an accounting of profits earned from slave labor, a constructive trust imposed on such profits, restitution, equitable disgorgement, and punitive damages. Id. ¶ 298.

A second Count IV is styled: "42 U.S.C. § 1982." [EN]181 Plaintiffs allege that as a result of the Defendants' conduct in denying slaves the value of

their labor, and restricting slaves' access to corporate records regarding Defendants' participation in slavery, the Plaintiffs' ancestors' and their descendants' rights to inherit and convey property have been violated in contravention of 42 U.S.C. § 1982. Id. 1 300.

FN18. Plaintiffs allege Count IV twice. The first Count IV is styled "Replevin." The second Count IV is styled "42 U.S.C. 1982."

*17 Count V is styled: "Intentional Infliction of Emotional Distress . Plaintiffs allege that "Defendants' predecessor companies aided or abetted, or under other theories of secondary liability . . . participated in, allowed, or implicitly or recklessly, sanctioned, and/or benefitted from an institution that relied on the sexual exploitation, violent abuse and rape to achieve its goals of a malleable and unpaid work force." Id. ¶ 305. Plaintiffs further allege that "[t]he violence and crimes against the enslaved group were done with the calculated intent of demeaning, subjugating, and controlling the enslaved population for the purposes of exploitation for profit and for the direct benefit of commercial industries." Id. Plaintiffs' prayer for relief under Count V seeks an accounting of profits earned from slave labor, a constructive trust imposed on such profits, restitution, equitable disgorgement, and punitive damages. Id. ¶ 310.

Count VI is styled "Negligent Infliction of Emotional Distress." Plaintiffs allege that, as a result of Defendants' negligent conduct and omissions in relation to the slave trade and the slavery industry, "Plaintiffs and their deceased enslaved African ancestors suffered emotional distress and mental anguish." Id. ¶ 314.

Counts VII--XIII [FN19] of the Plaintiffs' Complaint allege violations of various state consumer protection laws. Specifically, Count VII alleges violations of the New York Consumer Protection from Deceptive Acts and Practices Law, NY Gen. Bus. Law § 349-350; Count IX alleges violations of the Texas Deceptive Trade Practices and Consumer Protection Act, Tex. Bus. & Com. Code § 17.41 et seq.; Count X alleges violations of California's Preservation and Regulation of Competition Law, Cal. Bus. & Prof. Code § 17200 et seq.; Count XI alleges violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comm. Stat. 505/1 et seq.; Count XII alleges violations of the Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat.

Ann. § 51:1401 et seq.; Count XIII alleges violations of the New Jersey Unfair Trade Practices Law, NN.J. Stat. Ann. § 56:8-1 et seq. See SCAC 11 315-366.

FN19. Plaintiffs include no Count VIII.

In essence, the Plaintiffs seek reparations from Defendants for their alleged roles in the institution of human chattel slavery as it existed in the United States from 1619 through 1865, to date.

3. Plaintiffs' Second Consolidated and Amended Complaint is Not Materially Different from Plaintiffs' First Consolidated and Amended Complaint

Plaintiffs' SCAC repeats many of the same factual and legal allegations found in Plaintiffs' First Consolidated and Amended Complaint ("FCAC"). The FCAC and the SCAC both begin with a lengthy allegation of the historical background of the Trans-Atlantic Slave Trade, the institution of slavery in the colonies and the United States, the "state slave codes" which gave legal sanction to slavery, the honors of slavery, and the eventual abolishment of slavery. Both Complaints then go on to allege that the institution of slavery still negatively impacts African-Americans. The Complaints allege, *inter alia*, that African-Americans receive fewer college degrees than whites, have less income than whites, and are more likely to be incarcerated than whites. The Complaints further allege that Defendants' participation in the slave trade and the institution of slavery is a direct cause of these harms.

*18 Both Complaints include the following Counts: Conspiracy, Intentional Infliction of Emotional Distress, Conversion, Unjust Enrichment, and 42 U.S.C. § 1982. The Conspiracy Counts are generally materially similar, and they are virtually identical in places. Compare FCAC, ¶ 1 215-17 with SCAC, 19[257- 67. The Intentional Infliction of Emotional Distress Counts again are generally materially similar, and they are virtually identical in places. Compare FCAC, ¶ 9[232-35 with SCAC, ¶ 9[304-10. The Conversion Counts are also generally materially similar, and they are virtually identical in places, although Plaintiffs now allege that the slaves had a property interest in themselves as well as a property interest in their labor. Compare FCAC, ¶ 9[239-42 with SCAC, ¶ 9[268-80. The Unjust Enrichment Counts as well are materially similar, and are virtually identical in places. Compare FCAC, 11 243-53 with SCAC, ¶ 9[281-88. The 42 U.S.C. § 1982 Count is virtually identical in both Complaints.

Compare FCAC, ¶¶ 254-60 with SCAC, ¶¶ 299-303. Both Complaints also include numerous Counts alleging violations of various state consumer fraud and fair trade statutes. Compare FCAC, ¶¶ 244-53 with SCAC, ¶¶ 315-66. Plaintiffs' allegations in the various SCAC Counts are, in many places, word for word repetitions of allegations made in FCAC Counts. Compare, e.g., FCAC, ¶ 255 with SCAC, ¶ 300.

The SCAC adds new Counts of Replevin and Negligent Infliction of Emotional Distress. However, the fundamental problems contained within the FCAC, Plaintiffs' lack of standing, the political question issue, the statutes of limitations, and Plaintiffs' failure to state a claim on which relief can be granted, have not been resolved by the SCAC. Plaintiffs' SCAC still fails to state a claim upon which relief could be granted, and also fails to allege any facts that would indicate that Plaintiffs have standing, that the issue of slave reparations is not a political question, or that the applicable statutes of limitations have not expired.

4. Defendants' Joint Motion to Dismiss Plaintiffs' Second Consolidated and Amended Complaint

Defendants have responded to Plaintiffs' Second Consolidated and Amended Complaint with the present Joint Motion to Dismiss, brought pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6). [EN20] See Defs.' Joint Mot. to Dismiss Pls.' Second Consolidated and Amd. Compl., at 1. Defendants allege four separate grounds which, they assert, warrant dismissal: (1) Plaintiffs' claims fall short of both constitutional and prudential standing requirements; (2) all of Plaintiffs' claims are time-barred; (3) Plaintiffs' claims present a nonjusticiable political question; and (4) Plaintiffs fail to state any cognizable claim. Id. at 1-2.

[EN20] Loews Corporation has not joined in the present Motion to Dismiss. Loews Corporation has filed a separate Motion to Dismiss, to which Plaintiffs have failed to reply. The court therefore dismisses this action as to Defendant Loews Corporation, pursuant to Local Rule 78.3.

Defendants' Joint Motion to Dismiss Plaintiffs' Second Consolidated and Amended Complaint is now fully briefed and before the court.

IV. DISCUSSION

A. Justiciability Doctrines

*19 Article III, § 2 of the United States Constitution provides that federal courts have jurisdiction only if presented with a "Case" or "Controversy." The requirement of a case or controversy imposes a "dual limitation" upon the federal courts. See Elast v. Cohen, 392 U.S. 83, 94 (1968). First, the requirement of a case or controversy serves to "limit the business of federal courts to questions presented in an adversary context and in a form historically viewed as capable of resolution through the judicial process." Id. Second, the requirement of a case or controversy serves to "define the role assigned to the judiciary in a tripartite allocation of power to assure that the federal courts will not intrude into areas committed to the other branches of government." Id. This "dual limitation" found in the requirement of a case or controversy is enforced by what have been termed the justiciability doctrines of Article III, which state the fundamental limits on federal judicial power in our system of government. See Allen v. Wright, 468 U.S. 737, 750 (1984). "Concerns of justiciability go to the power of the federal courts to entertain disputes, and to the wisdom of their doing so." Renne v. Gearv. 501 U.S. 312, 316 (1991). The justiciability doctrines include principles such as the prohibition against advisory opinions, standing, ripeness, mootness, and the political question doctrine. See generally Erwin Chemerinsky, *Constitutional Law: Principles and Policies* 46 (Aspen Law & Business 1997). "The Article III doctrine that requires a litigant to have 'standing' to invoke the power of a federal court is perhaps the most important of these doctrines." Allen, 468 U.S. at 750.

1. Standing

Defendants first assert that Plaintiffs lack standing to bring these claims in a federal court. Mem. in Supp. of Defs.' Joint Mot. to Dismiss Pls.' Second Consolidated Amd. Compl., at 2-3 (hereinafter, "Mem. in Supp. of Defs.' Mot. to Dismiss II"). [EN21] The doctrine of standing ensures that a litigant is the proper party to bring a matter before a federal court for adjudication, by asking if that specific litigant has a sufficient stake in the matter to invoke the federal judicial process. This central principle of United States Supreme Court jurisprudence has deep historical roots. See Miss. & M.R. Co. v. Ward, 67 U.S. 485, 491 (1863) ("unless he shows that he has sustained, and is still sustaining, individual damage, he cannot be heard"). As the Supreme Court recently reiterated: "We have consistently stressed that a plaintiffs complaint must establish that he has a 'personal stake' in the alleged

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dispute, and that the alleged injury suffered is particularized as to him." Raines v. Byrd, 521 U.S. 811, 819 (1997).

FN21. Defendants incorporate by reference their previous Memorandum in Support of Defendants' Joint Motion to Dismiss the Plaintiffs' First Consolidated and Amended Complaint (hereinafter "Mem. in Supp. of Defs.' Mot. to Dismiss I") into their present Memorandum.

a. Historical Overview of the Doctrine of Standing

The requirement that a litigant demonstrate standing--a personal stake in an alleged dispute--to bring a matter before a court for adjudication has been a bedrock principle in our system of law, as well as the common law system from which our system of law developed. The standing doctrine comes from the well-known common law doctrine of *locus standi*, which translated from Latin means "place of standing." In essence, the doctrine of *locus standi* concerns whether an individual has the legal capacity to institute proceedings. See, e.g., S.M. Thio, *Locus Standi and Judicial Review* 13-14, 235-36 (1971) (analyzing the doctrines of standing in the United States and in other common law countries). The concept of standing, or *locus standi*, was well known to the early federal courts. See, e.g., Southern Exp. Co. v. Western MCR. Co., 99 U.S. 191, 201 (1878) (holding that since appellant had no legally cognizable interest in the suit, appellant "can, therefore, have no *locus standi* in a court of equity").

*20 The standing doctrine serves to reinforce that "[t]he province of the court is, solely, to decide on the rights of individuals...." Marbury v. Madison, 5 U.S. (1 Cranch) 137, 170 (1803). As stated in an authoritative nineteenth century treatise: "The general rule is that the action should be brought in the name of the party whose legal right has been affected, against the party who committed or caused the injury, or by or against his personal representative." Joseph Chitty, *A Treatise on Pleading and Parties to Actions* 1 (G. & C. Merriam 1867). In specific reference to tort actions, that treatise provides:

The action for a tort must in general be brought in the name of the person whose legal right has been affected, and who was legally interested in the property at the time the injury thereto was committed; for he is impliedly the party injured by the tort, and whoever has sustained the loss is the proper person to call for compensation from the wrongdoer.

Id. at 59 (emphasis in original and footnotes omitted). This treatise was relied upon by the United States Supreme Court in Tyler v. Judges of Court of Registration, 179 U.S. 405, 407 (1900), in which the Supreme Court discussed the proper parties to litigation. In elucidating the standing doctrine's focus on the rights of individuals, the *Tyler* Court stated:

The prime object of all litigation is to establish a right asserted by the plaintiff or to sustain a defense set up by the party pursued. Save in a few instances where, by statute or the settled practice of the courts, the plaintiff is permitted to sue for the benefit of another, he is bound to show an interest in the suit personal to himself, and even in a proceeding which he prosecutes for the benefit of the public, as, for example, in cases of nuisance, he must generally aver an injury peculiar to himself, as distinguished from the great body of his fellow citizens.

Id. at 406. In *Tyler*, the Court reiterated that the doctrine of standing "has been announced in so many cases in this court that it may not be considered an open question." Id.

This core aspect of the doctrine of standing--that a litigant must demonstrate a personal stake in an alleged dispute--has remained unchanged as the Supreme Court has elucidated the modern formulation and rationale for the doctrine.

b. Modern Formulation of the Doctrine of Standing

The modern standing doctrine involves both constitutional limitations on federal courts, based on Article III, and prudential limitations on the exercise of federal court jurisdiction. See, e.g., Warth v. Seldin, 422 U.S. 490, 498 (1975). "Article III standing ... enforces the Constitution's case or controversy requirement...." Elk Grove Unified Sch. Dist. v. Newdow, 124 S.Ct. 2301, 2308 (2004). The Supreme Court has explained that "prudential standing encompasses 'the general prohibition on a litigant's raising another person's legal rights, the rule barring adjudication of generalized grievances more appropriately addressed in the representative branches, and the requirement that a plaintiffs complaint fall within the zone of interests protected by the law invoked.'" Id. at 2309 (quoting Allen v. Wright, 468 U.S. 737, 751 (1984)). Without the doctrine of standing, "the courts would be called upon to decide abstract questions of wide public significance even though other governmental institutions may be more competent to address the questions...." Id.

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*21 The modern formulation of the constitutional limitations of the standing doctrine was elucidated in *Luian v. Defenders of Wildlife*, 504 U.S. 555 (1992), where the Supreme Court stated:

Over the years, our cases have established that the irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an injury in fact--an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of--the injury has to be fairly traceable to the challenged action of the defendant and not the result of the independent action of some third party not before the court. Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.

Luian, 504 U.S. at 560-61 (citations and internal quotations omitted). The principle of standing is therefore commonly viewed as requiring a legally sufficient relationship between the parties in a suit. "Under the standing doctrine, the relationship becomes legally important only if the defendant is in some way both directly responsible for causing [plaintiffs] injury, and able to redress it ." Eric J. Miller, *Representing the Race: Standing to Sue in Reparations Lawsuits*, 20 HARV. BLACKLETTER L.J. 91, 93 (2004). "This triad of injury in fact, causation, and redressability constitutes the core of Article III's case-or-controversy requirement." *Steel Co. v. Citizens For a Better Environment*, 523 U.S. 83, 103-04 (1998). These constitutional limitations on standing "are not confined to the facts of any particular case, but are broadly relevant to standing in any Article III controversy." *Plotkin v. Ryan*, 239 F.3d 882, 884 (7th Cir.2001); see also *Books v. Elkhart County Ind.*, 401 F.3d 857, 861 (7th Cir.2005).

The party seeking to invoke federal court jurisdiction has the burden of establishing the elements of standing. See *Luian*, 504 U.S. at 561. "[S]ince they are not mere pleading requirements but rather an indispensable part of the plaintiffs case, each element must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, i.e., with the manner and degree of evidence required at the successive stages of the litigation." Id. The present motion is a motion to dismiss brought pursuant to Federal Rule of Civil Procedure 12(b), and in this posture "we must presume that the general allegations in the complaint encompass the specific facts necessary to support those allegations." *Citizens For a Better Environment*, 523 U.S. at 104.

"However, [w]here standing is challenged as a factual matter, the plaintiff bears the burden of supporting the allegations necessary for standing with competent proof." *Perry v. Village of Arlington Heights*, 186 F.3d 826, 829 (7th Cir.1999) (quoting *Retired Chicago Police Assn v. City of Chicago*, 76 F.3d 856, 862 (7th Cir.1996)) (internal quotations omitted); see also *McNutt v. General Motors Acceptance Corp of Indiana*, 298 U.S. 178, 189 (1936 (indicating that the party invoking federal court jurisdiction must "allege in his pleading the facts essential to show jurisdiction [and][i]f he fails to make the necessary allegations he has no standing"). "Competent proof requires a showing by a preponderance of the evidence that standing exists." *Perry*, 186 F.3d at 829 (quoting *NLFC, Inc. v. Devcom Mid-America Inc.*, 45 F.3d 231, 237 (7th Cir.1995 ; see also *McNutt*, 298 U.S. at 189 (stating that when "allegations of jurisdictional facts are challenged ... in any appropriate manner, [the party alleging jurisdiction] must support them by competent proof;" and if unchallenged, the federal courts "may demand that the party alleging jurisdiction justify his allegations by a preponderance of evidence").

e. Plaintiffs' Allegations in Support of their Standing to Maintain this Suit

*22 In general, Plaintiffs claim that the source of their injury is the institution of slavery. Plaintiffs first point to four distinct injuries which they allege are sufficient to confer them standing to maintain this suit. Plaintiffs allege that they currently suffer concrete, direct harm as descendants of slaves, in that they presently do not have "the same opportunities as [do] their white contemporaries, ... [do] not have to overcome barriers to their human right to development which their white contemporaries [do] not, ... suffer irreparable psychological damage from the loss of their history, language and culture," ... and that they do not "know the actual birth names of ... their forebearers and, consequently, to this day do not know their own real names." Pls.' Mem.in Opp.to Defs.' Joint Mot.to Dismiss the Second Amended and Consolidated Compl., at 1-2 (hereinafter "Mem.in Opp.to Defs.' Mot.to Dismiss II"). Next, Plaintiffs allege that particular Plaintiffs, Cain Wall and his children, and Emma Clark, were themselves actually enslaved in the twentieth century Id at 2 . WN221 Plaintiffs then allege that, as they have filed or will file the necessary paperwork to become administrators of their ancestor's estates, they have suffered an actual, particularized injury by being denied their rightful inheritances. Id.

FN22. Plaintiffs do not, however, allege that these specific Plaintiffs were enslaved by Defendants or any predecessors-in-interest of Defendants. Even if these allegations were true, any harms suffered by these specific Plaintiffs are not "fairly traceable" to the Defendants. *See Luian*, 504 U.S. at 560-61. Such allegations are therefore insufficient to confer standing on these specific Plaintiffs. *See id.*

Further, Plaintiffs allege that they have "suffered segregation, lost opportunity, diminished self-worth and value, loss of property rights, loss of derivative property rights, and psychological harm...." SCAC, ¶ 108. Plaintiffs also allege that they are "presently consumers of Defendants" and have been injured by certain communications made by the Defendants concerning Defendants' respective roles in the institution of slavery. *See id.* ¶ 104. Specifically, Plaintiffs allege that "[d]ue to unconscionable, fraudulent and deceptive public communications made by defendants, plaintiffs suffered the harm of being misled, confused, and deceived about the roles the defendants played in the enslavement of African people." *Id.* Additionally, Plaintiffs allege injury through the Defendants' alleged continuing violation of state consumer protection laws. SCAC, Counts VII-XIII; Mem. in Opp. to Defs.' Mot. to Dismiss II, at 9-14.

However, "[e]ven if [Plaintiffs'] claimed injury is sufficiently specific, it is not clear that [Plaintiffs themselves are] harmed. The fact of having an enslaved ancestor, even one transported, insured, or put to work by the defendants, does not seem sufficient injury without something more." Miller, *supra*, at 97 (commenting specifically on the instant case). "[D]escent from slaves is not of itself an injury, rather the sorts of legally relevant injuries are harms suffered by individuals that are attributable to the ongoing effects of slavery." *Id.* The type of injuries Plaintiffs are alleging in this case therefore cannot be understood as run-of-the-mill, traditional injuries as are commonly found in most tort claims. Plaintiffs are alleging that injuries to their long-dead ancestors are causing them concrete harm today. "[P]arties suffering non-traditional injuries must prove, to a virtual certainty, the causal link between the action challenged and the claimed injury...." Laveta Casdorff, *The Constitution and Reconstitution of the Standing Doctrine*, 30 ST. MARY'S L.J. 471, 502 (1999) (emphasis added). Plaintiffs face insurmountable problems in establishing "to a virtual

certainty" that they have suffered concrete, individualized harms at the hands of Defendants. "[A]n essential prerequisite to bringing suit is the plaintiffs' ability to establish with precision her relationship to the injury and the defendant." Miller, *supra*, at 93. In terms of slavery reparations, the "'traditional' model ... seeks suit against a defendant or defendants on behalf of a plaintiff class comprised of descendants of slaves." *Id.* In such situations, plaintiffs "assume[] that a familial relationship between the ancestor victim and the descendant plaintiff--what might be called hereditary or genetic standing--is sufficient to bring suit." *Id.* An assumption such as this is difficult to implement in practice. "The notion that standing can be inherited (the 'genetic' theory of standing) is ... legally ... suspect; and the notion that groups, rather than individuals, have standing to sue, is legally insupportable." *Id.* at 94.

(1). *Constitutional Limitations on Standing*

(a). *Derivative Harm*

*23 It is well-established that a plaintiff must "show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant." *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 454, 472 (1982) (quoting *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91, 99 (1979)). Plaintiffs cannot establish a personal injury by merely identifying tort victims and alleging a genealogical relationship. The illegal conduct at issue here, the institution of slavery, is alleged to have directly affected Plaintiffs' ancestors. Plaintiffs now, more than a century later, point to that horrific institution as the source of their derivative injury. FN23 However, Plaintiffs' own choice of words, *derivative*, should be sufficient to signify the standing problem in this case. *See* SCAC, ¶ 114. Plaintiffs fail to allege that they have personally suffered a concrete and particularized injury as a result of Defendants' putatively illegal conduct; rather, Plaintiffs' alleged injury is derivative of the injury inflicted upon enslaved African-Americans over a century ago. *See, e.g., id.* ¶ 111 ("Each Plaintiff African-American slave descendant has suffered by the Defendants' failure to pay their ancestors for their labor as slaves or as sharecroppers, peons or even slaves"). This is insufficient to establish standing, and contrary to centuries of well-settled legal principles requiring that a litigant demonstrate a personal stake in an alleged dispute. *See, e.g., Tyler*, 179 U.S. at 406-07 (stating that a

plaintiff must "aver an injury peculiar to himself, as distinguished from the great body of his fellow citizens"); Luian, 504 U.S. at 560 (stating that a "plaintiff must have suffered an injury in fact--an invasion of a legally protected interest which is ... concrete and particularized"); Raines, 521 U.S. at 819 (stating that "a plaintiffs complaint must establish that he has a 'personal stake' in the alleged dispute, and that the alleged injury suffered is particularized as to him"); see also Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 SUFFOLK U.L.REV. 881, 881-82 (1983) ("I suggest that courts need to accord greater weight than they have in recent times to the traditional requirement that the plaintiffs alleged injury be a particularized one...."). To recognize Plaintiffs' standing in this case "would transform the federal courts into 'no more than a vehicle for the vindication of the value interests of concerned bystanders.'" Allen, 468 U.S. at 756 (citing United States v. SCRAP, 412 U.S. 669, 687 (1973)).

EN23. Several of the named Plaintiffs allege to have been slaves during the twentieth century, but also fail to establish standing to sue Defendants for their alleged injuries. See discussion *infra* at n.22, and 44-45.

In addition, the injury alleged cannot be "conjectural or hypothetical." Luian, 504 U.S. at 560. Plaintiffs allege injury through being "denied the economic wealth of his or her ancestors' labor;" Plaintiffs also allege they hold a "derivative and inherited property right in their ancestors' lost pay...." SCAC, ¶ 113-14. However, Plaintiffs' claim to the economic wealth of their ancestors' labor is conjectural. While most would like to assume that they will be the beneficiaries of their ancestors' wealth upon their demise, this is a mere assumption. Plaintiffs can only speculate that their ancestors' estates would have been passed on to them, and cannot say that they would have inherited their ancestors' lost pay. This is insufficient to show a personal injury to Plaintiffs.

*24 Further, the Plaintiffs must allege a "causal connection between the injury and the conduct complained of." Luian, 504 U.S. at 560. "[T]he injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court...." *Id.* The allegations of Plaintiffs' SCAC do not link these Defendants to the alleged harm. Plaintiffs fail to allege any facts in their Complaint that directly link the specifically named Defendants to the alleged injuries suffered by the Plaintiffs; nor does the

Plaintiffs' Complaint allege a direct connection between any of the named Defendants and any of the Plaintiffs' ancestors. The named Plaintiffs who allege that they are descendants of enslaved African-Americans fail to allege that their ancestors were enslaved by any of the seventeen specifically named Defendants. Likewise, the named Plaintiffs who allege that they were slaves fail to allege that they were enslaved by any of the seventeen specifically named Defendants. Plaintiffs' only response to this fundamental defect is to allege that Defendants were engaged in "co-dependent" industries and therefore are generally and vicariously liable for the institution of slavery. However, Plaintiffs fail to allege how their alleged harms are "not the result of the independent action of some third party not before the court...." See Luian, 504 U.S. at 560. Plaintiffs offer no allegations that Defendants had any relationship with specific entities that enslaved the named Plaintiffs or their ancestors. More than "unadorned speculation" is required to establish standing. See Simon v. Eastern Kentucky Welfare Rights Org., 426 U.S. 26, 3-44 (1976).

(b). *Continuing Injury*

Plaintiffs' allegations that they suffer injury on a continuing basis also fail to establish the requisite standing. Plaintiffs claim a continuing injury through the allegation that "[t]hey still endure daily indignities from the legacy of slavery, including, but not limited to, racial profiling, racial slurs, and improper and hurtful assumptions regarding their overall status." SCAC, ¶ 115. Further, Plaintiffs allege that they "continue[] to be harmed to the present day, in that each ... are deprived job opportunities, caused psychic harm, denied ability to inherit his or her fore-parents wealth." *Id.* ¶ 110.

Plaintiffs' allegations of continuing harm are no different than the allegations of continuing harm made by the plaintiffs in Cato v. United States, 70 F.3d 1103 (9th Cir.1995), and other similar cases. In Cato, descendants of enslaved African-Americans filed a complaint against the United States government seeking damages due to the enslavement of, and subsequent discrimination against, African-Americans. Cato, 70 F.3d at 1105. The plaintiffs in Cato alleged injuries based on "disparities in employment, income, and education" between African-Americans and other racial groups. *Id.* at 1109. The Cato court found that such allegations were insufficient to establish an injury personal to the plaintiffs so as to establish the plaintiffs' standing; rather, such injuries were "a generalized, class-based

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grievance...." *Id.* Other courts faced with similar complaints have also found that those plaintiffs had failed to establish their standing to litigate claims based on continuing injuries alleged to be the result of slavery. *See, e.g., Bell v. United States*, No. CIV. A. 301CV0338D, 2001 WL 1041792, at *2 (N.D.Tex. Aug. 31, 2001) (plaintiff lacked standing to file suit against United States government seeking damages for the enslavement of African-Americans); *Bay v. United States Department of Justice*, No. 95 CIV 10401, 1996 WL 413684, at *1 (S.D.N.Y. July 24, 1996) (same); *Langley v. United States*, No. C 95-4227, 1995 WL 714378, at *2 (N.D.Cal. Nov. 30, 1995) (same); *Himiva v. United States*, No. 94 C 4065, 1994 WL 376850, *2 (N.D.Ill. July 15, 1994) ("Although it is extremely regrettable that this country's history, as well as the history of many other countries, includes a significant history of slavery, the plaintiff does not have proper standing under the law to recover damages for this reprehensible time period"). Like the plaintiffs' allegations in *Cato* and the other slavery reparations cases decided after *Cato*, Plaintiffs' allegations of continuing harm in this case do not establish a concrete and particularized injury-in-fact, as these allegations are too speculative and generalized. *See Luian* 504 U.S. at 560-61.

*25 Plaintiffs argue that the other lawsuits seeking reparations for acts related to the institution of slavery are distinguishable on the grounds that those cases were brought by *pro se* plaintiffs, acting without the guidance of counsel, and against the United States Government, protected from suit by the doctrine of sovereign immunity. [EN24] These are distinctions without a difference. Those *pro se* plaintiffs could have been represented by attorneys and the result would not have changed. [EN25] Furthermore, the doctrine of sovereign immunity was only one of many jurisdictional bars to suit in those cases, including standing. The constitutional limitations on standing, including an injury-in-fact, "are not confined to the facts of any particular case, but are broadly relevant to standing in any Article III controversy." *Plotkin*, 239 F.3d at 884. Like the plaintiffs in those cases, Plaintiffs fail to allege any concrete and particular injury-in-fact that they have suffered apart from their race generally.

[EN24] Plaintiffs make this argument in their Memorandum in Opposition to Defendants' Joint Motion to Dismiss, 9-10 (hereinafter "[Mem.in Opp.to Defs.' Mot.to Dismiss I](#)"). Plaintiffs "incorporate by reference" their [Mem.in Opp.to Defs.' Mot.to Dismiss I](#) into their present [Mem.in Opp.to Defs.'](#)

[Mot.to Dismiss II.](#)

[EN25] In fact, courts give special treatment to *pro se* litigation. *See, e.g., Haines v. Kerner*, 404 U.S. 519, 520 (1972) (holding that allegations of *pro se* complaints are held to "less stringent standards than formal pleadings drafted by lawyers"); *see also Castro v. United States*, 540 U.S. 375, 381-82, 124 S.Ct. 786, 791-92 (2003) (indicating that while holding *pro se* complaints to less stringent standards, courts may recharacterize such motions in order to avoid unnecessary dismissal or inappropriately stringent application of formal labeling requirements).

Further, Plaintiffs' Complaint is devoid of any allegations that any specific conduct of the Defendants was a cause of the continuing injuries of which Plaintiffs complain. Such wide-ranging social ills are not even alleged "to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court." *Luian*, 504 U.S. at 560. Plaintiffs' allegations of abstract stigmatic injury are not cognizable absent specific allegations of conduct on behalf of the Defendants that has been directed at Plaintiffs or their ancestors. Cf. *Allen*, 468 U.S. at 755-56.

(c). *Miscellaneous Injury*

Lastly, Plaintiffs allege injury, in their status as consumers of the Defendants, through being misled, confused, and deceived about the roles the Defendants played in the enslavement of African peoples, as a result of Defendants' public communications. *See* SCAC, ¶ 104. Plaintiffs also allege harm through the Defendants' "intentional misrepresentations" relating to their involvement in securing profits from slavery. *See id.* ¶ 227. These alleged injuries relate to causes of action pled in Plaintiffs' Complaint as violations of various state consumer protection laws. *See id.* Counts VII-XIII. Plaintiffs argue that their allegations that Defendants have violated these State consumer protection laws are sufficient to confer them standing to pursue these claims. *See* [Mem.in Opp.to Defs.' Mot.to Dismiss II](#), § IV. Further, Plaintiffs argue that some of these statutes do not even require that an injury be alleged, and therefore their standing to pursue these claims is a given. *See* [Mem.in Opp.to Defs.' Mot.to Dismiss I](#), at 11.

This argument misses the mark. The assertion that a state statute dispenses with the requirement that an injury be alleged does not, and cannot, abrogate constitutional limitations imposed by Article III that a personal injury-in-fact is a prerequisite for standing to sue in a federal court. *See, e.g., Burford v. Sun Oil Co.*, 319 U.S. 315, 317 (1943) (holding that state legislatures may not expand the jurisdiction of the federal district courts); *see also Rifkin v. Bear Stearns & Co., Inc.*, 248 F.3d 628, 631 (7th Cir.2001) (same). These constitutional limitations on standing cannot be altered by either state or federal law. *See Gladstone Realtors*, 441 U.S. at 100 (holding that Congress may not abrogate the constitutional limitations on standing); *Watson v. Tarble*, 59 U.S. 517, 520 (1855) (holding that "[state] laws cannot affect, either by enlargement or diminution, the jurisdiction of the courts of the United States as vested and prescribed by the constitution and laws of the United States"); *see also U.S. Const. art. VI, cl. 2* (Supremacy Clause). Further, Plaintiffs cannot use their standing to pursue one type of claim in a State court in order to establish their standing to pursue all of the claims asserted in the present case in a federal court. "The plaintiffs must establish the district court's jurisdiction over each of their claims independently; they are not permitted to use one count of their complaint to establish federal subject matter jurisdiction and a separate count to establish standing." *Rifkin*, 248 F.3d at 634.

*26 Moreover, these injuries alleged in Plaintiffs' status as consumers of Defendants do not establish a legally cognizable injury. Aside from alleging a general state of confusion, the Plaintiffs fail to allege any injury-in-fact that has come about as a result of that confusion. "The injury alleged must be ... distinct and palpable, and not abstract or conjectural or hypothetical." *See Allen*, 468 U.S. at 751 (citations omitted). Additionally, "in ruling on standing, it is both appropriate and necessary to look to the substantive issues ... to determine whether there is a logical nexus between the status asserted and the claim sought to be adjudicated." *Flast*, 392 U.S. at 102. "Such inquiries into the nexus between the status asserted by the litigant and the claim he presents are essential to assure that he is a proper and appropriate party to invoke federal judicial power." *Id.*

Plaintiffs allege that "defendants are engaging in continued intentional misrepresentations and deceptive statements to the consuming public about their roles in the enslavement of Africans. They are unjustly enriched by these commercial acts and omissions...." SCAC, ¶ 227. Plaintiffs fail to allege

that Defendants have any cognizable duty to reveal any such information, nor do Plaintiffs allege any concomitant right to obtain such information. Moreover, Plaintiffs make this conclusory statement without any specific factual allegations in support of it. Plaintiffs offer unsupported conclusions wrapped in legally significant terms, such as "intentional misrepresentation" and "unjust enrichment," which are insufficient to establish standing. "The requirements of Article III are not satisfied merely because a party requests a court of the United States to declare its legal rights, and has couched that request for forms of relief historically associated with courts of law in terms that have a familiar ring to those trained in the legal process." *Valley Forge*, 454 U.S. at 471. Again, more than "unadorned speculation" and conclusory allegations are required to establish standing. *See Simon*, 426 U.S. at 43-44.

(d). Conclusion

In response to all these deficiencies, Plaintiffs argue that " '[s]tanding can be supported by a very slender reed of injury.' " *Mem. in Opp. to Defs.' Mot. to Dismiss I*, at 4 (citing 13 Charles Allen Wright, Arthur R. Miller & Edward H. Cooper, *Federal Practice and Procedure* § 3531.4 (2d ed.1984)). Plaintiffs are correct that standing can be supported by a very slender reed of injury, as the cases which they cite provide. Yet, this "slender reed" must still have its roots in the soil of an injury personal to the Plaintiffs, not a "derivative harm" uprooted from the soil of another's injury.

Plaintiffs wish to litigate the issue of slavery without establishing that they have suffered some concrete and particularized injury as a result of the putatively illegal conduct of the Defendants. *See Valley Forge*, 454 U.S. at 472; *Luian*, 504 U.S. at 560. However, "[t]he fundamental aspect of standing is that it focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated." *Elast*, 392 U.S. at 99. "In other words, when standing is placed in issue in a case, the question is whether the person whose standing is challenged is a proper party to request an adjudication of a particular issue and not whether the issue itself is justiciable." *Id.* at 99-100. Plaintiffs cannot satisfy the first and most basic requirement of constitutional standing--a concrete and particularized personal injury. *See Luian*, 504 U.S. at 560. Plaintiffs cannot establish a personal injury sufficient to confer standing by merely alleging some genealogical relationship to African-Americans held in slavery over one-hundred, two-hundred, or three-hundred

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years ago. In attempting to litigate the unopposed issue of slavery rather than their personal injuries, Plaintiffs also cannot satisfy the second requirement of constitutional standing--injury that is fairly traceable to the conduct of the defendants. *See id.* Plaintiffs do not allege that they had any present property interest that was injured as a result of these specific Defendants' actions, nor that any action of the Defendants wronged them in any way that would be cognizable under tort theory. Plaintiffs fail to allege any conduct by the seventeen specifically named Defendants that individually affected any of the Plaintiffs.

*27 In sum, the allegations of Plaintiffs' Complaint fail to support their standing to maintain this suit, as required by Article III of the United States Constitution.

(2). *Prudential Limitations on Standing*

Beyond the constitutional limitations on the standing doctrine, there are prudential limitations on the exercise of federal court jurisdiction. *See, e.g., Warth, 422 U.S. at 498.* These additional prudential limitations on standing may exist even though the Article III requirements are met because "the judiciary seeks to avoid deciding questions of broad social import where no individual rights would be vindicated and to limit access to the federal courts to those litigants best suited to assert a particular claim." *Gladstone, Realtors, 441 U.S. at 99-100.* Like the constitutional limitations on the standing doctrine, these prudential limitations ensure that federal courts adhere to the separation of powers concept and are "founded in concern about the proper, and properly limited, role of the courts in a democratic society." *Warth, 422 U.S. at 498.* However, "unlike their constitutional counterparts, they can be modified or abrogated by Congress." *Bennett v. Spear, 520 U.S. 154, 162 (1997).*

One of these prudential limits on standing is that a litigant must normally assert his own legal interests rather than those of third parties. *See Singleton v. Wulff, 428 U.S. 106, 113-14 (1976); Warth, 422 U.S. at 499.* Another is that the federal courts should "refrain[] from adjudicating 'abstract questions of wide public significance' which amount to 'generalized grievances,' pervasively shared and most appropriately addressed in the representative branches." *Valley Forge, 454 U.S. at 475 (citing Warth, 422 U.S. at 499-500)*

(a). *Plaintiffs Impermissibly Attempt to Assert the*

Legal Rights of Absent Third Parties

As a general rule, a litigant must assert his own legal rights and cannot assert the legal rights of a third-party. *See, e.g., Powers v. Ohio, 499 U.S. 400, 410 (1991); Singleton, 428 U.S. at 113-14.* However, a litigant may assert the rights of absent third-parties in certain limited situations. In determining whether a litigant who seeks standing to assert the legal rights of a third-party may do so, a two-part inquiry is involved. *See Caplin & Drysdale, Chartered v. United States, 491 U.S. 617, 623 n.3 (1989).* First, the litigant must have personally suffered some injury-in-fact adequate to satisfy Article III's case or controversy requirement. *See id.; see also Singleton, 428 U.S. at 112.* Second, certain prudential considerations must point in favor of permitting the litigant to assert the third-party's legal rights. *See Caplin, 491 U.S. at 623 n.3.* Among the prudential considerations to consider are the requirements that the litigant must have a legally sufficient relation to the third-party, *see Powers, 499 U.S. at 411; see also Craig v. Boren, 429 U.S. 190, 196 (1976),* and there must exist some hindrance to the third-party's ability to protect his or her own rights. *See Powers, 499 U.S. at 411; see also Singleton, 428 U.S. at 115-116.*

*28 To the extent that Plaintiffs are attempting to assert the legal rights of their ancestors, Plaintiffs cannot do so because they themselves have failed to establish that they have personally suffered some injury-in-fact adequate to satisfy Article III's case-or-controversy requirement. *See Singleton, 428 U.S. at 112.* In addition, prudential considerations militate against allowing such claims. First, Plaintiffs have not alleged a legally sufficient relation to their ancestors. All that Plaintiffs allege is a genealogical relationship, and more is required under the law in order to confer third-party standing. Cf. *Gilmore v. Utah, 429 U.S. 1012, 1016-17 (1976)* (indicating that a mother had no standing to contest her son's execution). Plaintiffs make no allegations of any relationship sufficient, whether by common law or statute, to confer them standing to pursue the claims of their deceased ancestors. Cf. *Whitmore v. Arkansas, 495 U.S. 149, 163 (1990)* (recognizing a next-friend's standing to sue in certain situations); *United Food & Comm. Workers Union Local 751 v. Brown Group, 517 U.S. 544, 558 (1996)* (recognizing that the Worker Adjustment and Retraining Notification Act, *29 U.S.C. & 2101 et seq.*, grants unions standing to sue on behalf of its members). Furthermore, Plaintiffs do not allege that they are assignees of a legally cognizable claim against the named Defendants. Second, Plaintiffs have not

alleged that any hindrance existed to their ancestors' ability to have protected their own rights over the last century. Cf. Johnson v. McAdoo, 45 App. D.C. 440, 441 (D.C.1916), *affd*, 244 U.S. 643 (1917) (evidencing a claim for slavery-based reparations nearly a century ago).

In sum, Plaintiffs have not established third-party standing to assert the legal rights of their ancestors.

(b). ***Plaintiffs Impermissibly Attempt to Litigate a Generalized Grievance Which is Best Addressed in the Representative Branches***

As currently framed, Plaintiffs' Complaint seeks to litigate a generalized grievance over one of the most horrific chapters of our Nation's history rather than a personal dispute, which the federal courts are able to adjudicate. For the reasons stated in the following section, such an "abstract question[] of wide public significance" should be left to the representative branches of our system of government. See Valley Forge, 454 U.S. at 475.

2. The Political Question Doctrine

Defendants also argue that the court should dismiss Plaintiffs' Complaint because the issue of reparations to former slaves presents a non justiciable political question. See Mem. in Supp. of Defs.' Mot. to Dismiss II, at 3. Although the court has dispositively determined that Plaintiffs lack standing to bring the claims raised in their Complaint, with an abundance of caution, the court will next determine whether the political question doctrine provides an independent basis for dismissal.

a. Overview of the Political Question Doctrine

*29 It is well-established that the federal courts will not adjudicate questions that fall within the purview of the political question doctrine. See Baker v. Carr, 369 U.S. 186, 210 (1962). Like standing, mootness and ripeness, the political question doctrine is a justiciability limitation with its prudential roots dating back to the 18th century. See, e.g., Hayburn's Case, 2 U.S. (2 Dall.) 408, 410 (1792) (invalidating a statute authorizing the Executive branch to accept or reject federal court determinations of pension eligibility for Revolutionary War veterans); Marbury, 5 U.S. (1 Cranch) at 170 ("Questions, in their nature political, or which are, by the constitution and laws, submitted to the executive, can never be made in this court."). The political question doctrine restricts judicial review that might interfere with other

branches of the federal government. See McIntyre v. Fallahay, 766 F.2d 1078, 1081 (7th Cir.1985). Even in cases where the federal court has subject matter jurisdiction, it could choose not to exercise its jurisdiction to avoid interfering with decisions previously made by the Executive or Legislative branches (hereinafter the "Representative Branches"). See United States v. Munoz-Flores, 495 U.S. 385, 393-94 (1990). When the court reaches this conclusion, the question becomes non justiciable-- meaning not appropriate for judicial review. The non-justiciability of a political question is based primarily on the constitutional principle of separation of powers inherent in the text of the Constitution and the policy of judicial self-restraint. See Baker, 369 U.S. at 210; see also Kashani v. Nelson, 793 F.2d 818, 827 (7th Cir.1986); Flynn v. Shultz, 748 F.2d 1186, 1189 (7th Cir.1984); Calvin v. Conlisk, 520 F.2d 1, 5 (7th Cir.1975). Although the political question doctrine is just one aspect of a broader justiciability issue, it has been "applied in cases involving extremely diverse issues." Flynn, 748 F.2d at 1189; see also Baker, 369 U.S. at 211-18.

However, not all issues having political implications or significant political overtones are non-justiciable under the political question doctrine. See Japan Whaling Assn v. American Cetacean Soc., 478 U.S. 221, 229-30 (1986); see also L.N.S. v. Chadha, 462 U.S. 919, 921 (1983). Rather the Supreme Court has said that "[i]n determining whether a question falls within (the political question) category, the appropriateness under our system of government of attributing finality to the action of the political departments and also the lack of satisfactory criteria for a judicial determination are dominant considerations." Baker, 369 U.S. at 210 (quoting Coleman v. Miller, 307 U.S. 433, 454-55 (1939)). To further frame the issue, the Supreme Court has identified at least six factors ("Baker factors") the court should consider to determine whether a matter raises a non-justiciable political question, including:

*30 [1] a textually demonstrable constitutional commitment of the issue to a coordinate political department; or [2] a lack of judicially discoverable and manageable standards for resolving it; or [3] the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or [4] the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or [5] an unusual need for unquestioning adherence to a political decision already made; or [6] the potentiality of embarrassment from multifarious pronouncements

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by various departments on one question.

Baker, 369 U.S. at 217; see also Kashani, 793 F.2d at 827. When any one of the foregoing *Baker* factors is implicated, the court should refrain from adjudicating the issue to prevent unwarranted interference with decisions properly made by the Representative Branches of the federal government. See Munoz-Flores, 495 U.S. at 393-94; Baker, 369 U.S. at 217.

Following *Baker*, the Supreme Court "has not retreated from the analytical framework it established." *Alperin v. Vatican Bank*, 405 F.3d 727, 739 (9th Cir.2005) (holding that dismissal of victims of World War II war crimes Complaint was not warranted because the court could resolve property claims without expressing lack of respect for federal government's political branches). Other recent decisions have elaborated on the *Baker* criteria. Last Term, the Supreme Court revisited the *Baker* decision, stating that the factors enumerated in that case are "probably listed in descending order of both importance and certainty." *Vieth v. Jubelirer*, 541 U.S. 267, 278 (2004) (holding that political gerrymandering claims are nonjusticiable). After *Vieth*, courts have taken a "slightly different approach to interpreting the phrase 'judicially discoverable and manageable standards.'" *Alperin*, 405 F.3d at 747. "Instead of focusing on the logistical obstacles, we ask whether the courts are capable of granting relief in a reasoned fashion or, on the other hand, whether allowing the ... [c]laims to go forward would merely provide 'hope' without a substantive legal basis for a ruling." *Id.* (citing *Vieth*, 541 U.S. at 304).

b. Application of the Political Question Doctrine

Before determining whether any of the *Baker* factors require dismissal under the political question doctrine, the court must first decide the applicability of the political question doctrine based on the nature of Plaintiffs' claims. Plaintiffs argue that the political question doctrine is inapplicable here because their claims are *private*, not *political*. See Mem. in Opp. to Defs.' Mot. to Dismiss I, at 25 (emphasis added); see also Mem. in Opp. to Defs.' Mot. to Dismiss II, at 4. Specifically, Plaintiffs assert that the doctrine does not apply because their "claims are brought by private individuals against private corporations for both tort and property harms that were occasioned by defendants' particular acts of years past, as well as their acts of today." fEN261 Mem. in Opp. to Defs.' Mot. to Dismiss I, at 25. The court rejects Plaintiffs' argument for two reasons. First, there are numerous cases where the federal courts have dismissed claims

by private plaintiffs against private defendants on the basis of the political question doctrine. The majority of these cases arise in the context of reparations claims arising out of World War II. See, e.g., *Kelberine v. Societe Internationale*, 363 F.2d 989, 995 (D.C.Cir.1966); *In re Nazi Era Cases Against German Defendants Litig.*, 129 F.Supp.2d 370, 382 (D.N.J.2001); *Iwanowa v. Ford Motor Co.*, 67 F.Supp.2d 424, 489 (D.N.J.1999); *Burger-Fischer v. Degussa AG*, 65 F.Supp.2d 248, 282- 85 (D.N.J.1999).

EN26. In support of their position, Plaintiffs rely on *Kadic v. Karadzic*, 70 F.3d 232 (2nd Cir.1995), a case which is clearly distinguishable from the present case. In *Kadic*, the Second Circuit declined to dismiss the plaintiffs' claims under the Alien Tort Claims Act alleging gross human rights abuses against a Bosnian Serb leader on the basis of the political question doctrine. 70 F.3d at 250. The *Kadic* court cautioned that "judges should not reflexively invoke these doctrines to avoid difficult and somewhat sensitive decisions ..." and added that "[a]lthough these cases present issues that arise in a politically charged context, that does not transform them into cases involving nonjusticiable political questions." *Id.* at 249. However, in reaching its decision, the *Kadic* court stated that it did not have to decide the issue of whether judicial involvement would interfere with actions of other branches of the federal government because the court obtained a " 'Statement of Interest' " signed by both the Solicitor General and the State Department's Legal Advisor expressly disclaiming any concern that the political question doctrine should be invoked. *Id.* at 250. No such "Statement of Interest" has been or could be sought in the present case.

*31 Second, although Plaintiffs couch their claims as *tort* or *property* claims for acts committed by *private* corporate defendants, this alone does not preclude the application of the political question doctrine. The Supreme Court has stated that the identity of the litigants is immaterial to the questions raised by the political question doctrine. See *Munoz-Flores*, 495 U.S. at 394. Additionally, when determining whether the political question doctrine applies, the court must look to the nature of the underlying litigation, not the specific claims enumerated in the complaint. See *Renne*, 501 U.S. at 316 (to determine justiciability,

the court must examine the "pleadings and record to determine the nature of the dispute and the interests of the parties in having [the issue] resolved"); *see also Baker*, 369 U.S. at 217 (indicating the need for a "discriminating inquiry into the precise facts and posture of the particular case" when distinguishing between "political questions" and "political cases"). Thus, the issue becomes whether Plaintiffs' claims are the type of claims that have been committed to the Representative Branches for resolution. *See In re Nazi Era Cases Against German Defendants Litig.*, 129 F.Supp.2d at 378.

Finally, Plaintiffs assert that the issue of reparations is a distinct and separate issue from issues of "[e]quality under the law and freedom from discrimination." *Mem. in Opp. to Defs.' Mot. to Dismiss II*, at 4. In other words, Plaintiffs argue that the legislation Congress has passed granting African-Americans full citizenship and equality under the law does not amount to, or serve as a substitute for, legitimate and meaningful reparations for slavery. *Id.* Plaintiffs therefore argue that the political question doctrine does not apply to the issue of slave reparations. *Id.* at 4-5. It is clear, however, that Congress has considered the issues of reparations for slavery numerous times, in contexts distinct from that of equal rights under the law. *See, e.g.,* H.R. 40, 108th Cong. (2003) and H.R. 40, 107th Cong. (2001) (proposing a Congressional committee to study the effects of slavery on the present African-American community); An Act to Establish a Bureau for the Relief of Freedmen and Refugees, ch. 90, 13 Stat. 507 (March 3, 1865) (creating the Freedman's Bureau, which was to provide former slaves with, *inter alia*, food, clothing, and job placement); H.R. 29, 40th Cong. ~~2~~, 2 (1867) (proposing that Confederate property be seized and distributed to former slaves).

Plaintiffs' Complaint indicates that the underlying nature of their lawsuit seeks reparations for Defendants' participation in slavery dating back as far as the year 1619. *See* SCAC, y[5. Although Plaintiffs request both equitable and legal relief, the bulk of this relief centers on Plaintiffs' claim for restitution. For example, Plaintiffs seek, among other things, the following remedies: (1) an accounting of the "monies, profits, and/or benefits derived by defendants" from the slave trade and slavery; (2) "a constructive trust in the value of said monies, profits, and/or benefits," (3) "full restitution in the value of all monies, profits, and/or benefits derived by defendants' use of slave labor," (4) "equitable disgorgement" of these "monies, profits, and/or

benefits," and (5) any other appropriate damages. *See id.* 9 288, Prayer for Relief. These remedies collectively provide the basis for calculating and distributing the amount of restitution sought; that is the amount in which Plaintiffs claim that Defendants wrongfully benefitted from Plaintiffs' ancestors' unpaid slave labor. *See United States v. Shenard*, 269 F.3d 884, 885 (7th Cir.2001) (defining restitution as usually meaning the return of ill-gotten gains to which the holder is not legally entitled). Courts have consistently held that claims seeking restitution for forced labor are claims for reparations. *See Iwanowa*, 67 F.Supp.2d at 485 n.84; *see also Burger-Fischer*, 65 F.Supp.2d at 281-82. Such claims clearly raise a question as to whether the Judicial branch of the federal government is best suited to resolve the issue. *See Cato*, 70 F.3d at 1110 (holding that plaintiffs' claims for slavery reparations presented a non-justiciable political question); *see also Kelberine*, 363 F.2d at 995 (concluding that plaintiffs' claims for reparations against private corporate defendant for its involvement in a "Nazi Conspiracy" during World War II were barred by political question doctrine).

*32 To further support this conclusion, in a recent action seeking relief from a German company and its American subsidiaries for damages resulting from the plaintiffs' forced labor in Nazi Germany during World War II, the District Court for the District of New Jersey rejected the very same argument that Plaintiffs raise here. *See In re Nazi Era Cases Against German Defendants Litig.* 129 F.Supp.2d at 375 (rejecting the plaintiffs' argument that the political question doctrine cannot preclude a claim for reparations brought by an individual against a private company when the underlying abuse alleged was "fundamentally interrelated with the Nazi war effort").

As a result, Plaintiffs' assertions that their claims are *private* rather than *political*, and that the issue of reparations is different from the issue of equal rights under the law, do not preclude the court from inquiring into whether this case presents a non-justiciable political question. Further, given the nature of Plaintiffs' claims, an analysis of the political question doctrine is necessary. Having reached this conclusion, a review of Plaintiffs' Complaint reveals that all of the *Baker* factors are present in the underlying litigation.

(I). A Textually Demonstrable Constitutional Commitment of the Issue to a Coordinate Political Department

The Constitution commits to the Representative Branches of the United States Government the authority to resolve the issue of reparations to former slaves resulting from the Nation's role in the institution of slavery. As stated above, historians have long debated whether the issue of slavery was the actual cause of the Civil War. *See infra*, Part II.E. However, regardless of what actually caused the Civil War, it is clear that the abolition of slavery as an institution was a fundamental concern of the Representative Branches both during and after the war. *See, e.g.*, Donald G. Nieman, *Promises to Keep: African-Americans and the Constitutional Order, 1776 to the Present* 54 (Oxford University Press 1991). Under the Constitution, the war powers are reserved to the Representative Branches of the federal government. *See U.S. Const. art. I, § 8*; U.S. Const. art. II, § 2; *see also Doe v. Bush*, 323 F.3d 133, 137 (1st Cir.2003). These powers not only include the power to declare and prosecute war, but also extend to the power to ensure a just and lasting peace following the conclusion of a war. *See Ladue & Co. v. Brownell*, 220 F.2d 468, 472 (7th Cir.1955) (holding that Congress may reserve the power to seize property following a formal declaration of peace). By exclusively entrusting such powers to the Representative Branches, the Constitution restricts judicial review or interference on many war-related decisions made by Congress and the President both during and after a war. *See Harisiades v. Shaughnessy*, 342 U.S. 580, 589-90 (1952).

In this case, there is a strong historical record indicating that the relief sought, reparations to former slaves following the Civil War, was considered and rejected by the Representative Branches in lieu of other forms of relief. This relief came in many forms, including wartime and post-war legislation, civil rights legislation, and constitutional amendments—all intended to ensure the liberty of the newly freed slaves and benefit them generally.

*33 For example, prior to the end of the Civil War, Congress passed the Federal Confiscation Acts designed to punish those who participated in the rebellion by confiscating their property. *See An Act to Confiscate Property Used for Insurrectionary Purposes*, ch. 60, 12 Stat. 319 (Aug. 6, 1861), as amended by, *An Act to Suppress Insurrection, to Punish Treason and Rebellion, to Seize and Confiscate the Property of Rebels, and for Other Purposes*, ch. 195, 12 Stat. 589 (July 17, 1862). The Confiscation Acts also freed tens of thousands of slaves who had fled to Union forces by the summer of 1862. *See id.* Shortly thereafter, following a series

of Union victories, President Lincoln, using his constitutional authority as Commander-in-Chief, issued the Emancipation Proclamation on January 1, 1863. *See Abraham Lincoln, The Emancipation Proclamation*, Exec. Proclamation No. 17 (Jan. 1, 1863), reprinted in 12 Stat. 1268 (1863). The Emancipation Proclamation freed all slaves in the states under Confederate control. *Id.*

Other wartime efforts to ensure the well-being of the newly freed slaves included Congress' creation of the Freedman's Bureau in March 1865. *See An Act to Establish a Bureau for the Relief of Freedmen and Refugees*, ch. 90, 13 Stat. 507 (March 3, 1865). Congress created the Freedman's Bureau pursuant to the war powers to provide former slaves food, clothing, supplies, job placement, educational facilities, and homestead land. *Id.*; *see also* Albert P. Blaustein and Robert L. Zangrando, *Civil Rights and the American Negro: A Documentary History* 210 (Washington Square Press, Inc., New York 1968). The Bureau had the authority to rent or sell to freed slaves land abandoned or confiscated in the Confederacy. *Id.* Although Congress initially intended for the Bureau's authority to expire one-year after the completion of the Civil War, Congress voted to extend the Bureau's powers over President Johnson's veto. *See An Act to Continue in Force and to Amend An Act to Establish a Bureau for the Relief of Freedmen and Refugees, and for Other Purposes*, ch. 200, 14 Stat. 173 (July 16, 1866); *An Act to Continue the Bureau for the Relief of Freedmen and Refugees, and for Other Purposes*, ch. 135, 15 Stat. 83 (July 6, 1868); *see also* George R. Bentley, *A History of the Freedmen's Bureau* 133 (Octagon Books 1970) (1955).

Congress also passed numerous Civil Rights Acts between the period of 1866- 1875. Specifically, the Civil Rights Acts of 1866, 1870, 1871, and 1875 were enacted to secure civil rights for the newly freed slaves. Most notably, the Civil Rights Act of 1866 declared "[a]ll persons" to be citizens of the United States and guaranteed them legal equality throughout the nation. ^[FN27] *See Civil Rights Act of 1866*, ch. 31, 14 Stat. 27 (April 9, 1866). The Act provided that "[a]ll persons ... shall have the same right in every State ... as is enjoyed by white citizens." *Id.* ♦♦ (currently codified, as amended, at 42 U.S.C. 1981).

^{FN27} Because there were questions as to whether the Thirteenth Amendment authorized the Civil Rights Act of 1866, Congress ratified the Fourteenth

Amendment on July 9, 1868, rendering the issue moot. *See U.S. Const. amend XIV.*

*34 Additionally, Congress ratified three constitutional amendments (hereinafter collectively referred to as the "Civil War Amendments") between the period of 1865 to 1870 to ensure the liberty of the newly freed slaves. The Thirteenth Amendment, ratified on December 6, 1865, provides, in part: "Neither slavery nor involuntary servitude ... shall exist within the United States, or any place subject to their jurisdiction." U.S. Const. amend XIII, § 1. This amendment formally abolished slavery within the United States by prohibiting individual states from enacting legislation authorizing the use of slavery within their borders. *See Jones v. Alfred H. Ma.L. Co.*, 392 U.S. 409, 439 (1968) (noting that the Thirteenth Amendment effectively abolished slavery and gave Congress the "power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States") (internal quotations omitted). Congress then ratified the Fourteenth Amendment on July 9, 1868, declaring among other things, that all persons born or naturalized in the United States were United States citizens and citizens of the state in which they resided. *See U.S. Const. amend XIV, § 1*. Section 1 of this Amendment effectively overruled the Supreme Court's *Dred Scott* ^{FN28} decision, ultimately making freed slaves citizens of the United States. Finally, on February 3, 1870, Congress ratified the Fifteenth Amendment with the intention of granting African-Americans the right of suffrage. ^{FN29} The Fifteenth Amendment provides, in part: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." U.S. Const. amend XV, § 1. Concerned with the possibility that individual states may attempt to circumvent the purpose behind the Civil War Amendments, Congress included an enabling clause in all three of the Civil War Amendments--giving it the exclusive power to enforce the Amendments with appropriate legislation. *See U.S. Const. amend XIII, § 2*; *see also U.S. Const. amend XIV, § 5*; U.S. Const. amend XV § 2.

^{FN28} In *Dred Scott v. Sanford*, the Supreme Court declared the Missouri Compromise unconstitutional and broadly held that slaves were property, not citizens. 60 U.S. 393 (1856). The Court's ruling established that slaves were not entitled to all of the rights, privileges and immunities guaranteed to all citizens under the

Constitution. Id. at 404-405.

^{FN29} The court notes that although Congress intended to give African-Americans the right to vote by ratifying the Fifteenth Amendment, the Amendment itself did not guarantee such a result. State and local laws requiring poll taxes, literary tests, residence and registration requirements, and "grandfather clauses" acted as impediments to this right. *See Blaustein and Zangrando, supra* at 245-46. Many of these issues were not resolved until decades later when the United States Supreme Court became involved in the issue and Congress passed the Voting Acts Rights Act of 1965. *Id.* However, to help illustrate the seriousness of Congress' efforts to assimilate the newly freed slaves into society, the court notes that the African-American male was given the right to vote fifty years prior to Congress' ratification of the Nineteenth Amendment, which gave women the right to vote. *See U.S. Const. amend. XIX.*

More directly on point, the Representative Branches considered the issue of reparations to freed slaves for harms suffered as a result of the institution of slavery. ^{FN30} Congressman Thaddeus Stevens proposed a bill that would have utilized the Confiscation Acts to seize public and private real property within the former Confederate States. *See H.R. 29, 40th Cong.*, k 1, 2 (1867). The confiscated property would have been distributed to freed slaves. *See id.* § 4. Specifically, the text of that bill provided, *inter alia*:

^{FN30} In fact the Representative Branches continue to consider the issue of reparations to descendants of slaves. In 1989, and in each successive year, Congressman John Conyers has introduced a Reparations Study Bill, commonly referred to as H.R. 40. *See, e.g., Commission to Study Reparations Proposals for African Americans Act, H.R. 3745, 101st Cong. (1989); Commission to Study Reparation Proposals for African-Americans Act, H.R. 40, 108th Cong. (2003)*. This Reparations Study Bill provides, *inter alia*, for the formation of a commission to study human chattel slavery and its continuing impact on African descendants in the United States today. *See, e.g., H.R. 3745, § 2(b)(1)-(3), 101st Cong. (1989)*. The bill also calls for the commission to recommend the form that

reparations should take if it indeed finds there to be continuing injuries to African descendants. See *id.* at § 2(b)(5).

That out of the lands thus seized and confiscated the slaves who have been liberated by the operations of the war and the amendment to the Constitution or otherwise, who reside in said "confederate States" on the 4th day of March, A.D. 1861, or since, shall have distributed to them as follows, namely: to each male person who is the head of a family, forty acres; to each adult male, whether the head of a family or not, forty acres; to each widow who is the head of a family, forty acres--to be held by them in fee-simple, but to be inalienable for the next ten years after they come seized thereof.

*35 *Id.* In addition, each freed slave would have also been entitled to a monetary grant for the purpose of erecting buildings on these distributed lands. See *id.* L5.

Stevens passionately advocated for passage of this bill. Stevens indicated that H.R. 29 was designed to help several classes of persons, including freed slaves, stating:

[H.R. 29] is important to four millions of injured, oppressed, and helpless men, whose ancestors for two centuries have been held in bondage and compelled to earn the very property a small portion of which we propose to restore to them, and who are now destitute, helpless, and exposed to want and starvation under the deliberate cruelty of their former masters.... The cause of the war was slavery. We have liberated the slaves. It is our duty to protect them and provide for them while they are unable to provide for themselves. Have we not a right, in the language of Vattel, 'to do ourselves justice respecting the object which has caused the war,' by taking lands for homesteads for these 'objects' of the war?

CONG. GLOBE, 40th Cong., 1st Sess. 204 (1867) (statement of Congressman Stevens). According to Stevens, passage of H.R. 29 would have served two objectives. First, the bill would have served to punish the Confederate States for their treasonous war. As Stevens stated: "You behold at your feet a conquered foe, an atrocious enemy. Tell him on what terms he may arise and depart or remain loyal. But do not embrace him too hastily. Be sure first that there is no dagger in his girdle." *Id.* at 205. Second, the bill would have served to place freed slaves on the path to economic independence. As Stevens stated:

Four million persons have just been freed from a condition of dependence, wholly unacquainted

with business transactions, kept systematically in ignorance of all their rights and of the common elements of education, without which none of any race are competent to earn an honest living, to guard against the frauds which will always be practiced on the ignorant, or to judge of the most judicious manner of applying their labor.

Id.

In the Senate, Senator Charles Sumner also championed this vision of land distribution as a form of reparations to freed slaves. See CONG. GLOBE, 40th Cong., 1st Sess. 15, 49-56, 79, 114, 147, 203-08, 304-08, 463 (1867) (statements of Senator Sumner). According to Sumner, "all who are now familiar with the process of reconstruction have felt that our work would be incomplete unless in some way or another we secured to the freedmen a piece of land." LONG. GLOBE, 40th Cong., 1st Sess. 50 (1867) (statement of Senator Sumner). One particular proposed resolution of Sumner's provided, *inter alia*: "Not less important than education is the homestead, which must be secured to the freedmen, so that at least every head of a family may have a piece of land." *Id.* (reading text of proposed resolution, Miscellaneous Document No. 1, §_5).

*36 The idea of land distribution was also a plan of the Bureau of Refugees, Freedmen, and Abandoned Land. See generally Bentley, *supra* at 49. However, the idea of land distribution was ultimately abandoned, with President Andrew Johnson pursuing a plan to pardon Confederate sympathizers and restore their property rights. See Claude F. Oubre, *Forty Acres and a Mule: The Freedmen's Bureau and Black Land Ownership* 61-71 (1978).

The words of Senator Sumner, lamenting the decision not to extend monetary or property reparations to freed slaves, is hauntingly prophetic of the continued post-Emancipation reparations movement: "I do not like to play the part of Cassandra; FN31 but I cannot forbear declaring my conviction that we shall regret hereafter that we have not done more." CONG. GLOBE, 40th Cong., 1st Sess. 165 (1867) (statement of Senator Sumner). Yet, that does not change the fact that the Representative Branches considered the issue of reparations to former slaves, and the chosen vessels of reparations came in the form of constitutional and legislative enactments guaranteeing equality under the law and freedom from discrimination. It is the political question doctrine that militates that this court attribute finality to those decisions, and not posit itself as the ultimate authority on the issue by second

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guessing those decisions. See Baker, 369 U.S. at 210. It is not the province of this court to say that more could have been done in the past, as such decisions are in the nature of political questions committed to the Representative Branches.

EN3 L In Greek mythology, Cassandra was a figure endowed with the gift of prophecy but fated never to be believed.

In conclusion, based on the historical record presented here, it is clear that both during and after the Civil War the issue of reparations to former slaves was one committed to the Representative Branches of the federal government. It was the President and Congress who prosecuted the military and political aspects of the Civil War, ultimately leading to the conclusion of the war. With a goal of preserving the Union and securing an acceptable and lasting peace, it again was the President and Congress who chose to amend the Constitution and enact civil rights legislation in an effort to provide legal equality to the newly freed slaves. Although the Representative Branches decided to take this particular course of conduct in lieu of providing reparations to former slaves, the historical record clearly demonstrates that the Constitution commits this decision to the Representative Branches. See Alperin v. Vatican Bank, 242 F.Supp.2d 686, 692 (N.D.Cal.2000) (noting that "a court must consider the totality of the circumstances in determining whether a claim is one committed to the political branches for resolution"). By requiring the court to second-guess the decisions of the Representative Branches made more than a century ago, Plaintiffs' Complaint presents a non-justiciable political question. See Cato, 70 E.3d at 1110 (affirming the dismissal of plaintiffs' slavery reparations complaint on political question grounds based on Congress' desire "to prevent judicial second guessing of legislative and administrative decisions grounded in social, economic, and political policy through the medium of an action in tort") (internal quotations and citations omitted).

(2). Judicially Discoverable and Manageable Standards

*37 There also exists a lack of "judicially discoverable and manageable standards" for resolving Plaintiffs' claims in this case. Baker, 369 U.S. at 217. Defendants argue, and the court agrees, that the historical issues raised in Plaintiffs' Complaint "involve too broad a span of conduct over too broad an expanse of time to be susceptible to any

manageable judicial standards for resolution." See Mem.in Supp. of Defs.' Mot.to Dismiss 1, at 35; Mem.in Supp. of Defs.' Mot.to Dismiss 11, at 3. As stated in the Complaint, the relevant events took place as far back as the year 1619. See SCAC, 1 5. Absent a political framework, the court is ill-equipped to determine many issues posed in a dispute covering a period of almost 400 years. This includes, for example, determining such issues as consanguinity and apportionment of liability given the multiple generations associated with the litigation. See, e.g., Eric A. Posner and Adrian Vermeule, Reparations For Slavery and Other Historical Injustices, 103 COLUM. L. REV. 689, 702 (2003) (discussing the limited effect of the restitutionary theory of reparations where the claim is made several generations removed from the actual wrongdoing).

In support of their claims, Plaintiffs rely on In re Holocaust Victim Assets Litig., 105 F.Supp.2d 139 (E.D.N.Y.2000), to support their assertion that this type of case is "extremely well suited to judicial resolutions." See Mem.in Opp.to Defs.' Mot.to Dismiss 1, at 30 n.47; see also Mem.in Opp.to Defs.' Mot.to Dismiss 11, at 1. In the Holocaust Victim case, the district court approved a class action settlement between Holocaust victims and two leading Swiss banks after the plaintiffs brought suit alleging, among other things, that the defendants "collaborated with and aided the Nazi regime in furtherance of war crimes, crimes against humanity, crimes against peace, slave labor and genocide." 105 F.Supp.2d at 141. However, the Holocaust Victim case is clearly distinguishable from the present action because in its Opinion, the court noted that because the settlement was reached while the defendants' motions to dismiss were pending, the court did not have to decide the issues raised in the motions.Id.at 142. Thus, the Holocaust Victim court never considered whether the issues raised in the plaintiffs' complaint implicated a non-justiciable political question.

Moreover, although it can be argued that in certain cases such issues similar to those presented in Plaintiffs' Complaint are not entirely inappropriate for judicial resolution, this case does not present such issues. Because the events surrounding the institution of slavery and the Civil War are so deeply rooted in our Nation's history, the issues that may appear to be capable of judicial resolution in an ordinary case move beyond the province of this court given the magnitude of the events that preceded them. Cf. Nazi Era Cases Against German Defendants Litig., 129 E.Supp.2d at 389 (stating that the magnitude of

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World War II has placed plaintiffs' claims for reparations beyond the province of judicial determination and "into the political realm").

*38 Ultimately, the court is persuaded by the reasoning adopted by other courts that have considered the issue in the context of reparations for forced labor during World War II and have held that such claims are not suitable for judicial resolution. See, e.g., Kelberine, 363 F.2d at 995; Iwanowa, 67 E.Supp.2d at 489; Burger-Fischer, 65 E.Supp.2d at 283-84; Alperin, 242 E.Supp.2d at 695; Anderman v. Federal Republic of Austria, 256 E.Supp.2d 1098, 1115 (C.D.Cal.2003). In Kelberine, while discussing whether a private corporation should be liable for its involvement in the Nazi conspiracy of 1933-45, the Appeals Court for the D.C. Circuit stated:

We are of the opinion the thesis is not presently susceptible of judicial implementation. It may be that the Congress might enact a program and a procedure by which the objectives prayed for could be achieved. But we think the courts alone cannot do it. As presently framed, the problem is not within the established scope of judicial authority.... The span between the doing of the damage and the application of the claimed assuagement is too vague. The time is too long. The identity of the alleged tortfeasors is too indefinite. The procedure sought--adjudication of some two hundred thousand claims for multifarious damages inflicted twenty to thirty years ago in a European area by a government then in power--is too costly, to justify undertaking by a court without legislative provision of the means wherewith to proceed.... The events, the witnesses, the guilty tortfeasors, their membership in the conspiracy are all so potentially vague at this point as to pose an insoluble problem if undertaken by the courts without legislative or executive guidance, authorization or support. The whole concept is too uncertain of legal validity to sustain the self-establishment of the proceedings by a court in the absence of specific legislative or executive formulation.

Kelberine 363 F.2d at 995.

The issues raised by the Kelberine court, particularly those relating to the impracticality of judicially resolving disputes covering vast time periods and containing numerous unidentifiable tortfeasors, are clearly present in the underlying litigation. Although Plaintiffs attempt to distinguish the World War II reparation cases from their case, many of the issues raised in Kelberine and its progeny are plentiful in the underlying litigation. As such, the second Baker

factor also requires dismissal of Plaintiffs' Complaint.

(3). *Remaining Baker Factors*

As stated above, the issues raised in Plaintiffs' Complaint involve events that have had a significant impact on our Nation's historical development. See *infra* Part II. Both during and after the Civil War, the Representative Branches implemented various policies aimed at resolving the problems and challenges stemming from the abolition of slavery within the United States. These policies included, among others, the enactment of several Civil Rights Acts and the ratification of the Civil War Amendments--all of which were intended to provide legal equality to the newly freed slaves. Even throughout the twentieth century, the Representative Branches continued to establish these policies by enacting further civil rights legislation and by implementing various relief programs intended to benefit minorities--many of whom are descendants of former slaves.

*39 By bringing their claims for slavery reparations before the court, Plaintiffs require the court to criticize or question actions or decisions or policies made by the Representative Branches over a period spanning more than a century. Given our constitutional structure, policy determinations of this type are for elected officials, not the courts. Moreover, during and after the bloodiest war in this country's history, the Representative Branches grappled with these issues while simultaneously trying to conclude the war and ensure lasting peace. Allowing Plaintiffs, through private litigation, to seek reparations for wrongs committed prior to and during the Civil War clearly expresses a lack of respect for the Representative Branches and their attempted resolution of such issues over the past century and one-half. WN321 Although Plaintiffs question the choices made by the Representative Branches and the effectiveness of these decisions in providing equality to descendants of former slaves, the fact remains that these are political questions which the court must decline to determine. Cf. Burger-Fischer, 65 E.Supp.2d at 282 (concluding that courts cannot re-examine the adequacy of reparation agreements between the United States and other World War II combatants because doing so implicates a political question in which the court must decline to intervene).

FN32. Plaintiffs argue that President Bush recently gave "implicit support" for their claims in a major policy speech given on

Goree Island in Senegal on July 8, 2003, where he declared that slavery was "one of the greatest crimes in history." See Mem. in Opp. to Defs.' Mot. to Dismiss I, at 31; Mem. in Opp. to Defs.' Mot. to Dismiss II, at 1. Plaintiffs fail to develop this argument or support it in any way. See United States v. Jones, 224 F.3d 621, 626 (7th Cir.2000) (stating that courts should not consider undeveloped or unsupported arguments). In any event, Plaintiffs' use of the President's speech is not persuasive because such statements may support the proposition that the Representative branches of our government should continue their historical efforts to advance civil rights for all citizens.

(4) *Efficiency and Legitimacy*

Principles of efficiency and legitimacy also play an important role in the political question doctrine. Prudential limits on the exercise of power protect the separate branches of government from the potential embarrassment of being unnecessarily overruled by one another, and from the inherent waste that would result from one branch conducting the business of another. See Baker, 369 U.S. at 210. The drafters of the Constitution understood that various branches of our federal government would be better equipped, more knowledgeable, and have greater resources to deal with certain specific matters than other branches. See Saldano v. O'Connell, 322 F.3d 365, 369 (5th Cir.2003).

For example, the drafters assigned the judicial branch a very small role in the arena of foreign relations. See United States v. Plummer, 221 F.3d 1298, 1309 (11th Cir.2000) ("the role of the judiciary in foreign affairs is limited: 'Matters relating to the conduct of foreign relations ... are so exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference'") (quoting Roman v. Wald, 468 U.S. 222, 242 (1984)). Issues related to foreign affairs are thus best left to Congress, as it has the resources and tools necessary to handle foreign policy issues. The House or Senate thus has the power to convene hearings or conduct investigations in any foreign relations area. To allow judicial intervention in foreign policy areas that are designated to the Representative branch would be an ineffective allocation of resources, and render the Congressional role in foreign policy moot. See Ungaro-Benages v. Dresdner Bank A.G., 379 F.3d 1227, 1235 (11th Cir.2004).

c. *Conclusion*

*40 The federal court system is insulated from the political process by, in part, granting federal judges lifetime appointments. These lifetime appointments are thought to insure that federal judges remain objective and neutral in their interpretation of the law.

By freeing federal judges from continuing review by appointing authorities, conflicts of interest are minimized. An independent judiciary is the hallmark of the constitutional state.... From an interbranch conflict of interest perspective, this requirement ensures that judges confine themselves to concrete cases *and do not needlessly decide matters that are the business of political branches.*

Paul R. Verkuil, *The American Constitutional Tradition of Shared and Separated Powers: Separation of Powers, The Rule of Law and the Idea of Bureaucracy*, 30 WM. & MARY L. REV. 301, 308 (1989) (emphasis added).

It is undisputed that Congress has taken the initiative to deal with issues arising from the slave trade in the decades after the Civil War. See e.g., CONG. GLOBE, 40th Cong., 1st Sess. 15, 49-56, 79, 114, 147, 203-08, 304-08, 463 (1867) (statements of Senator Sumner advocating land distribution to freed slaves). Moreover, in recent years, Congress has considered and rejected Representative Conyers' calls for the establishment of a commission to study the effects of slavery on the modern day African-American community. See, e.g., H.R. 40, 108th Cong. (2003), H.R. 40, 107th Cong. (2001). This district court will therefore not substitute its judgment for that of Congress on the matter of slave reparations. See Baker, 369 U.S. at 210; see also Kashani v. Nelson, 793 F.2d 818, 827 (7th Cir.1986); Elynn v. Shultz, 748 F.2d 1186, 1189 (7th Cir.1984); Calvin v. Conlisk, 520 F.2d 1, 5 (7th Cir.1975) (all emphasizing the constitutional principle of separation of powers, and the policy of judicial self-restraint).

It is also worthwhile in this context to again mention that, for the past 60 years, when the issue of reparations has arisen in regard to other minority groups, Congress has dealt with the issue. In 1946, Congress created the first reparations program "in order to redress a wide range of claims pressed by Indian tribes, including violations of treaties for which a judicial remedy was denied, and the loss of lands under treaties signed under duress." Posner and Vermeule, *supra*, at 695 (quoting Nell Jessup Newton, *Compensation, Reparations, & Restitution*:

Indian Property Claims in the United States, 28 GA. L.REV. 453, 468 (1993)). In addition, in 1988, Congress authorized payment to Japanese-Americans interred during World War II. See Eric K. Yamamoto, Racial Reparations: Japanese American Redress and African American Claims, 40 B.C. L.REV. 477, 477-78 (1998).

In sum, the issues raised in Plaintiffs' Complaint are more properly addressed by Congress and state legislatures. The question of slave reparations, and reparations for other historic injustices perpetrated on minority groups, has been addressed numerous times by various legislative branches of our government. See H.R. 40, 108th Cong. (2003), H.R. 40, 107th Cong. (2001); C. Jeanne Bassett, House Bill 591: Florida Compensates Rosewood Victims and Their Families for a Seventy-One-Year-Old Injury, 22 FLA. ST. U.L. REV. 503 (1994) (explaining how the Florida legislature passed a bill granting reparations to African-American victims, and their descendants, of the 1923 Rosewood, Florida massacre). Most importantly, however, Plaintiffs' Complaint implicates all of the factors established by the Supreme Court identifying a non justiciable political question. See Baker, 369 U.S. at 217. As such, each Baker factor provides a separate and independent basis for the court to dismiss Plaintiffs' Complaint under the well-settled political question doctrine. See *id.*

B. Failure to State a Claim Upon Which Relief Can be Granted

*41 As discussed *infra*, Part IV, A.1., one of the fundamental defects of Plaintiffs' Complaint is lack of standing, as the Complaint fails to allege any constitutionally cognizable injury that is fairly traceable to Defendants. As an additional argument in support of dismissal, Defendants argue that Plaintiffs' Complaint fails to state a claim upon which relief can be granted. Although the court has dispositively determined that Plaintiffs lack standing to bring the claims raised in their Complaint, and that these claims present a non justiciable political question, with an abundance of caution, the court will next determine whether the Complaint fails to state a claim upon which relief can be granted as an independent basis for dismissal.

The sufficiency of a complaint may be tested in a number of ways pursuant to Federal Rule of Civil Procedure 12: a motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6); a motion for a more definite statement of a vague or ambiguous

complaint pursuant to Rule 12(e); or a motion to strike redundant, immaterial, impertinent, or scandalous matter in a complaint pursuant to Rule 12(f). In this matter, Defendants have elected to proceed pursuant to Rule 12(b)(6), challenging whether Plaintiffs' Complaint states a claim upon which relief can be granted.

Pursuant to Federal Rule of Civil Procedure 8(a)(2), a complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed.R.Civ.P. 8(a)(2); see also Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit, 507 U.S. 162, 168 (1993) (discussing "notice pleading" standards under the Federal Rules of Civil Procedure). Under this liberal notice pleading standard, "[a] court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Swierkiewicz v. Sorema N.A., 534 U.S. 506, 514 (2002) (quoting Hishon v. King & Spaulding, 467 U.S. 69, 73 (1984)).

The main function to be performed by the complaint is to "give the defendant fair notice of what the plaintiffs claim is and the grounds upon which it rests." Conley v. Gibson, 355 U.S. 41, 47 (1957). "While federal notice-pleading allows for a generous reading of a complaint, in order to resist a motion to dismiss, the complaint must at least set out facts sufficient to 'outline or adumbrate' the basis of the claim." Panaras v. Liquid Carbonic Industries Corp., 74 F.3d 786, 792 (7th Cir.1996). The Federal Rules of Civil Procedure require the plaintiff to disclose adequate information regarding the basis of the claim for relief as distinguished from a bare averment that the plaintiff wants relief and is simply entitled to it. See 5 Charles Allen Wright & Arthur R. Miller, Federal Practice and Procedure: Civil 2d § 1202 (2d ed.1990). A complaint contains adequate information regarding the basis of the claim for relief if it contains even "the bare minimum facts necessary to put the defendant on notice of the claim so that he can file an answer." Higgs v. Carver, 286 F.3d 437, 439 (7th Cir.2002). To provide a defendant with fair notice, "a complaint must allege facts bearing on all material elements necessary to sustain a recovery under some viable legal theory." Looper Maintenance Service, Inc. v. City of Indianapolis, 197 F.3d 908, 911 (7th Cir.1999) (citation omitted).

*42 Plaintiffs claim that Defendants illegally profited from slavery without identifying the act or acts claimed to support this broad charge. This is

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insufficient to state a claim even under liberal notice-pleading standards. See Higgs, 286 F.3d at 439. As already indicated, Plaintiffs' Complaint fails to connect any alleged injury of any one of the Plaintiffs or their ancestors to alleged conduct by any one of the Defendants or their predecessors. Rather, Plaintiffs seek to hold Defendants liable for an entire era of history simply because their alleged predecessors were purportedly doing business in nineteenth century America. Plaintiffs' Complaint can be reduced to the following syllogism: Defendants or their predecessors allegedly profited from the unpaid labor of former slaves, and Plaintiffs are descendants of former slaves, therefore, Plaintiffs are entitled to some of Defendants' profits. However, the allegations in a complaint must be those relating to the plaintiff, not those of someone else. See Kyle v. Morton High School, 144 F.3d 448, 455 (7th Cir.1998). The broad allegations of Plaintiffs' Complaint fail to give Defendants fair notice of what conduct is alleged to have injured which persons, in what manner, and when over the past four centuries covered in the Complaint.

In light of this omission failing to link any alleged conduct of Defendants or their alleged predecessors to Plaintiffs or their ancestors, Plaintiffs' Complaint relies in part on a conspiracy theory. Plaintiffs' Complaint alleges that Defendants or their alleged predecessors conspired with certain unnamed malefactors to violate the legal rights of certain unnamed victims--presumably all persons held in slavery--and thus are somehow liable based on a theory of third-party liability. However, Plaintiffs' Complaint fails to allege even the faintest outline of this conspiracy, let alone its members and Defendants', or their predecessors', alleged roles in that conspiracy. Even under liberal notice pleading standards, the pleading of a conspiracy requires a plaintiff to "indicate the parties, general purposes, and approximate date, so that the defendant has notice of what he is charged with." Walker v. Thompson, 288 F.3d 1005, 1007 (7th Cir.2002). Plaintiffs' conspiracy theory is similar to that in Albiero v. City of Kankakee, 122 F.3d 417, 420-21 (7th Cir.1997), where the plaintiffs alleged a conspiracy, but did not elaborate or provide any other allegations to support the conspiracy.

Plaintiffs' SCAC also brings two new common law claims--replevin and negligent infliction of emotional distress. Replevin is a cause of action "which lies to gain possession of *personal chattels* which have been taken from the plaintiff unlawfully." In re Brown, 3 F.2d 247, 249 (7th Cir.1924) (emphasis added). In

other words, replevin actions seek the return of tangible items to their rightful owner. See 66 AMIUR, 2d Replevin § 1 (2004) ("Replevin is a remedy stemming from the common law and it is a proceeding by which the owner or one who has an interest in a chattel taken or detained seeks to recover possession of the chattel"); see also Smith v. United States, 293 F.3d 984, 987 (7th Cir.2002); Ruslan Shipping Corp. v. Coscol Petroleum Corp., 635 F.2d 648, 650 n 5 (7th Cir.1980); Phillips v. Money, 503 F.2d 990, 993 (7th Cir.1974). In this case, Plaintiffs identify no specific, tangible items that have been taken or detained by Defendants. See SCAC, 1 290. To the extent that Plaintiffs seek the return of money from Defendants, such recovery is generally not allowed under replevin. See 66 AMIUR, 2d Replevin 9 (2004) ("Money is not subject to replevin unless it is marked or designated in some manner so as to become specific, as it regards the power of identification, such as being in a bag or package"); see also Daenzer v. Wayland Ford, Inc., 193 F.Supp.2d 1030, 1041 (W.D.Mich.2002) ("replevin is an action used to effect the return of the subject property taken, not for the return of money"). Plaintiffs' new count of Replevin therefore fails to state a claim upon which relief could be granted. See Looper, 197 F.3d at 911.

*43 Claims of negligent infliction of emotional distress can only succeed if the plaintiff can establish that the defendant owed plaintiff a particular, identifiable, duty of care. See Schrott v. Bristol-Myers Squibb Co., 403 F.3d 940, 944 (7th Cir.2005); Corgan v. Muehling, 574 N.E.2d 602, 606 (111.1991) (finding that a psychologist owed his client such a duty of care). In this case, Plaintiffs fail to allege any facts from which the court could find that Defendants' pre-civil war actions breached any duty of care to the present day Plaintiffs. Plaintiffs' new count of negligent infliction of emotional distress therefore fails to state a claim upon which relief could be granted. See Looper, 197 F.3d at 911.

Plaintiffs also, in their SCAC, include new allegations that certain Defendants made "intentional misrepresentations" in connection with alleged violations of various state consumer protection laws. SCAC, 17 227-256. Plaintiffs, however, still fail to allege a specific, concrete harm or an ascertainable loss as a result of Defendants' alleged violations of these statutes. See SCAC, 9 104 ("Some or all of the Plaintiffs are presently consumers of defendants. Due to the unconscionable, fraudulent and deceptive public communications made by defendants, plaintiffs suffered the harm of being misled,

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confused, and deceived about the roles the defendants played in the enslavement of African people"); SCAC, ¶ 106 ("Some or all of the Plaintiffs have suffered the harm of being unconscionably denied the benefits of a competitive market for the goods and services they purchase from defendants"); SCAC, ¶¶ 321, 331, 339, 348, 357, 365 (alleging that these misrepresentations caused "monetary and other economic damages to Plaintiffs"). Plaintiffs thus fail to state a claim upon which relief can be granted under the state consumer protection statutes of New York, Texas, Illinois, and Louisiana. See, e.g., *Stutman v. Chemical Bank*, 95 N.Y.2d 24, 29 (N.Y.2000); *Chandler v. Gene Messer Ford, Inc.*, 81 S.W.3d 493, 501 (Tx App.2002); *Jenkins v. Mercantile Mortgage Co.*, 231 F.Supp.2d 737, 747 (N.D. Ill.2002); *Inka's S'Coolwear, Inc. v. School Time, L.L.C.*, 725 So.2d 496, 501 (Laft.App.1998) (all indicating that plaintiffs must have suffered actual, ascertainable damages in order to sue under state consumer protection statutes).

In addition, Plaintiffs fail to allege that any Defendant made any allegedly false representation to a Plaintiff regarding a specific product or service; Plaintiffs thus fail to state a claim under Illinois' deceptive advertising and misleading trade identification statute. See *Lynch Ford Inc. v. Ford Motor Co.*, 957 F.Supp. 142, 147 (N.D.Ill.1997). Plaintiffs also fail to allege any commercial practice with the capacity to mislead any Plaintiff regarding identifiable products or services; Plaintiffs thus fail to state a claim under New Jersey's state consumer protection statutes. See *Island Mortgs. v. 3M*, 373 N.J.Super. 172, 177 (N.J.Super. Ct. Law Div.2004). Finally, Plaintiffs' allegations as outlined in paragraphs 227-256 of the SCAC indicate only that Defendants have responded publicly to Plaintiffs' claims. The making of these public statements in response to a lawsuit is simply not "immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers;" Plaintiffs thus fail to state a claim under California's consumer protection statutes. See *Wolfe v. State Farm*, 46 Cal.App. 4th 554, 561 (Cal.Ct.App.1996). The court therefore dismisses all of these state law claims. See *Goetzke v. Ferro Corn.*, 280 F.3d 766, 779 (7th Cir.2002) ("If a state substantive law has denied a plaintiff a remedy for his cause of action, the district court must dismiss the complaint for failure to state a claim upon which relief may be granted").

*44 Plaintiffs' Complaint in its entirety thus fails to meet the notice pleading requirements set forth in the Federal Rules of Civil Procedure. "This is not a case

where the plaintiff has been tripped up by 'mere technicalities,' but rather, the plaintiff has omitted the gravamen of his complaint." *Kyle*, 144 F.3d at 457. Plaintiffs' Complaint is a pastiche of the generally acknowledged horrors of slavery, totally devoid of allegations of concrete, specific, ascertainable injury to the Plaintiffs or corresponding conduct committed by Defendants. "This glaring gap in the complaint leaves total speculation as the only alternative for the court to come up with any set of facts justifying relief." *Id.* at 454. Defendants cannot be deemed to have fair notice of Plaintiffs' claims when they are based solely on speculation. Further, the court cannot indulge this speculation and attempt to determine whether Plaintiffs' Complaint could set forth any set of facts justifying relief, as "[t]hat is not the court's job." *Id.* In short, Plaintiffs fail to present a well-pleaded complaint that can withstand scrutiny under Rule 12(b)(6), even under liberal notice pleading standards.

C. Statutes of Limitations

As an additional argument in support of dismissal, Defendants argue that Plaintiffs' claims are time-barred by operation of various statutes of limitations. Once again, although the court has dispositively determined that Plaintiffs lack standing to bring the claims raised in their Complaint, that these claims present a non-justiciable political question, and fail to state a claim upon which relief can be granted, with an abundance of caution, the court will also determine whether statutes of limitations defenses would also constitute an independent basis for dismissal.

1. Overview of Statutes of Limitations

The concept of limitations periods to the bringing of legal actions has been well-established in the law for centuries. Limitations on actions can be traced back to early Roman law. See *Developments in the Law: Statutes of Limitations*, 63 HARV. L. REV. 1177 (1950) (citing Sohm, *The Institutes of Roman Law* 318-22 (Ledlie's trans., 3d ed.1907)). As part of our Anglo-American common law system of law, statutes of limitations can be traced as far back as 1189 for actions concerning property right disputes. See Thomas E. Atkinson, *Some Procedural Aspects of the Statute of Limitations*, 27 COLUM. L.REV. 157, 162 (1927) (chronicling the history of statutes of limitations). While the concept of statutes of limitations has evolved over the centuries well beyond the realm of property law, the general principles behind this concept remain the same.

One principle behind statutes of limitations is the promotion of justice. In his work *The Path of the Law*, Oliver Wendell Holmes reflected on statutes of limitations, asking: "What is the justification for depriving a man of his rights, a pure evil as far as it goes, in consequence of the lapse of time?" Oliver W. Holmes, Jr., *The Path of the Law*, 10 HARV. LREV. 457, 476 (1897). ^{1FN331} To answer Holmes' question, the justification is fairness to litigants. This fairness is achieved through two goals of statutes of limitations: first, to provide the defendant notice of the plaintiffs claims; and second, to provide repose to the defendant. "Statutes of limitations ... in their conclusive effects are designed to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared." *Order of Railroad Telegraphers v. Railway Express Agency*, 321 U.S. 342, 348- 49

1944. Statutes of limitations are based on "[t]he theory that even if one has a just claim it is unjust not to put the adversary on notice to defend within the period of limitation and that the right to be free of stale claims in time comes to prevail over the right to prosecute them." *Id.* at 349. In addition, the Supreme Court has explained that:

FN33. Also reflecting on the purposes served by statutes of limitations, the Supreme Court once stated: "Statutes of limitations always have vexed the philosophical mind for it is difficult to fit them into a completely logical and symmetrical system of law." *Chase Sec. Corp. v. Donaldson*, 325 U.S. 304, 313.

*45 Statutes of limitations find their justification in necessity and convenience rather than in logic. They represent expedients, rather than principles. They are practical and pragmatic devices to spare the courts from litigation of stale claims, and the citizen from being put to his defense after memories have faded, witnesses have died or disappeared, and evidence has been lost. [citation omitted] They are by definition arbitrary, and their operation does not discriminate between the just and the unjust claim, or the voidable and unavoidable delay. They have come into law not through the judicial process but through legislation. They represent a public policy about the privilege to litigate. Their shelter has never been regarded as what is now called a 'fundamental' right or what used to be called a 'natural' right of the individual. [Plaintiffs] may, of course, have the protection of

the policy while it exists, but the history of pleas of limitations shows them to be good only by legislative grace and to be subject to a relatively large degree of legislative control.

Chase Sec. Corp., 325 U.S. at 314.

The procedural requirements established by various legislatures for gaining access to the courts are not to be disregarded out of a vague sympathy for particular litigants. See *National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 122 S.Ct. 2061, 2071 (2002) (citing *Baldwin County Welcome Center v. Brown*, 466 U.S. 147, 152 (1984)). "Statutes of limitations are not arbitrary obstacles to the vindication of just claims, and therefore they should not be given a grudging application." *Cada v. Baxter HealthCare Corp.*, 920 F.2d 446, 453 (7th Cir.1990). Statutes of limitations are regulations set by the legislature, designed to set a time period in which to file an action. "They protect important social interests in certainty, accuracy, and repose." *Id.* "Though rarely the subject of sustained scholarly attention, the law concerning statute of limitations fairly bristles with subtle, intricate, and often misunderstood issues...." *Wolin v. Smith Barney Inc.*, 83 F.3d 847, 849 (7th Cir.1996).

A plaintiff may not base [the] suit on conduct that occurred outside the statute of limitations unless it would have been unreasonable to expect the plaintiff to sue before the statute ran on that conduct, as in a case in which the conduct could constitute, or be recognized, as actionable harassment only in the light of events that occurred later, within the period of the statute of limitations. *National R.R. Passenger Corp.*, 536 U.S. at 117 (quoting *Galloway v. General Motors Service Parts Operations*, 78 F.3d 1164 (7th Cir.1996)).

Two important concepts frequently addressed by litigants when dealing with statutes of limitations are accrual and tolling. Accrual denotes the point in time when an action can be maintained. "A cause of action 'accrues' when a suit may be maintained thereon, and the law in this regard differs from state-to-state and by nature of action." *Deluxe Black's Law Dictionary*, 6th edition at 21 (1990). The proverbial clock starts to run when the action accrues. It is not the date on which the wrong that injures the plaintiff occurs, but the date--often the same, but sometimes later--on which the plaintiff discovers that he has been injured. While discovery of the injury in some cases may be complex, in others it would be immediately obvious, as in the case of the brutal application of the lash, the turning of the screw, or the tightening of the leg chains nightly to a post. As a complement to accrual,

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tolling is a concept which suspends the running of a limitations period to an accrued action. The proverbial clock is stopped when the action is tolled.

2. Statutes of Limitations as Applied to Plaintiffs' Claims

*46 Since statutes of limitations are defenses to claims, a plaintiff ordinarily need not anticipate or attempt to defuse these defenses in a complaint. See Gomez v. Toledo, 446 U.S. 635, 640 (1980). However, "[a] litigant may plead itself out of court by alleging (and thus admitting) the ingredients of a defense...." United States Gypsum Co. v. Indiana Gas Co. Inc., 350 F.3d 623, 626 (7th Cir.2003) (citation omitted); see also Bennett v. Schmidt, 153 F.3d 516, 518 (7th Cir.1998) ("Litigants may plead themselves out of court by alleging facts that establish defendants' entitlement to prevail."); See Line R.R. Co. v. St. Louis S.W. Ry. Co., 125 F.3d 481, 483 (7th Cir.1997 (indicating that a "plaintiff can plead himself out of court by alleging facts which show that he has no claim, even though he was not required to allege those facts").

The allegations of Plaintiffs' Complaint do admit the ingredients of a statute of limitations defense. Plaintiffs allege that their claims arise out of the institution of human chattel slavery as it existed in America, and acknowledge that this institution ended in 1865. SCAC, ¶ 5. Plaintiffs, however, claim that these injuries are recurring as long as Defendants do not provide a proper accounting of the profits allegedly gained by them or their predecessors throughout the years from commercial activities relating to the institution of slavery. See, e.g., *id.* ¶ 58, 3(a) (demanding that Defendants "provide a full accounting of their actions, including, but not limited to, turning over all documents in their possession related in any way to the slave trade and slavery").

Plaintiffs' claims fall into three groups: common law claims, state statutory claims, and federal statutory claims. FN34 Plaintiffs' common law claims include: Count I: Conspiracy, Count II: Conversion, Count III: Unjust Enrichment, Count IV: Replevin, Count V: Intentional Infliction of Emotional Distress, and Count VI: Negligent Infliction of Emotional Distress. Plaintiffs' sole federal statutory claim is Count IV: 42 U.S.C. § 1982. [FN35] Plaintiffs' state statutory claims, included in Counts VII through XIII, allege violations of consumer protection laws in New York, Texas, California, Illinois, Louisiana, and New Jersey.

FN34. The court notes that neither Plaintiffs nor Defendants engage in a choice of law analysis. As to Plaintiffs' state law claims, the court normally would apply the choice of law principles of the state in which each transferor court sits. See Erems v. John Deere Co., 494 U.S. 516, 518-19 (1990) (indicating that in actions transferred pursuant to 28 U.S.C. § 1407(a), the transferee court applies the choice of law principles of the state where the transferor court sits for an analysis of state law claims). The court notes that the vagueness of Plaintiffs' Complaint prevents a thorough choice of law analysis.

FN35. Plaintiffs allege two separate versions of "Count IV."

Defendants point to the law of Illinois as an example to show that Plaintiffs' state common law claims are time-barred by many years, and extrapolate that all of Plaintiffs' claims would also be time-barred under any conceivable choice of law analysis using the law of any given state, or federal law. Mem. in Supp. of Defs.' Mot. to Dismiss II, at 1, 4. Plaintiffs fail to object to Defendants' argument, and do not argue that there is any material conflict among the various state choice of law principles that could be applied in this case. Therefore the statutes of limitations for Plaintiffs' claims are as follows:

- Civil Conspiracy--five years. See e.g., Wilson v. Giesen, 956 F.2d 738, 740-41 (7th Cir.1992).

- *47 - Conversion--five years. See, e.g., Bontkowski v. Smith, 305 F.3d 757, 763 (7th Cir.2002); 735 ILL. COMP. STAT. 5/13-205.

- Unjust Enrichment--five years. See, e.g., Burns Philp Foods Inc. v. Cavalea Cont'l Freight, Inc., 135 F.3d 526, 527 (7th Cir.1998); 735 ILL. COMP. STAT. 5/13-205.

- Replevin--five years. See, e.g., Hitt v. Stephens, 675 N.E.2d 275, 277 (Ill App.Ct.1996); 735 ILL. COMP. STAT. 5/13-205.

- Intentional Infliction of Emotional Distress--two years. See, e.g., Dahl v. Fed. Land Bank Assn of W. Ill, 572 N.E.2d 311, 314 (Ill App.Ct.1991); 735 ILL. COMP. STAT. 5/13-202.

- Negligent Infliction of Emotional Distress--two years. See 735 ILL. COMP. STAT. 5/13-202.

- 42 U.S.C. § 1982--two years. See, e.g., Honorable v. The Easy Life Real Estate Sys., Inc., 182 F.R.D. 553, 563 (N.D.Ill.1998).

- New York Consumer Protection from Deceptive Acts and Practices Laws, N.Y. Gen. Bus. Law § § 348, 350--three years. See, e.g.,

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Saskel v. Handler, 736 N.Y.S.2d 853, 855 (N.Y. Sup. Ct. 2001); N.Y. C.P.L.R. § 214.

• Texas Deceptive Trade Practices and Consumer Protection Act, Tex. Bus. & Com. Code Ann. § 17.41--two years. *See* Tex. Bus. & Com. Code § 17.565.

• California Business and Professions Code § 17200 et seq.--four years. Cal. Bus. & Prof. Code -- 7208.

• Illinois Consumer Fraud and Deceptive Business Act, 815 Ill. Comp. Stat. 505/1--three years. *See, e.g., Dreisilker Elec. Motors Inc. v. Rainbow Elec. Co.*, 562 N.E.2d 970, 972-3 (Ill. App. Ct. 1990); 815 ILL. COMP. STAT. 505/10a(e).

• Louisiana Unfair Trade Practices and Consumer Protection Law, La Rev. Stat. Ann. § 51:1401--one year. *See* La Rev. Stat. § 51:1409(e).

• New Jersey Unfair Trade Practice Law, N.J. Stat. Ann. § 56:8-1--six years. *See, e.g., Mirra v. Holland Am. Line*, 751 A.2d 138, 140 (N.J. Super. Ct. App. Div. 2000).

Given that the institution of chattel slavery in the United States ended in 1865, Plaintiffs' century-old claims would have accrued by 1865 at the latest. The longest limitations period for any of Plaintiffs' century-old claims is five years, which would have run well over a century prior to the filing of the instant Complaint. If cognizable claims ever existed, those claims were owned by former slaves themselves, and became time-barred when the statutes of limitations expired in the nineteenth century. As such, Plaintiffs' century-old claims are barred by the statutes of limitations in every jurisdiction.

Plaintiffs, however, also allege that Defendants are currently making intentional misrepresentations regarding Defendants' past involvement in the institution of slavery, and that these misrepresentations presently violate various state consumer laws. The court finds, however, that Plaintiffs have not alleged that any concrete, material misrepresentations were made to any specific Plaintiffs within the various statutory periods. Plaintiffs' allegations of continuing misrepresentations by Defendants include the following. "Two years ago, Aetna expressed regret for 'any involvement' it 'may have' had in insuring slaves. Today it stands by that statement and says it has been able to find only seven policies insuring 18 slaves." SCAC, ¶ 230. "While abhorring slavery, Richmond, Virginia-based CSX offered an online statement that noted the lawsuit filed against it and 'other corporations demanding financial reparations is

wholly without merit and should be dismissed.'" Id. ¶ 233. "J.P. Morgan spokesman Thomas Johnson said that the 'allegations are without merit' and that the company's archives don't support the claims in the litigation." Id. ¶ 236. "CN's Chicago-based spokesperson, Jack Burke, denies up and down that the company, or any of its predecessors, profited from slave labor." Id. ¶ 239. "A FleetBoston spokesman said it appears there is no connection to Brown's bank, though FleetBoston doesn't have records that date back 200 years." Id. ¶ 243. "R.J. Reynolds spokeswoman Maura Payne said the allegations are 'completely without merit' because the company was founded in 1876, a decade after slavery was abolished." Id. ¶ 245.

*48 In essence, Plaintiffs allege that Defendants have made intentional misrepresentations about their involvement with slavery for many years, and that Defendants continue to do so today. However, the specific statements alleged in Plaintiffs' Complaint, as listed in paragraphs 227-256, reveal no more than that Defendants have made generalized denials of the merits of Plaintiffs' lawsuit. Plaintiffs point to no concrete instances of material misrepresentations that have been made by Defendants within any of the statutory periods prescribed under the state consumer law counts. *See Harley-Davidson Motor Co. v. Powersports, Inc.*, 319 F.3d 973, 989 (7th Cir. 2003) (a misrepresentation occurs where a party makes an assertion "that does not accord with facts as they exist"); *Neder v. United States*, 527 U.S. 1, 22 (1999) (a statement is material if a reasonable individual would believe it to be important in "determining [a] choice of action...."). Plaintiffs, in fact, fail to allege that Defendants have engaged in any actionable fraudulent or deceptive business practice under the respective state statutes within the respective statutory time frames. *See infra* IV.B. Plaintiffs' state law consumer claims are therefore barred by the above cited statutes of limitation. JFFN3 1

FN36. Nothing in Plaintiffs' Complaint suggests that these State consumer law claims were even remotely contemplated by any Defendant or predecessor during the time slavery existed as an institution in the United States. The court also notes that Plaintiffs' first Complaint alleged Counts of Accounting and the Alien Torts Claims Act. The court found that these Claims were also barred by the applicable statutes of limitations. *See In re Slave Descendants Litigation*, 304 F.Supp.2d 1027, 1068-1070 (N.D.111.2004).

3. Doctrines to Extend Statutes of Limitations Periods

Plaintiffs attempt to avoid having their claims deemed time-barred by arguing a number of doctrines. Specifically, Plaintiffs contend that all of the respective statutes of limitations should be categorically tolled based on several undeveloped theories, including either the discovery rule, the continuing violation doctrine, equitable estoppel, or equitable tolling. Mem.in Opp.to Defs.' Mot to Dismiss 1, 16-24; Mem.in Opp.to Defs.' Mot to Dismiss 11, 1, 5-8. These four principles, in one way or another, allow a plaintiff to bring a claim that on its face falls outside a statute of limitations. Both the discovery rule and the continuing violations doctrine deal with when the accrual of a claim is established. In contrast, the doctrines of equitable estoppel and equitable tolling allow a plaintiff to assert a claim after it has accrued by tolling the respective statutes of limitations. However, as the court will discuss below, these doctrines cannot revive claims already barred by a statute of limitations.

a. Discovery Rule

The discovery rule postpones the beginning of a limitations period until such time as the plaintiff discovers the injury, or through reasonable diligence should have discovered the injury. *See Cada*, 920 F.2d at 450. The discovery rule thus keeps a claim from accruing until the plaintiff knows or through reasonable diligence should have known of the injury. *See TRW Inc. v. Andrews*, 534 U.S. 19, 27 (2001).

In support of their argument that the discovery rule should delay accrual of their claims, Plaintiffs argue that "[slaves] were not privy to every legal harm they suffered, nor the causes and extent of those harms." SCAC, 1 44. Specifically, Plaintiffs argue that "in their miserable condition which was a direct result of slavery ... although intimately familiar with their pitifully horrific condition, [they] were not aware of the nature of the investments, insurance policies, joint ventures and other schemes and conspiracies developed and utilized by these defendants ... to profit from slavery." Mem.in Opp.to Defs.' Mot to Dismiss 1, at 17; Mem.in Opp.to Defs.' Mot to Dismiss 11, at 1.

*49 In response, Defendants assert that Plaintiffs' Complaint fails to allege any act committed by any specifically named Defendant or their predecessors

which was intended to conceal any cause of action from any Plaintiffs or their ancestors. Mem.in Opp.to Defs.' Mot to Dismiss 11, at 5. Further, Defendants argue that since the alleged injuries were known, or knowable, to Plaintiffs' ancestors over a century ago, the discovery rule is simply inapplicable in this case. Mem.in Opp.to Defs.' Mot to Dismiss 1, at 23-24.

Plaintiffs are attempting to recover for injuries incurred by their ancestors over a century ago. Plaintiffs' ancestors knew or should have known that they were being brutalized and wrongfully forced to work for people, plantations, companies, and industries without being compensated. If they did not know of their exact injury at the time it occurred, they certainly should have known of it after the Civil War, the passing of the Civil War Amendments, or even the Civil Rights Movement of the 1960s. Furthermore, there is evidence that other former slaves were aware of their injuries and previously have attempted to recover for them well before this action was filed. *See, e.g., Johnson v. McAdoo*, 45 App. D.C. 440 (D.C.1916) (evidencing a claim for slavery reparations nearly a century ago).

Plaintiffs would have the Court extend the applicable statutes of limitations indefinitely, or at least until all of the discovery Plaintiffs desire is completed. "By tying the start of the limitations period to a plaintiffs reasonable discovery of a pattern rather than to the point of injury or its reasonable discovery the [discovery] rule would extend the potential for most ... cases well beyond the time when a plaintiffs cause of action is complete." *Rotella v. Wood*, 528 U.S. 549, 558 (2000). The mere fact that Plaintiffs' ancestors did not know exactly how much profit was made from their slave labor is not enough to establish that the discovery rule should apply in this case. "The federal common law discovery rule does not permit the plaintiff to delay filing its lawsuit until all foreseeable harms arising from the injury are actually experienced, but only until the plaintiff discovers the predicate injury." *Brademas v. Indiana Housing Finance Authority*, 354 F.3d 681, 687 (7th Cir.2004). The predicate injury in this instance was the institution of slavery itself. Plaintiffs make a veiled attempt to tie the beginning of the statutes of limitations periods to the discovery of the damages that flowed from slavery, rather than the predicate injury itself. Again, the discovery doctrine only extends the statutes of limitations until the predicate act is discovered, not until all discovery of its consequences is completed. *See Rotella*, 528 U.S. at 558. Therefore, the discovery rule, when applied in this instance, does not delay accrual of the claims

alleged.

b. Continuing Violation Doctrine

*50 The continuing violations doctrine, although slightly different from the discovery rule, allows the plaintiff to file an action when there is a continuous series of injuries stemming from the same injury. Under this doctrine, the statutes of limitations are not tolled *per se*, but rather left open until a final injury has accrued. See Heard v. Sheahan, 253 F.3d 316, 319 (7th Cir.2001). "The plaintiff must show a 'continuing violation,' which the Seventh Circuit has described as a 'continuous series of events giving rise to a cumulative injury.'" Hoagland v. Town of Clear Lake, Ind., 344 F.Supp.2d 1150, 1162 (N.D.Ind.2004) (quoting Heard, 253 F.3d at 320). "The continuing violation doctrine allows a complainant to obtain relief for a time-barred act of discrimination by linking it with acts that fall within the statutory limitations period." Filipovic v. K & R Exp. Systems, Inc., 176 F.3d 390, 396 (7th Cir.1999) (citing Selan v. Kiley, 969 F.2d 560, 564 (7th Cir.1992)). Courts will then treat the series of acts as one continuous act ending within the limitations period. See *id.* "Unlike tolling principles, this doctrine is not equitable in nature; rather, it is 'best described as a doctrine governing the accrual of a claim.'" Macklin v. United States, 300 F.3d 814, 824 (7th Cir.2002) (quoting Pitts v. City of Kankakee, 267 F.3d 592, 595 (7th Cir.2001). The continuing violation doctrine is applicable only if it would have been unreasonable to expect the plaintiff to sue before the statute ran on the conduct. See *id.*; see also Galloway v. General Motors Serv. Parts Operations, 78 F.3d 1164, 1167 (7th Cir.1996). "In other words, a plaintiff who feels discriminated against by a discrete act, but fails to timely file charges on that act, cannot later reach back to those events when the statute of limitations expires in order to form a continuing violation claim." Tinner v. United Ins. Co. of Amer., 308 F.3d 697, 708 (7th Cir.2002).

As a preliminary matter, Plaintiffs assert that the continuing violation doctrine should be applied to their demand for an accounting. See Mem.in Opp.to Defs.' Mot.to Dismiss II., at 7-8. Plaintiffs assert that they are continually hurt because they have not received an accounting of the monies owed to them and their ancestors for work they did while enslaved, and that Defendants continue to profit from the revenue they earned from the labor of Plaintiffs' ancestors. In support of their argument that the continuing violations doctrine should delay accrual of their claims, Plaintiffs argue that Defendants' failure

to provide a proper accounting of the profits allegedly gained by them or their predecessors throughout the years from commercial activities relating to the institution of slavery constitutes a continuing violation. In response, Defendants argue that Plaintiffs do not allege a continuing violation; rather, they are alleging a single event with purported continuing injuries. Mem.in Supp. of Defs.' Mot.to Dismiss I, at 25; Mem.in Supp. of Defs.' Mot.to Dismiss II, at 1.

*51 With respect to this assertion, the underlying injury concerns the denial of payments for the forced labor of Plaintiffs' ancestors. All of the other ills and consequences that flowed from this injury, no matter how dreadful, do not constitute new or continuing claims. They are merely the alleged effects of an injury that occurred over a century ago, and not a continuing series of acts. See Diliberti v. United States, 817 F.2d 1259, 1264 (7th Cir.1987) (citing Ward v. Caulk, 650 F.2d 1144, 1147 (9th Cir.1981) ("A continuing violation is occasioned by continual unlawful acts, not by continual ill effects from an original violation."); Oppenheim v. Campbell, 571 F.2d 660, 662 (D.C.Cir.1978) (without any continuing unlawful actions by defendant, plaintiffs claim accrued when he was "first harmed")).

Plaintiffs also assert that Defendants' present day failure to produce an accounting of whether they profited from the slave trade constitutes a new and continuing violation. Mem.in Opp.to Defs.' Mot.to Dismiss II, at 7-8. Again, Plaintiffs' assertions are incorrect. Plaintiffs' assertions are merely a veiled attempt to circumvent the statutes of limitations for their underlying claims. Plaintiffs have not alleged any new unlawful conduct by Defendants; but have merely alleged a continuing adverse consequence of prior unlawful conduct. See Diliberti, 817 F.2d at 1264. Therefore, the continuing violation doctrine, when applied in this instance, does not delay the accrual of the claims alleged.

c. Equitable Estoppel

Equitable estoppel allows a plaintiff to bring a cause of action after a statute of limitations has expired when the "defendant takes active steps to prevent the plaintiff from suing on time." Brademas, 354 F.3d at 686-87 (quoting Sharp v. United Airlines, Inc., 236 F.3d 368, 372 (7th Cir.2001)); see Lucas v. Chicago Transit Auth., 367 F.3d 714, 722 (7th Cir.2004). For example, a defendant can prevent a plaintiff from filing his or her claim on time either by informing the plaintiff that the defendant will not

assert the statute of limitations as a defense, or by fraudulently concealing the injury after the fact. *See Holmberg v. Armbricht*, 327 U.S. 392, 396-97 (1946); *Brademas*, 354 F.3d at 686-87 (citing *Sharp*, 236 F.3d at 372). "The 'granting of equitable estoppel should be premised on a defendant's improper conduct as well as a plaintiffs actual and reasonable reliance thereon.' " *Hentosh v. Herman M. Finch Univ. of Health Sci. of the Chicago Medical School*, 167 F.3d 1170, 1174 (7th Cir.1999) (quoting *Wheeldon v. Monon Corp.*, 946 F.2d 533, 537 (7th Cir.1991).

Plaintiffs do not assert, nor is there any indication, that Plaintiffs failed to file their claims within the appropriate time limitations because Defendants promised not to plead the statutes of limitations as a defense. Rather, Plaintiffs assert that they did not properly file their claims within the appropriate time frame because of Defendants' unwillingness to divulge information about their ties to slavery, and that Defendants actively misled them; in other words, Plaintiffs allege that Defendants fraudulently concealed their involvement with slavery. *See* SCAC, 1 227; *Mem. in Opp. to Defs.' Mot. to Dismiss I*, at 22-23. Specifically, Plaintiffs assert that:

*52 (1) defendants withheld documents and information related to their illegal profits from slavery and/or lied about their participation in slavery; (2) the fact that the defendants benefitted from concealing the information and that the concealment was so complete, provides a sufficient basis to conclude that they were aware of the concealment; (3) plaintiffs did not know of the defendants conduct or illegal profits and therefore could not have known of the concealment and/or misrepresentations; (4) defendants in concealing the information knew that this concealment would protect them from accountability for their actions; (5) plaintiffs' lack of information was reasonable and in good faith given the nature of defendants' conduct and plaintiffs' conditions; and (6) clearly justice would not be served by allowing the defendants to benefit from their concealing behavior as measured against the extreme harm suffered by plaintiffs and their ancestors.

Mem. in Opp. to Defs.' Mot. to Dismiss I, at 23. In response, Defendants assert that Plaintiffs fail to plead, let alone particularize, the required elements of equitable estoppel.

Plaintiffs have not asserted any facts alleging that any Defendant concealed information in a way that would have prevented Plaintiffs' ancestors from asserting their claims within the proscribed statutes of

limitations periods. Plaintiffs do not allege that Defendants concealed the injury. In fact, the injury was not concealed, but rather quite obvious when inflicted. Plaintiffs merely make vague generalizations about Defendants and their perceived practices. Plaintiffs' vague assertions are not enough to satisfy the requirements for equitable estoppel. *See Hentosh*, 167 F.3d at 1174; *see also Williamson v. Indiana Univ.*, 345 F.3d 459, 463 (7th Cir.2003) (denying equitable estoppel based on plaintiffs failure to present any evidence that defendant took active steps to prevent her from bringing her charge within the allotted time). Therefore, equitable estoppel, when applied in this instance, does not toll the statutes of limitations. *See Martin v. Consultants & Adm'rs. Inc.*, 966 F.2d 1078, 1095 (7th Cir.1992) (fraudulent concealment requires some sort of trick or contrivance by a defendant).

d. Equitable Tolling

"Equitable tolling applies when a plaintiff, despite due diligence, is unable to obtain enough information to conclude that there is a basis for a claim." *Brademas*, 354 F.3d at 686-87 (citing *Sharp*, 236 F.3d at 373). As distinguished from equitable estoppel, equitable tolling "permits a plaintiff to sue after the statute of limitations has expired if through no fault or lack of diligence on his part he was unable to sue before, even though the defendant took no active steps to prevent him from suing." *Singletary v. Continental Ill. Nat'l Bank & Trust Co.*, 9 F.3d 1236, 1241 (7th Cir.1993) (citing *Heck v. Humphrey*, 997 F.2d 355, 357 (7th Cir.1993)); *see also Cada*, 920 F.2d at 451 (indicating that equitable tolling does not require a finding of any conduct on the part of the defendant). "Equitable tolling is frequently confused with both fraudulent concealment [equitable estoppel] on the one hand and with the discovery rule--governing, as we have seen, accrual--on the other hand." *Cada*, 920 F.2d at 451.

*53 Equitable tolling "halts the running of the limitations period so long as the plaintiff uses reasonable care and diligence in attempting to learn the facts that would disclose the defendant's fraud or other misconduct." 4 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedures* § 1056, at 239 (3d. ed.2002); *see also Cada*, 920 F.3d at 451. When dealing with equitable tolling between two innocent parties, "the negligence of the party invoking the doctrine can tip the balance against its application...." *Jackson v. Rockford Housing Auth.*, 213 F.3d 389, 397 (7th Cir.2000) (quoting *Cada*, 920 F.2d at 453). A plaintiff invoking equitable tolling to

suspend the statute of limitations must bring suit within a reasonable time after he has obtained, or by due diligence could have obtained, the necessary information.

Plaintiffs assert that in this instance the only relevant question as to equitable tolling is "whether the circumstances preventing the plaintiffs from gaining equal access to the justice system over the past decades are sufficiently extraordinary to justify application of the equitable tolling doctrine." Mem. in Opp. to Defs.' Mot. to Dismiss I, at 19. Plaintiffs base this assertion on the fact that they were only recently able to obtain the necessary information to assert their claims, as a result of the "uniquely catastrophic historical context from which their class is still seeking to advance and from which the defendants are still profiting." Id. at 20.

It is true that because of the institution of slavery, the Jim Crow laws, and the lingering bigotries and separatist views following the Civil War, African-Americans were obstructed from obtaining necessary information on their claims and in some instances access to the legal system. Nevertheless, Plaintiffs' ancestors knew of their injury at the time that it occurred. They knew, or should have known, that they were wrongfully being forced to work without compensation, and that somebody was making a profit from their labor. Yet, neither Plaintiffs nor their ancestors ever asserted these claims in a court of law until now. Plaintiffs have not shown that they acted with all due diligence in attempting to obtain vital information about their claims, and assert them timely. See Marbury, 5 U.S. at 163 ("The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury").

Plaintiffs' contentions fly in the face of numerous well-settled legal principles and history. African-Americans, as well as various other ethnic groups, have previously brought claims seeking reparations in one form or another, against both public and private entities. See Johnson, 45 App. D.C. at 440; see also Deutsch, 317 F.3d at 1028-29 (affirming dismissal of slave labor claims against private corporations as, *inter alia*, time-barred), amended by 324 F.3d 692; Wolf, 95 F.3d at 544 (dismissing claims against private defendant on standing grounds); Kelberine, 363 F.2d at 992 (dismissing on justiciability and statute of limitations grounds reparations claims for World War II era slave labor against a private company); In re Nazi Era Cases Against German Defendants Litig., 129 F.Supp.2d at

389 (dismissing slave and forced labor claims as nonjusticiable); Iwanowa, 67 F.Supp.2d at 424; Burger-Fischer, 65 F.Supp.2d at 248. Plaintiffs merely make vague assertions and generalizations as to their claims and the state of the legal system. Plaintiffs' vague assertions and generalizations are not enough to toll the statutes of limitations on their claims. Plaintiffs' Complaint is nothing more than an attempt to by-pass the various statutes of limitations by chronicling the social inequities and injustices that have befallen African-Americans as a result of slavery. The statutes of limitations, however, "are not to be disregarded by courts out of a vague sympathy for particular litigants." Morgan, 122 S.Ct. at 2071. The doctrine of equitable tolling therefore does not apply in this instance.

4. Conclusion

*54 Plaintiffs' attempt to bring claims over a century old are barred by the applicable statutes of limitations. Plaintiffs have failed to assert any factual or legal basis for allowing them to proceed with their cause of action in light of when their claims accrued or when, with due diligence, Plaintiffs found that they would have accrued. Plaintiffs attempt to avoid this legal reality by pleading vague factual generalities and chronicling the social and economic injustices that have befallen African-Americans due to slavery. However, statutes of limitations serve to promote justice for litigants, see Donaldson, 325 U.S. at 314, which cannot be disregarded out of vague sympathy for Plaintiffs and their claims. See Morgan, 122 S.Ct. at 2071. Therefore, the court finds that Plaintiffs' claims are barred by the applicable statutes of limitations.

V. CONCLUSION

It is beyond debate that slavery has caused tremendous suffering and ineliminable scars throughout our Nation's history. No reasonable person can fail to recognize the malignant impact, in body and spirit, on the millions of human beings held as slaves in the United States. Neither can any reasonable person, however, fail to appreciate the massive, comprehensive, and dedicated undertaking of the free to liberate the enslaved and preserve the Union. Millions fought in our Civil War. Approximately six hundred and twenty thousand died. Three hundred and sixty thousand of these individuals were Union troops. Union soldiers, sailors, and marines gave their lives on bloody battlefields and the sea to maintain one sovereign nation in which slavery would be eradicated. The impact of this struggle on the families of the

wounded and the dead was immeasurable and lasting. The victorious and the vanquished together shared the cup of suffering. Death deprived the youthful warriors of the opportunities that survivors of the War would enjoy. The impact of this struggle on the Union as a whole was also significant. The enslavers in the United States who resisted or failed to end human chattel slavery sustained great personal and economic loss during and following the four years of the War. Generations of Americans were burdened with paying the social, political, and financial costs of this horrific War.

Finally, in 1865, this great human and economic tragedy ended. The ultimate objectives, the preservation of the Union and the eradication of slavery, were accomplished. The "yoke of bondage" was removed from Garrison Frazier, to whom we earlier referred, and millions of other slaves. The freed slaves then began another journey, this time not from captivity to slavery, but from slavery to citizenship and equality under the law. All of the participants had endured great suffering in this momentous conflict. It takes little imagination to understand the tremendous disruption and destabilization the Civil War caused America's existing social and political institutions. And yet, the dark clouds following the War were giving way to a future brighter than the great majority could have imagined in 1865. The extremely difficult task of amending the Constitution three times was accomplished in approximately five years, granting former slaves freedom, citizenship, and the right to vote. The citizens of the Union would move onward to meet the challenge made by President Lincoln on March 4, 1865, "to achieve and cherish a just and lasting peace, among ourselves and with all nations."

*55 Plaintiffs' Complaint, which seeks reparations for Defendants' alleged roles in chattel slavery, the institution that precipitated this great conflict, fails based on numerous well-settled legal principles. First, Plaintiffs' claims are beyond the constitutional authority of this court. Without alleging any specific connection between themselves and the named Defendants, Plaintiffs lack essential constitutional standing requirements to bring their claims. Second, prudential limitations prohibit the court from deciding such broad questions of social importance when such claims are brought on behalf of absent third parties, as Plaintiffs attempt here. Third, the long-standing and well-reasoned political question doctrine bars the court from deciding the issue of slavery reparations, an issue that has been historically and constitutionally committed to the Legislative and

Executive branches of our government. Fourth, Plaintiffs' claims are untimely. Conceding that many of the torts alleged in the Complaint occurred prior to the formal end of slavery, Plaintiffs fail to show how any of these claims fall within the applicable statutes of limitations. Finally, under the rules of procedure which guide the federal judicial system, Plaintiffs' Complaint fails to state a claim upon which relief can be granted, a serious defect the court cannot overlook regardless how egregious the circumstances giving rise to the claims.

In summary, Plaintiffs' attempt to bring these claims more than a century after the end of the Civil War and the formal abolition of slavery fails; this determination is consistent with the position taken by numerous courts which have considered the issue over the last century. Ultimately, the legal obstacles prohibiting judicial resolution of such claims cannot be circumvented by the courts. Moreover, from the onset of the Civil War until present, the historical record clearly shows that the President and Congress have the constitutional authority to determine the nature and scope of the relief sought in this case, not the courts. This is historically manifested in the signing of the Emancipation Proclamation, the enactment of the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution, and the promulgation of over a century of civil rights legislation and governmental programs. The sensitive ear has heard the collective "thank you" from those who were freed, as well as the historic apologies in words and deeds from persons of good will for the evils of slavery.

The court therefore finds that the defects in Plaintiffs' Second Consolidated and Amended Complaint cannot be cured by further amendment. For the foregoing reasons, Defendants' Joint Motion to Dismiss brought pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6) is granted with prejudice.

IT IS SO ORDERED.

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Should corporations be held accountable for slavery?

By **Stacy A. Teicher**, Staff writer of The Christian Science Monitor

January 30, 2004

For companies that want to do business with the city of Chicago, winning the bid isn't the only hurdle. They also have to look deep into their past and reveal if they or their predecessor companies had any ties to slavery.

The city council set that condition in 2002, after Alderman Dorothy Tillman held hearings for local African-Americans to tell of slavery's impact on their families. California passed a similar law in 2000, more narrowly focused on insurance companies that protected the value of enslaved Africans as property.

Bringing to light the economic legacy of slavery is the primary goal, say supporters of the laws. But there's no denying a connection to the reparations movement. Plaintiffs in a current lawsuit argue that nearly 20 companies - in industries ranging from insurance to tobacco - should pay into a trust fund to improve the economic status of the black community. Although the plaintiffs were dealt a setback Monday, when a federal judge in Chicago dismissed the suit, they still have an opportunity to amend their complaint or appeal his decision.

A number of city and state lawmakers have eyed Chicago and California as models, but if these local ordinances catch on, it's difficult to predict what broader effects they'll have.

"It forces Americans to [think about] the extent to which corporations ought to be held responsible for slavery," says Steven Scalet, a professor of philosophy and economics at Binghamton University, part of New York's state university system. "In the best-case scenario, it will create a healthy national debate. Another scenario, however, is that [the ordinances] just heighten antagonisms."

Many Americans believe it's absurd to hold modern businesses accountable for practices that took place more than a century ago and were sanctioned by the government.

Even if companies have historical records stretching back that far - which they haven't been legally required to keep - their main responsibility is to current employees and investors, says William Carney, a law professor at Emory University in Atlanta.

"If I'm a stockholder and the company decides to give away some of my money [for reparations], I may not be very pleased ... because I don't feel any personal responsibility for [slavery]; my ancestors were still in Ireland," he says.

But it's difficult to have a debate about whether reparations are justified if the public can't see how much some groups profited from slavery and others were harmed by it, says Tom Hayden, a longtime civil rights activist and former California senator.

Mr. Hayden originally pushed for survivors of the Holocaust and Japanese internment camps to be able to sue for reparations. He expanded his efforts to include the slavery issue after hearing about an African-American researcher who asked Aetna to disclose its slavery insurance policies. In early 2000, Aetna not only did so, but also issued an apology. Later that year, the law Hayden sponsored enabled California to publish the names of more than 600 slaves and 400 owners from the records of seven insurance companies.

Chicago hasn't yet seen such concrete results. Out of thousands of companies that have turned in affidavits, only one, Lehman Brothers, has acknowledged any record of a slave. Martha (no last name was recorded) served as a domestic in the home of the founding brothers. (The company contends the business itself had no ties to slavery; the reparations lawsuit disputes that.)

Companies facing local disclosure laws generally believe that if they don't make a big deal out of it, the issue will fade away, according to a lawyer on the corporate side of the reparations case who asked not to be named. Unlike the movement to get companies to divest from apartheid South Africa, the slavery issue, he says, resonates less with the public because it doesn't touch on current policies.

Many people also believe the United States government has done enough to help African-Americans collectively. But reparations advocates argue that in some parts of the country, slavery continued well into the 20th century, and freed slaves and their families never received the promised "40 acres and a mule." Since other groups, such as Japanese-Americans, have received reparations, they say African-Americans should, too.

If the lawsuit approach seems too confrontational, it's only because negotiations with companies and longstanding efforts to have Congress study the reparations issue have gone nowhere, says Diane Sammons, one of the plaintiffs' lawyers with the New Jersey firm of Nagel Rice & Mazie.

Ultimately, both the lawsuit and local ordinances aim to create enough pressure for a political solution.

"To us, reparations is the signature issue for the 21st century," says Paul Washington, chief of staff for New York City Councilman Charles Barron, whose resolution in support of the corporate lawsuit is stuck in committee. "It was the African slaves that leveled the land, that built the infrastructure of New York City, and this resolution highlights [their] contributions."

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Black labor and the fight for reparations



SLL photo: Stephen Millies

This article was first published in August 2002 and has been lightly updated.

“Probably every slave imported represented, on the average, five corpses in Africa or on the high seas. The American slave trade meant, therefore, the elimination of 60 million Africans.”

—Armet Francis, “The Black Triangle”

“As valuable a family as was ever offered for sale, consisting of a cook about 35 years of age, and her daughter about 14, and son about 8. The whole will be sold together or a part of them, as may suit a purchaser.”

—Ad in The Charleston (South Carolina) Courier, April 12, 1828

The bones of enslaved Africans lie in unmarked graves on both sides of the Atlantic and beneath its gray waters. But the wealth slave labor created is not gone with the wind. It lives on as capital in the huge fortunes of “great” capitalist families — the Rockefellers, Morgans, Mellons, DuPonts and others — who have invested it again and again. It is in the skyscrapers of Manhattan and New England’s Ivy League universities. It is in railroads, airlines, steel mills, auto plants, oilfields, hotels, dotcoms and telecoms. It lies in bank vaults beneath Wall Street and is traded on the New York Stock Exchange.

Those who “own” this wealth have power over those whose ancestors created it — and over working people in every country. When bankers “red line” a Black community or foreclose on homes, they exercise that power. So does a corporation when it shuts a plant in South Carolina or the South Bronx to seek still cheaper labor in Haiti or Mexico. It is on display when plant shutdowns devastate Black and other working-class communities. It is in action when the World Bank forces an African country to “open” its public sector to Western investors in order to eventually privatize it.

Profits from the slave trade “provided one of the main streams of capital accumulation in England that financed the Industrial Revolution,” wrote Eric Williams, the first prime minister of Trinidad and Tobago. Malachi Postlethwayt, an 18th-century slavery apologist, called the British empire a “magnificent superstructure of American commerce and naval power built on an African foundation.” Britain’s North American colonies that rose on that foundation became the United States. Ports like Boston, New York City, Baltimore and Charleston were built on the “triangular trade” that brought enslaved Africans to Caribbean sugar plantations.

The New York Stock exchange now stands on what was once an auction block for slaves.

For much of the 19th century, cotton grown by enslaved Africans made up 60 to 80 percent of U.S. exports. Slave-grown tobacco and rice comprised much of the rest. Slave-grown cotton also fed New England’s textile mills, which gave birth to U.S. industrial production. In 1860 the “market value” of the 4 million human beings

enslaved in the US South was \$3.5 billion. That's nearly \$4 trillion in today's money and more than the combined value of all factories and railroads in the United States at the time.

The wealth of many top U.S. corporations can be traced directly to slavery. Fleet-Boston Bank, once Providence Bank, was founded by Rhode Island slave merchant James Brown, who also endowed Brown University. Yale and the University of Virginia are also among the universities endowed by slave merchants and slave owners. Yet, while the racist "war on drugs" has sent millions of Black youth to prison, Black students make up under 6 percent of the Yale student body.

Slave owners who got rich in the cotton trade started Lehman Brothers investment bank. Alex Brown and Sons, which merged with the German giant Deutsche Bank in 1999, financed the cotton trade. DB is the Trump empire's biggest creditor.

Brown Brothers Harriman made a fortune loaning plantation owners money to buy slaves. When the planters could not meet their debt, Brown seized and worked their assets, including the slaves. A one-time partner was Prescott Walker Bush, whose grandson lived in the slave-built White House, thanks to an electoral-college system created to give slave owners political power. Prescott Bush continued the firm's tradition by doing business with the Nazis. Prescott Bush was on the board of directors of the Thyssen steel and coal company in Germany, which financed Hitler's rise to power.

The second-largest banking group in the U.S. is JPMorgan Chase, a merger of the Rockefeller and Morgan banking empires. In 2019 it made over \$44 billion in operating profits on assets of \$2.687 trillion. Among the banks merged into it are Citizens Bank and Canal Bank of Louisiana, who loaned plantation owners the mopey to buy slaves. Between 1831 and 1865, those banks accepted 13,000 enslaved human beings as "collateral" on loans. In June of this year, a study by Chicago newsrooms City Bureau and WBEZ found JPMorgan Chase to have the most racist lending practices of any bank in that city of 1 million Black people. For every dollar invested in white neighborhoods, it loaned 2.4 cents to Black communities (The Nation, Daniel Fernandez, July 6, 2020.)

Because of slave rebellions and escapes, the slave trade could not survive without insurance. Lloyds of London, the giant shipping broker, made a fortune insuring slave ships. U.S. insurance giants Aetna, New York Life and AIG acquired companies that insured slaves as “property.” Today these same insurance firms are pushing doctors and employers to cut health costs while millions of African Americans are without health insurance.

Before the Civil War, “the backbone of the South’s railway labor force of track repairmen, station helpers, brakemen, firemen and sometimes even engineers” was slaves, wrote University of Pennsylvania historian Walter Licht in “Working on the Railroad.” After emancipation, the rail bosses forced Black workers out of most of these jobs. It wasn’t until the 1960s that Black railroad employment rose again.

Slaves, usually “rented” from their owners, built 94 rail lines in the old South. Today Norfolk Southern, CSX, Union Pacific and Canadian National own these lines. The big railroad companies have eliminated nearly 800,000 jobs over the past four decades, striking hard at Black communities.

The Capitol building was also built by slave labor. A freed Black architect designed much of Washington. George Washington, a very wealthy slave owner, had the city built between the states of Virginia and Maryland to take advantage of slave labor. Today you will find many descendants of slave owners in the millionaires’ club called the U.S. Senate, but only three descendants of slaves. Only 10 African-Americans have served in the US Senate since 1789.

Today U.S. corporations still benefit from the legacy of slavery, lynch law and “Jim Crow.” Witness the lucrative modern slavery of the prison-industrial complex, the lower average wages paid to Black workers and the union organizing drives broken by racist division.

The long fight for reparations

Ever since 1865, when President Andrew Johnson revoked Gen. William Tecumseh Sherman’s Special Field Order 15, which promised freed Black families 40 acres and a mule, the fight for reparations has been part of the Black freedom movement. In

the 1890s, after bloody massacres overturned Reconstruction in the South, the Mutual Ex-Slaves Relief Bounty and Pension Association was formed to fight for them. Between 1890 and 1910 at least five bills for reparations were introduced in Congress.

In 2002, Daedra Farmer-Paelman, whose research has uncovered many corporate ties to slavery, launched a class-action suit against Aetna Life insurance, FleetBoston Bank and CSX Railroads on behalf of all the descendants of slaves.

In June, New York State Assembly member Charles Barron introduced Bill A3080A to the Assembly, calling on New York to pay reparations to African-Americans who live in the state.

“When we come together around serious issues like reparations, we are not playing,” said Barron at a July 2 press conference by the African Burial Ground in lower Manhattan. “We don’t play with the blood of our ancestors. Reparations is a debt owed. A crime has been committed. A people have been injured. And compensation is due.” He called for people to contact their state representatives and demand the bill be passed. “Whenever they say they want to make up a task force, ask them who makes up the task force?”

Andre Powell is an executive board member of AFSCME Local 112 who attended the 2001 United Nations World Conference against Racism in Durban, South Africa, where reparations gained worldwide attention. Powell said: “The fight to be paid for work performed is a basic trade union demand. But it goes beyond that. It exposes the fact that profits are nothing but unpaid labor and that idea terrifies Corporate America.

“Karl Marx said that ‘capital is dead labor that lives anew by the hand of the living.’ Corporate America owes its wealth and power over us to the dead labor of generations of Black people who were literally worked to death. The fight for reparations can turn this whole country around.”

Sources for this article include Daedra Farmer-Paelman, “Capitalism and Slavery” by Eric Williams and “How Europe Underdeveloped Africa” by Walter Rodney.

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THE DEBT

By MATTHEW KAUFFMAN

Hartford Courant • Sep 29, 2002 at 12:00 am



James Forman stepped into The Riverside Church in Harlem clutching a cane in one hand and a copy of his "Black Manifesto" in the other. It was May 4, 1969, and the mostly white congregation -- 1,500 voices strong -- was singing the Sunday service's opening hymn, "When Morning Gilds the Skies."

As the final strains of the church organ faded, Forman made his move, climbing the six chancel steps, turning around to face the stunned congregation and issuing his demands in a slow and forceful voice.

The veteran civil rights activist wanted \$500 million from religious institutions for the mistreatment of blacks during and since slavery, as well as free office space for his organization, including unlimited long-distance telephone calls.

He gave the church a week to come up with a suitable down payment.

Forman got his picture in the papers the next day, but he didn't get much more. His critics -- far more focused on his tactics than his message -- denounced the demonstration as an act of "intimidation," "invasion" and "blackmail." In time, Forman moved on to other battle fronts. The media moved on to other stories. And the concept of reparations slipped from the nation's conscience.

For more than 100 years that has been the fate of those who have pondered whether African Americans -- past, present or both -- are owed compensation for the horror and the legacy of slavery.

It's an idea dating at least to the closing days of the Civil War, when freed slaves were offered -- and then denied -- the iconic 40 acres and a mule. But for most of its history, the idea of reparations for black Americans has been perceived as a quest that spanned only that limited portion of the political spectrum between the radical fringe and the lunatic fringe.

Not anymore.

The reparations movement -- and only of late has it grown to something that could fairly be called a movement -- is suddenly a hot and serious topic from barbershops to university classrooms to the Capitol dome to that most inescapable of forums: the federal courthouse.

Earlier this year, a group of high-profile lawyers sued Aetna Inc., FleetBoston Financial Corp. and railroad giant CSX Corp., seeking profits the companies allegedly earned from their participation -- or, at least, complicity -- in the slave trade. Aetna endorsed the concept of human bondage by selling plantation

owners insurance policies covering slaves. Fleet Bank took over Providence Bank, which financed slave-trading expeditions. And CSX was sued because predecessor railroad lines were "constructed or run, at least in part, by slave labor."

Similar lawsuits in the past garnered mostly snickers. This one was front-page news.

A second salvo was fired earlier this month, when suits were brought against a variety of tobacco, textile, railroad and financial-services companies. The defendants are not the only companies entwined in slavery, which was the law in much of the land until 1865. But just as the lawsuit is partly symbolic, so are the companies, standing for an endless roster of firms, North and South, dirtied by slavery.

Paying for sins of the past

≡ **Hartford Courant**

LOG IN

Jonathan Trumbull, from the textile barons to the ivory cutters, from Yale University to The Hartford Courant -- and see a land whose individuals, industries and institutions got rich off the exploited labor of their kidnapped ancestors.

Now, they say, it's payback time.

Even as public sentiment seems to turn against decades of affirmative action, the reparations question has curiously elbowed its way out of the shadows and struck a chord with mainstream black America.

Studies suggest that about two-thirds of blacks favor reparations in some form while, in another stark example of the yawning racial divide in this country, nearly 90 percent of whites oppose them.

Even proponents of reparations lack unanimity, with vastly different arguments, approaches and solutions. Some want a recommitment to education and

employment programs for blacks. Some want a slave museum and an airing of the nation's complicity in the slave trade and the repression of black advancement. Others want money, measuring the debt in the millions, billions, even trillions of dollars.

But virtually all agree that simply provoking a debate on the merits of reparations will help the country, if not to come to terms with, then at least to face a shameful past.

"There is much fessing-up that white society must be induced to do here for the common good," writes Randall Robinson in "The Debt: What America Owes to Blacks," the closest thing the movement has to a present-day manifesto. "First, it must own up to slavery and acknowledge its debt to slavery's contemporary victims. It must, at long last, pay that debt in massive restitutions made to America's only involuntary members."

To critics, it all seems hopelessly stuck in the past. To them, slavery is remote, a misdeed from another time committed by long-dead perpetrators on long-dead victims; its sins washed away by decades and generations, with no one left to blame and no one left to make whole.

But Robinson and others see a clear line from the shackles of 19th century slavery to 21st century poverty and ghettoization. They say the racial gap in income, mortality, educational opportunity and incarceration is evidence of a debt that remains unpaid.

The continuing slave toll

While the Thirteenth Amendment abolished slavery in 1865, blacks were treated by law as second-class citizens for most of the next century -- deprived of political power, denied quality schooling and excluded from the suburban housing boom. Slaves may have helped build the nation -- serving as currency in the Triangle Trade and working vast plantations as close by as Salem and Colchester -- but

government-sanctioned racism prevented generations of free blacks from sharing the wealth.

In their 1995 book "Black Wealth/White Wealth," professors Melvin Oliver and Thomas Shapiro calculate that discrimination in housing markets will cost the current generation of black Americans \$82 billion, mostly in lost home equity. Unabated, that discrimination will cost the next generation \$93 billion, they say.

For most whites, there is a disconnect between slavery and the present. But the wounds are fresh for many blacks. "We are owed for 500 years of terrorism," Illinois State Sen. Donne Trotter said at a reparations rally last month in Washington, D.C. "We want to be paid and we want to be paid now."

That perspective explains why supporters of reparations have been energized by cash payments given over the past 20 years to Jews enslaved during the Holocaust and to Japanese Americans interned during World War II.

Opponents point out a critical and obvious distinction: Those reparations were generally paid to actual victims, not to their distant descendants. But supporters say that misses the point. Blacks living in America today, they say, are the victims of slavery.

"The great-great-great-great-grandchildren of slaves," Robinson writes, "are owed not just for their forebears' labor, or for the humiliation of performing it, but for every devastating failure since, engendered by their government on the basis of race."

Getting skeptical whites -- and blacks -- to accept that social problems today are the direct legacy of slavery will be key to building broad support for reparations.

It would seem an impossible task, but there has been progress. Several prominent civil rights leaders, including the Rev. Jesse Jackson and Coretta Scott King, have expressed support for reparations, as have politicians in a dozen cities, where resolutions have passed supporting a congressional study of reparations.

Chapters of the National Coalition of Blacks for Reparations in America -- N'COBRA -- have sprung up around the country. Last month's Millions for Reparations rally in Washington, although much smaller than organizers had hoped, was nevertheless a milestone.

The haves and have nots

Still, even those inclined to see a lasting debt to black America are often stymied by a tricky question: Who would pay, and who would benefit?

Is a debt owed by whites whose immigrant ancestors arrived in the United States decades after slavery ended, facing poverty and discrimination of their own?

Do the descendants of the Union Army soldiers who fought and died to defeat the Confederacy owe reparations?

What about Latinos or Asians or gays or women, who have all been harmed by discrimination? Should they pay?

And would mixed-race Americans pay reparations, or receive them?

Supporters of reparations say they aren't looking to heap blame on individuals. Instead, they are seeking reparations from the entire society, through the government, for lingering injustices.

It was the U.S. government that paid money to Japanese Americans, not the individual internment-camp guards. And the tax money came from all Americans, including, of course, Japanese Americans.

At the same time, Robinson notes that white Americans have profited from their skin color, regardless of their ancestry or their utter lack of culpability for slavery.

"No, it isn't you," he writes, "but you are the beneficiary of the accumulation of wealth gained at someone else's expense and suffering. Or you are the beneficiary of discriminatory practices that favored one race over another."

White immigrants might be free of the stain of slavery, but they also might have faced fewer barriers in education, employment and housing -- the cornerstones of wealth in America.

Nevertheless, the question of reparations inevitably stumbles on the emotionally loaded question of who is to blame and who owes an apology.

At last month's reparations rally in Washington, the official chant was "They owe us!" and it wasn't hard to figure out who "they" were.

At the same time, the New Black Panther Party hawked "Kill Whitey" T-shirts. And Charles Barron, a New York City council member, let loose the bizarre line: "I want to go up to the closest white person and say, 'You can't understand this, it's a black thing,' and then slap him, just for my mental health."

Some saw the whole affair as a divisive effort to guilt-trip white Americans. And they resist even an apology for slavery -- as President Clinton considered offering.

In 1997, Clinton apologized for the infamous Tuskegee Syphilis Study in which scientists intentionally withheld treatment from hundreds of poor black sharecroppers over four decades to study the effects of the disease. Two years earlier, he apologized for human radiation tests. And in recent years, the Southern Baptist Convention has apologized for its history of racism, the Pope has apologized for the Catholic Church's past treatment of Jews and blacks, and British Prime Minister Tony Blair apologized for the potato famine.

But Clinton stopped short of an apology for slavery, and many in the United States resist the idea, saying no one alive today has anything to apologize for.

Denying America's history

While many whites are comfortable distancing themselves from slavery and its ill effects, many blacks see white America as deeply in denial about the nation's treatment of blacks.

The U.S. Capitol was built with slave labor, but you won't find a plaque recognizing the slaves' contribution. Eight of the first 12 presidents owned slaves, but our reverence for them is little diminished. The National Statuary Hall in the Capitol houses life-sized bronze statues of Confederate leaders Jefferson Davis and Robert E. Lee, and the powerful in Congress are willing to see them as local heroes, rather than traitors to the United States.

That's why Robinson says whites have some fessing up to do, including an apology, in both words and reparations.

But reparations for whom?

Beyond the jokes that a reparations fund would have lily white Americans scouring genealogical records for their African roots, there are more serious discussions about who ought to benefit from reparations. Is Michael Jordan due money? Is Oprah Winfrey?

Opponents and even many supporters of reparations bristle at the thought of millions of checks dropped in the mail to every African American, although some are warm to the idea of a tax cut for blacks (offset, perhaps, by an increase in the inheritance tax). But most supporters -- including the individual plaintiffs in the corporate lawsuits -- favor the establishment of a fund that would be used to assist African Americans most injured by the legacy of slavery.

Some want money for housing, school construction, new jobs, college tuition or medical care. Others suggest allocating land, giving to black charities or setting money aside for a slavery museum on the scale of the recently built Holocaust museum in Washington. Still others take a global view and propose reparations for African nations, typically in the form of debt forgiveness.

So how much? It's a question many supporters avoid, because it's sure to overwhelm any discussion on the merits of reparations. U.S. Rep. John Conyers Jr. of Michigan has tried for 13 years to get Congress to consider his bill to study

reparations. But he has offered no specifics, saying, "to rush forward with suggestions at this point would only further divide us."

Putting a price tag on slavery is an exercise in intellectual fancy, with an unlimited number of plausible answers. Some would update Union Gen. William Tecumseh Sherman's offer in 1865 to provide freed slaves with 40 acres and a mule. (President Andrew Johnson overruled Sherman later that year and ordered the confiscated land returned to its Confederate owners.) Take their value in 1865, add 137 years' interest, multiply by 4 million slaves and, according to the Progressive Labor Party, you get a bill for \$6.55 trillion -- a number higher than the national debt.

Others look to the value of unpaid slave labor, putting the figure, including interest, at anywhere from \$2 trillion to \$12 trillion.

The numbers abound: \$100,000 a head, \$275,000 a head, \$100 billion in tax credits. In an essay in "The Wealth of Races," economist Robert Browne writes that the goal of reparations should be to "restore the black community to the economic position it would have had if it had not been subjected to slavery and discrimination."

An honorable goal, but how would one calculate that?

The growing racial divide

To some, the reparations movement ignores the progress blacks have made since the end of slavery and dismisses governmental efforts to narrow the socioeconomic racial gap. Federal and state governments have enforced civil rights legislation, promoted minority scholarships and spent billions on welfare, low-income housing programs and initiatives to spur minority-owned businesses.

"For almost 40 years," writes James McWhorter, an African American commentator who opposes reparations, "America has been granting blacks what any outside observer would rightly call reparations."

Willie Gary, one of the lawyers in the suit against the corporations, was one of 11 children born to migrant farmers. Now a hugely successful Florida lawyer, Gary owns a Boeing 737 and parks his-and-her Rolls Royces in the garage of his home.

The biography on his website opens with this stark assessment: "Willie E. Gary lives the American Dream."

But the Willie Garys aside, supporters of reparations say that whatever the nation has done in the past 40 years, it hasn't been nearly enough for the great majority of African Americans. Indeed, the revival of the reparations debate reflects a frustration that nearly four decades after the civil rights heyday, there hasn't been more progress in lifting the black underclass.

Ten years ago, black students in Connecticut who took the SAT lagged behind white students by an average of 199 points. In the decade since, average scores for blacks have actually fallen, with the gap increasing to 226 points.

"We saw the gaps narrowing 15 to 20 years ago," said Brian O'Reilly, executive director of the College Board. "But for the past several years, they have widened again."

Thirty-nine years after Martin Luther King Jr.'s book "Why We Can't Wait," many are still waiting.

The pitfalls of reparations

But even some who grow impatient with that wait are unsure about reparations, saying any race-based initiative is a setback for those who strive for a colorblind society. Some also say the reparations movement promotes black victimization and fosters the notion that blacks are somehow psychically defective and must be rescued by whites.

Still others say reparations would backfire because whites would see it as settling the score on the nation's racial divide, forever eliminating the need for laws or

programs to help minorities.

A few note that African Americans have the highest standard of living of any nation's black population. Conservative thinker Dinesh D'Souza writes that if the slave trade had not transplanted their family trees on these shores, modern-day blacks would probably be in worse shape in Africa than in America.

His critics say that if that's true, it is only because slavery robbed Africa of its most able citizens, hobbling the continent's cultural and economic development for centuries. African nations, they say, are also the victims of the slave trade, owed trillions in reparations from the West.

One side says it was blacks in Africa who turned over their shackled countrymen to slave traders on the shore. The other side says it was only the greedy businessmen in the United States and Britain who made the trade so irresistibly profitable.

And the finger-pointing continues.

But that sort of back-and-forth leaves supporters of reparations undaunted. Some, in fact, are heartened, because any discussion of the drawbacks of reparations necessarily sparks a debate on its merits as well.

Most just want to get the discussion going. And if there is any disappointment, it is that the debate has taken so long to flourish.

More than 130 years ago, U.S. Rep. Thaddeus Stevens of Pennsylvania pressed for legislation that would give land and money to freed slaves, saying blacks were doomed without an economic base from which to prosper.

"I must earnestly pray that this may not be defeated," he said. "On its success, in my judgment, depends not only the happiness and respectability of the colored race, but their very existence."

Few were listening, despite Stevens' prediction that a refusal to act would hang over the nation as a curse for generations to come.

"If we fail in this great duty now, when we have the power," Stevens warned his colleagues, to no avail, "we shall deserve and receive the execration of history and of all future ages."

Sources for this article include: "The Debt: What America Owes to Blacks," Randall Robinson, 2000, Dutton "The Case for Black Reparations," Boris I. Bittker, 1973, Random House "The Wealth of Races: The Present Value of Benefits from Past Injustices," ed. by R. F. America, 1990, Greenwood Press "Black Wealth/White Wealth," Melvin L. Oliver and Thomas M. Shapiro, 1995, Routledge National Coalition of Blacks for Reparation in America -- www.ncobra.com

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From: Virginia Manbeck <manbeckv@yahoo.com>
Sent: Friday, January 6, 2023 4:16 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Retiree Health Care Legislation

Members of New York City Council:

Please don't fix what is not broken. Please do not amend Admin Code 12-126. I have been covered by the city health plan since 1964. The health care I have received has been the best and it has been reasonable. I once asked a physician why he worked for HIP. His answer was he felt he could refer patients for any specialty care needed without concerns about quality of treatment or cost. The Medicare Advantage Plus plan that would replace my current HIP VIP plan costs more and offers less. Some doctors say they will refuse to accept this plan. Clearly it is inferior to the present plans if it costs patients more and doctors are reimbursed less. Please don't fix what is not broken.

Virginia Manbeck
DC 37 Retiree

JANUARY 9, 2023

TESTIMONY OF WALTER A. CZWARTACKY

TO THE

NEW YORK CITY COUNCIL

COMMITTEE ON CIVIL SERVICE AND LABOR

CARMEN DE LA ROSA, CHAIRPERSON

My name is Walter A. Czwartacky.

I am a 71-year-old NYC retiree.

I retired from the Department of Sanitation in November of 2013 after 35 years of service to the City.

If the Council adopts the changes to NYC Administrative Code Section 12-126 Chairperson De La Rosa has introduced on behalf of the Mayor, you and your colleagues will be forcing me and other existing NYC retirees to either assume a sizeable and punishing economic burden in order to keep the high-quality premium free health insurance we were promised, earned and now enjoy or replace it with a free federally subsidized privately run Medicare Advantage plan that will offer us access to fewer doctors and hospitals and make critical decisions regarding our health care needs subject to prior approval procedures designed to ‘control’ costs and maximize profits.

Medicare Advantage began as a brilliant idea to foster public-private partnerships that would keep older people healthier and reduce costs. It received bipartisan support and was hailed as a win-win-win for patients, providers and payers. Today, a different consensus has emerged: Medicare Advantage is a failure. Government audit reports, professional organizations and investigative journalists have documented that: seniors are receiving less and poorer health care than under traditional Medicare; Doctors are being forced to delay needed treatments and place their patients in danger until they can secure prior authorizations or negotiate the reversal of decisions to deny treatments they consider necessary and; the Federal government is spending more per capita on Medicare Advantage than on traditional Medicare. Furthermore, eight of the ten largest insurance companies offering Medicare Advantage plans have been or are now defendants in False Claims Act lawsuits brought by whistleblowers and the Department of Justice over billions in payments fraudulently requested and received. Clearly, Medicare Advantage, as it is now, is a health insurance model that places profits before care and fosters corruption.

NYC retirees deserve better.

Don't buy the BIG LIE! What you are hearing from administration officials, union leaders and some of your colleagues and what have read in recent press releases is UNTRUE. The report issued by Arbitrator Scheinman on December 15, 2022 does not obligate you to vote for changing 12-126 and imposing upon retirees the Hobson's choice I just described. Scheinman's report is not a decision, ruling or award and no retirees or retiree advocates were involved in the 'arbitration process' that led to its creation. The Scheinman report is a one-sided non-binding propaganda document brought to you by the Administration and the Municipal Labor Committee (MLC) and

is being used to mislead you into believing changing 12-126 is the best option for addressing rising health insurance costs and preserving choice.

That is not TRUE!

The NYC Organization of Public Service Retirees has identified at least \$300 million in savings that can be achieved without changing 12-126. OMB has been informed about some of these savings options and has not informed the City Council about them. Furthermore, OMB has refused to hear about or explore other real opportunities for savings. How can you and the Council make a decision on the best way forward if you are not being fully and honestly informed of all the options available?

You should also reach out to the NYC Organization of Public Service Retirees for the real facts about how to protect everyone's health insurance benefits and preserve choice! The pricing benchmark and the all-inclusive definition of the class it applies to that were included in 12-126 when it was adopted by the Council serve to define and protect the health insurance benefits of all active employees, including you, and all retirees. The proposed changes to 12-126 will empower the Mayor and the MLC to side step what is set forth in 12-126 to define new classes and set health insurance pricing benchmarks for those classes whenever they decide to and for any reason they want. The City Council and everyone else will be powerless bystanders. If the Mayor and the MLC make decisions that are just plain wrong or are designed to reward supporters, punish opponents or leverage votes, neither the Council, the City's legislative and budget making body, nor anyone else will have the authority to intervene. Clearly, adopting the proposed changes to 12-126 and enabling the Mayor

and the MLC to wield such power would diminish the authority of the Council, be very dangerous and wrong!

Like all retirees, I am sympathetic to the goal of better controlling the cost of healthcare benefits. But I do not believe the pursuit of that goal should fall so directly and heavily upon retirees. That our well-earned and justly awarded benefits are being regarded as a burden the City must shed is unfair and wrong. We did what we were asked to earn what was offered. We deserve to be respected, to have the commitments made to us honored, to keep the traditional Medicare and free supplemental health insurance we now have, to continue having our critical healthcare decisions made by doctors instead of administrators, and to be left alone to enjoy what time we have left.

PLEASE DEMAND OTHER OPTIONS BE EXPLORED.

PLEASE PROTECT THE HEALTH BENEFITS OF ACTIVE EMPLOYEES AND RETIREES.

PLEASE DO NOT EMPOWER THE MAYOR AND THE MLC TO SIDE STEP THE LAW.

PLEASE DO NOT DIMINISH THE AUTHORITY OF THE CITY COUNCIL.

PLEASE VOTE AGAINST CHANGING

NYC ADMINISTRATIVE CODE SECTION 12-126!

I thank you for affording me the opportunity to testify and very much hope I have convinced you to oppose changing 12-126.

JANUARY 7, 2023

TESTIMONY SUBMITTED

BY

WALTER A. CZWARTACKY

TO

**THE NEW YORK CITY COUNCIL
COMMITTEE ON CIVIL SERVICE AND LABOR
HON. CARMEN DE LA ROSA, CHAIRPERSON**

REGARDING

INT. NO. 874

**A LOCAL LAW TO AMEND SECTION 12-126 OF THE ADMINISTRATIVE CODE OF THE
CITY OF NEW YORK IN RELATION TO HEALTH INSURANCE COVERAGE FOR
CITY EMPLOYEES, CITY RETIREES, AND THEIR DEPENDENTS**

Thank you for affording me the opportunity to testify.

I am a 71-year-old New York City retiree.

I retired from the Department of Sanitation in November of 2013 after 35 years of service to the City.

With regard to the Aetna Medicare Advantage plan the Administration and the Municipal Labor Committee have told you about and want to force me and all other retirees into, I ask that you consider the following:

1. No retiree or retiree advocate was involved in the selection of Aetna and no retiree or retiree advocate was involved in the negotiations with Aetna. Simply put, the deal not reflect at all what retirees want or need because retirees were not in the room when it happened.

2. As allowed by current Federal law and regulations and as all other Aetna Medicare Advantage plans do, the plan you are being told about will, without a doubt, make critical decisions regarding a retiree's health care needs subject to prior approval procedures designed to control costs and maximize profits even if it means putting the health of a retiree at risk. The scope and focus of the procedures are likely being characterized to you as benign but as happened with the last Medicare Advantage plan offered to retirees the procedures will eventually be revealed by the small print to be onerous and extensive.
3. The number of doctors and hospitals that accept the plan will likely be smaller than the number retirees now have access to because many doctors and hospitals find the prior approval and other administrative procedures associated with Medicare Advantage plans to be overly intrusive, complex, time consuming and expensive. Despite claims made to the contrary, this proved to be the case with the last Medicare Advantage plan offered to retirees and nothing has changed in the interim to suggest the situation will be different this time.
4. If the Aetna Medicare Advantage plan is being characterized to you as superior to the Alliance Medicare Advantage plan offered to retirees in 2020, why wasn't Aetna chosen the first time?
5. Why did Aetna file a lawsuit challenging the selection of the Alliance and what was the result of the suit?
6. Given how much time has passed, how much has been learned about Medicare Advantage plans, and how things have changed, shouldn't a new and updated procurement request have been issued?

Medicare Advantage began as a brilliant idea to foster public-private partnerships that would keep older people healthier and reduce costs. It received bipartisan support and was hailed as a win-win-win for patients, providers and payers. Today, a different consensus has emerged: Medicare Advantage is a failure. Government audit reports, professional organizations and investigative journalists have documented that: seniors

are receiving less and poorer health care than under traditional Medicare; doctors are being forced to delay needed treatments and place their patients in danger until they can secure prior authorizations or negotiate the reversal of decisions to deny treatments they consider necessary and; the Federal government is spending more per capita on Medicare Advantage than on traditional Medicare. Furthermore, eight of the ten largest insurance companies offering Medicare Advantage plans have been or are now defendants in False Claims Act lawsuits brought by whistleblowers and the Department of Justice over billions of dollars in payments fraudulently requested and received. Clearly, Medicare Advantage, as it is now, is a health insurance model that places profits before care and fosters corruption.

Existing and future NYC retirees deserve better.

I urge you, therefore, to vote against changing 12-126 and to instead pass a local that will protect existing and future retirees by prohibiting the City from entering into a contract for a Medicare Advantage Plan until the Federal government has taken legislative and other substantive steps to transform Medicare Advantage back into what it was meant to be.

PLEASE VOTE AGAINST CHANGING NYC ADMINISTRATIVE CODE SECTION 12-126!

I am Walter Paul, Retired—Department of Education, 2014.

City Council members:

It is beyond my understanding that you still need to be urged to vote *against* amending 12-126.

You have long had the facts before you. You should have killed the idea of amending 12-126 before the notion of this hearing, let alone the vote, were scheduled.

The City's two most influential unions for non-police and non-firemen—DC37 and UFT have corporatists on their boards. They represent powerful interests first before their members. For that reason alone, the City Council should cry foul and vote against amending 12-126. To its shame, DC37 welcomes our secondary healthcare provider EmblemHealth to its board. Loyal to only their bottom line, this for-profit entity and other insurers are fighting fiercely to switch Americans into vastly more profitable AdvantageCare, REACH and Direct Contracting Entities. A series of articles in the New York Times last year revealed that most large insurers in Medicare Advantage plans have been accused in court of fraud.

Add in the reason that teachers like me took our job as the lowest-paid professionals because of the implicit contract by the City that we would be partially compensated by guaranteed quality, minimal cost healthcare in our old age.

And one more reason to vote No: You may deny it, but as former Middle Class wealth migrates surely to the top, there is a real movement afoot in this country privatize everything and to hobble Medicare as we now know it. Do not send ordinary New Yorkers off the slippery slope. Vote NO. You owe us that—we elected you.

Walter Paul
New York, NY 10009
walterpaul2@icloud.com

Do Not Modify 12-126

Purpose of Testimony

The purpose of this written testimony is to lend my support to those in opposition to the modification of Administrative Code 12-126. I call on ALL members of the New York City Council's Civil Service & Labor Committee, chaired by Council Member Carmen De La Rosa to soundly reject the Mayor's and the Municipal Labor Committee's (MLC's) demand to modify the code which has protected City workers since the mid-60s.

Introduction

My name is Wayne R. Nicholson, a native New Yorker, a life-time NYC resident currently residing in Council District #9, a voter, and a retiree after 36+ years of City service. I want you all to know that a Medicare Advantage Plan is not the same as regular Medicare. All one need do is pick up a newspaper from anywhere across the nation to find yet another article about fraud and scandal surrounding such Medicare Advantage Plans to conclude they're not the same. Regular Medicare does not put profits before people! In this regard, I am absolutely astounded that my NYC Council would even entertain the travesty of pulling the rug out from under me and my fellow retirees by diminishing our healthcare after retirement! How can this Council Committee even consider such an immoral, misguided, anti-labor, anti-Civil Service plan that will immediately impact the healthcare of some 250,000 retirees, eventually impact current actives upon their retirement, and even leave the door open to future anti-labor, anti-Civil Service healthcare diminishment strategies?

Discussion

Many of my 36+ years of city service were spent as a budget analyst. In fact, I entered city service in 1976 when the city was still reeling from the fiscal crisis of the early 70s. Every budget cycle I participated in included a PEG target. As a former budget analyst, I fully understand the temptation to save \$600 million annually on ever increasing healthcare costs by transferring those Senior Care costs to the Federal government. However, as I'm sure you already know, the cost for Senior Care represents a very small percentage of the city's overall annual healthcare expenditure, and more importantly that the retirees through the New York City Organization of Public Service Retirees (OPSR) have already identified some \$300 million in savings and remain willing to sit down with all interested parties to identify additional, on-going savings.

Not so long ago OMB would likely have rejected these dubious savings currently on the table in favor of other savings strategies that pose no threat to the healthcare continuity of a quarter million retirees. Further, I leave it to you consider how we got to this point in the first place. Perhaps the Health Stabilization Fund should NOT ever have been tapped to fund teacher raises in 2014 requiring on-going healthcare savings to replenish the fund? Perhaps it was unwise to thrust the replenishment responsibility onto the retirees who worked for 20, 30, 40, or more years and paid for their healthcare?

Personal Impact

As I mentioned earlier, after 36+ years of city service I retired in 2014. In 2018 I started spending time upstate in Ithaca, New York with family and friends. In fact, I spent many months in Ithaca during the very bleak days of the Covid pandemic in 2020. As a senior citizen I felt it important to have a healthcare provider in Ithaca and became an established patient with the Cayuga Medical Associates. Sometime in 2021 my former union (Organization of Staff Analysts) sponsored a series of zoom meetings for retirees with representatives of the city's Office of Labor Relations (OLR) and the chosen Medicare Advantage Plan at the time, the Emblem/Anthem Alliance. You will recall the Alliance backed out of the deal last summer after the first of two city/MLC court defeats (OPSR victories). At these meetings the retirees were told about the Alliance's "huge" network of participating physicians. We were also told that if our current physicians accepted Medicare, they would accept the MAP through the Alliance. We were also given an Alliance phone number to call with questions, and even to check to see whether our physicians were in Network. I called the Alliance to check but was told I had to find out for myself! The first inaccuracy. I then called the Cayuga Medical Associates to check since the Alliance couldn't provide that information. To my astonishment the Cayuga Medical Associates never heard of the Alliance and couldn't tell me whether the MAP would ever be accepted! Rather, they recommended I bring in my new medical cards once received for a final determination. So much for the assurance that if the physician accepts Medicare, they will accept the new MAP!

Admittedly, my personal impact experience is minor in comparison with the experiences of other retirees in NYC and in other parts of the country. Some of the retirees have serious medical needs, many retired years earlier than me. Please consider these retirees in your deliberations.

The Arbitrator's "Decision"

The following is from a January 2, 2023, communication from the OPSR entitled "A Message to NYC Council":

On December 15, 2022, Martin Scheinman issued a 31-page document that has no force of law. As the signature page at the end explains, it is just a "Recommendation". Scheinman has no authority to order the City and MLC to force retirees into Medicare Advantage, which is far worse than the traditional Medicare benefits that retirees have long received.

As he admits, his limited authority comes from a 2018 Agreement between the City and the MLC. Under Section 5 of that Agreement, he and two other members of the "Tripartite Health Insurance Policy Committee" are authorized to make "recommendations to be considered by the MLC and the City". The Agreement does not allow the Committee, let alone Scheinman alone, to order anyone to do anything. Moreover, the Agreement requires the Committee to make "recommend[ations] for implementation as soon as practicable during the term of this

Agreement but no later than June 30, 2020. Thus, not only are recommendations non-binding, but they are also now two and a half years too late.

Some have attempted to make Scheinman's document seem more consequential than it really is by calling it a "decision" or "order" or "award". However, it is none of those things. It is just a non-binding (and untimely) recommendation, as the document itself makes clear. Although the 2018 Agreement allows Scheinman to arbitrate certain disputes between the City and the MLC, there was no dispute between the City and the MLC here- both are aligned with respect to forcing Medicare Advantage on retirees. Thus, Scheinman was not acting as an arbitrator and was not issuing a ruling, decision, or award on anything.

Scheinman's document is a transparent and futile attempt to make it seem like the City is being ordered to take away traditional Medicare from retirees. The document does not-and-cannot-require the City, or anyone else, to do anything. If the Mayor wants to take away the healthcare rights of elderly and disabled retirees, he should not pretend that anyone is making him do it. And the City Council should not assist him in this charade by amending Section 12-126.

The City Council should not participate in the illegal effort to force Medicare Advantage on Retirees, who are entitled to the traditional Medicare benefits they were promised and which they desperately need. Let the Mayor be the one to strip retirees of these hard-earned benefits. The retirees will challenge him in court, and they will win. Again. But if the City Council amends Section 12-126, the path to victory in court becomes much harder. Give retirees the chance to fight and win in court with the current version of Section 12-126, which has existed for over half a century. If they lose, the City Council can always amend the statute later.

Conclusion

Thank you for the opportunity to address my concerns in this matter. PLEASE DO NOT AMEND SECTION 12—126. Retired city workers on Medicare no longer can change (or postpone) our retirements. Some of the retirees live with serious health issues and desperately need the traditional Medicare we were promised and paid for. We also no longer have unions that bargain for us which might very well be why we find ourselves in this predicament. We're counting on you to give us a fighting chance.

Yours truly,

Wayne R. Nicholson (Retired from HRA in 2014)
(Council District #9)

New York, NY 10035
waynernicholson@gmail.com

My husband Stanley Weinberg and myself, Carol Schneider Weinberg, are retirees from the New York City DOE. Our combined service of 70 years spanned from 1968-2006 with additional years as F-status employees. We were/are grateful for the health insurance afforded us both as Inservice and retirees from the DOE.

As we have aged, our visits to doctors have increased as have the need for various tests and an occasional hospitalization. We have been very fortunate to have **GHI-CBP** insurance. It has afforded us the ability to choose the best doctors for our needs and to have tests and admittances to hospitals, without having to deal with **the** question from the insurance company is this really necessary.

On Monday, January 9, 2023, a bill to modify **Administrative Code 12-126** will be presented. We are asking the Council to oppose any changes to the code regarding our healthcare. This code is literally the lifeline that protects the healthcare choices for **EVERY** city worker and retiree.

We encourage you to reach out to the **NYC Organization of Public Service Retirees** (<https://www.nycretirees.org/>). Ms. Marianne Pizzitola, the group's founder and an NYC EMS retiree to discuss this matter further

Thank you for your time
Carol and Stanley Weinberg

If you don't remember anything else I say today, please remember this: Medicare Advantage is neither Medicare nor an advantage for millions of Americans.

And I should know. I am a former healthcare executive who used to come up with PR and marketing schemes to sell these private insurance plans.

My name is Wendell Potter, and I'm a former Cigna vice president. My name was on all of Cigna's quarterly earnings reports for ten years. I had to know how the company made money and what it did with that money. My team and I also wrote talking points for our lobbyists.

I walked away from my career because I could not in good conscience keep lending my name to press releases and studies that all too often were biased. To this day, the industry churns out studies that omit or obscure facts and data the insurance industry does not want us to know about Medicare Advantage plans and other policies with sky-high deductibles. As a consequence, millions of middle-class families are now buried under a mountain of medical debt while insurers are posting record profits.

Medicare Advantage has become an enormous cash cow for insurers, in large part because they have developed a scheme to make enrollees seem sicker than they really are to get more of our tax dollars. The federal government estimated a few weeks ago that because of the way insurers have rigged the system, it overpaid Medicare Advantage plans by more than *\$11 billion in 2022* alone. To be blunt, they are stealing our tax dollars to enrich their shareholders.

In my written testimony, I provide evidence of how Medicare Advantage plans have bamboozled employers, unions, lawmakers, and the public for years for no reason other than to maximize profits and keep Wall Street happy. I hope you will find time to read it before you vote.

Medicare Advantage is a money-making scam. And I should know. I helped to sell it.

So I implore you not to vote in favor of herding the city's retirees into Medicare Advantage plans. Doing so will not make retirees healthier. But it **will** make the bottom line of big insurance corporations much healthier – with the hard-earned tax dollars of the people of this city.

Thank you.

From: Wendy Derevensky <wendygurtonderevensky@gmail.com>
Sent: Friday, January 6, 2023 9:24 PM
To: NYC Council Hearings
Subject: [EXTERNAL] My testimony for the civil service retiree benefits City Council hearing January 9, 2023

To the City Council Hearing court: This is my testimony for recognition at the City Council hearing on Monday, January 9, 2023 at City Hall on Civil Service Retiree health benefits and amending code 12-126.

I am a retiree from New York City Health and Hospital Corporation. I worked as an RN for the South Brooklyn community at Coney Island Hospital from 1989 to 2017. I hardly ever called in sick and dedicated myself to my patients and my colleagues. Over the course of these years, I sacrificed higher pay because I knew that my health benefits were good and would see me through retirement. I saw other nurses leave for better paying jobs in the private sector. Over the course of these years, I suffered an injury to my knee and an injury to my shoulder. I have needed physical therapy in the past and foresee needing further treatments and possible surgery in the future. Now I beg all members of city council not to change code 12-126 that would allow the MLC and the city to diminish and privatize my Medicare/senior care. Please let NYC retirees have a fighting chance to win this battle in court and keep our healthcare as is as was promised. Do not amend code 12-126.

Sent from my iPhone

My name is Wes Markusfeld and I am a City worker at NRG with the Department of Parks and Recreation. I am writing in strong opposition to Intro 874. I urge the Council not to support the Mayor's and the Municipal Labor Committee's attempt to force City retirees into a Medicare Advantage plan and undermine the health benefits City workers have been legally entitled to for decades.

The campaign from the administration and the MLC has described this proposed change to administrative code 12-126 as a way to "preserve choice" for retirees in their health care. In fact, the premium that will be attached to traditional Medicare (Senior Care) if the change goes through will be out of reach for many retirees on their incomes and would make it infeasible for them to remain with their current standard of care. Medicare Advantage has also been the subject of much reporting regarding fraud with the program and I am very concerned that this will be functionally the only option for many retirees who have been legally guaranteed a certain standard of benefits for decades.

As active workers, we have been told by our union leadership that it is necessary to put the Medicare Advantage switch in place in order for the City to fund our raises, or that we will be forced into paying health care premiums if the switch does not go through. I strongly object to retirees and active workers being pitted against each other when the City and unions could pursue other options. Retirees and the Professional Staff Congress have identified several alternative approaches to lower healthcare spending such as the City creating a self-insurance plan or all City workers' union welfare funds being consolidated for better leverage and group purchasing. I urge the Council to meet with these groups and hear about their proposals. For other active workers like myself, this change to the administrative code opens the door for our own healthcare benefits to be altered or for more "classes" to be created with diminished health care benefits, such as new hires. The City is already hemorrhaging workers, and gutting benefits will make it even more impossible to hire and retain talent while our essential agencies are already dangerously understaffed.

The Council should not play into the Mayor's and the MLC's plan to get around their legal obligations to retirees and should not pass Intro 874. Thank you,

Wes Markusfeld
NRG, Parks and Rec
DC 37 Local 1507

JANUARY 9, 2023

TESTIMONY SUBMITTED BY William Gargan

TO: THE NEW YORK CITY COUNCIL COMMITTEE ON CIVIL SERVICE & LABOR
HON. CARMEN DE LA ROSA, CHAIRPERSON

RE: INT. NO. 874 A LOCAL LAW TO AMEND SECTION 12-126 OF THE
ADMINISTRATIVE CODE OF THE CITY OF NEW YORK IN RELATION TO
HEALTH INSURANCE COVERAGE FOR CITY EMPLOYEES, CITY RETIREES,
AND THEIR DEPENDENTS

Thank you for affording me the opportunity to testify. I am a retired faculty member from Brooklyn College, CUNY.

I retired in 2018 after 40 years of service. My fellow municipal retirees and I earned the quality health care we were promised in our retirement. NYC broke that promise by attempting to shift 250,000 retirees into an inferior MA plan unless they came up with \$2,400 a year, per person covered, to keep traditional Medicare with "Senior Care" as their gap plan. Uniting under the banner of the New York City Organization of Public Service Retirees, we sued to protect our health care and won a decision from Judge Lyle Frank that was upheld on appeal. Rather than abide by the Judge's decision, the MLC & OLR are working in tandem to deny us our current benefits at no additional cost.

Weakening the administrative code will give the green light to Mayor Adams – or any future mayor -- to violate the longstanding promise of premium free health care the city has made to retirees. It will impose premiums, and force the many retirees who cannot afford to pay thousands of dollars a year onto an inferior Medicare Advantage plan. The change will have the potential to create a two-tiered system: one for those who can afford to pay for Senior Care and another for those who cannot. The amendment will have the potential to weaken benefits for active union members as well, which is why some unions within the MLC oppose it.

Indeed, something must be done to stem the rising cost of health care. However, placing the burden on retirees, those most in need of health care, is unjust. The retirees have identified at least \$300 million in savings. OMB knows about some of these saving options, and has NOT implemented them NOR informed the city council about them. Instead of amending 12-126, the Council should form a blue-ribbon committee to come up with new ideas, including those suggested by the Professional Staff Congress:

<https://psc-cuny.org/news-events/psc-cuny-proposal-for-nyc-employee-health-benefits-program/>

Please do not allow the City to make an end run around Judge Frank's decision. Do not be fooled by Scheinman's big lie. His recommendation is only his opinion and has no force of law. It is not binding on the City Council. Please protect the health benefits of retired as well as active employees and their dependents. Vote NO on amending 12-126.

William Gargan

Brooklyn, NY

From: William Isaacson <coleridge18y@gmail.com>
Sent: Tuesday, January 10, 2023 10:44 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Proposed changes by Speaker Adams

Please place me on record as being opposed to Speaker Adams' efforts to switch retired NYC workers to a private Medicare Advantage Plan. Thank you, William D. Isaacson

Honorable Members of the New York City Council

I am William G. Shenton. I live at _____ in Aberdeen Township, NJ.

I retired from the New York City Housing Authority in December, 2000. My wife, Susan and I are both on Medicare and get supplemental Insurance from NY City's GHI, emblem health senior care. I was a member of Teamsters Local 237 and received their drug coverage for my wife, Susan, and myself. Our drug coverage continued after I retired.

In 2016, Susan was diagnosed with an incurable autoimmune disease. In 2019, the FDA approved OFEV (which costs \$12,845 for a 30-day supply) to treat her condition and my union drug plan (underwritten by Aetna) does not cover this medication. Susan bought an individual Medicare Part D plan that covers this and her other 5 medications and had to drop my Union drug coverage. Her individual plan copays and premiums were \$10,740 in 2022. The Medicare advantage plan originally proposed by OLR would not have allowed Susan to keep her individual Part D coverage. Susan would have been put back into my Union plan and OFEV would not have been covered. She cannot afford to pay over \$12 thousand a month for this medication so would have had to either discontinue it or purchase a supplemental policy. She could not get a supplemental policy from NYC unless I too opted out of the advantage plan. That would have cost us about \$400 a month more. If she purchased a supplemental policy, she would lose her Part B reimbursement and must pay a monthly premium for the policy of about \$200. Susan's gross monthly income from pensions and Social Security is \$3,202.

When I joined the NYC workforce in 1969, I was promised a generous pension and medical care for myself and my wife for my entire life. My pay was not commensurate with that of my wife in private industry. The benefits for me and my family as well as the ideals of doing public service were my reasons for spending my entire working career with NYC.

The mayor, OLR and the MLC has proposed to amend city code section 12-126. Section 12-126 of the NYC code guarantees my benefits. If that code is changed, will my wife and I still be able to enjoy those benefits? What would that mean for all retirees? If another Medicare advantage plan is forced upon us, will my wife continue to have drug coverage or will she lose her benefit entirely as was the case with the last plan? The courts have ruled that City code section 12-126 guarantees employees and retirees cost free insurance so long as premiums are under a benchmark. The original proposed advantage plan was poorly thought out. There are circumstances that were not being considered so it did not adequately protect all retirees.

As a retiree, I am no longer represented by my union. The union's drug benefit has already failed my family. I have no say in union leadership. Who represents my interests now? The unions and OLR agree and want retirees to be the only ones who pay for the increased cost of health insurance. We will be harmed if that section of the code is changed.

Has anyone analyzed the results beyond the preliminary savings to the labor organizations and the city? Should NYC retirees be the only ones to bear the burden of funding health insurance cost increases for all municipal workers?

You are the only ones who can protect us from this attack on our benefits; the ones I was promised in 1969 when I became a member of New York City's workforce. The Unions want to protect the interests of the current employees and are doing this without regard for the retiree's interests who are not represented by them. Do not allow the unions to take from us to fund their current employee's interests. Let us work together to find savings.

Please protect us...do not amend section 12-126.

Thank you.

William Shenton

Honorable Council Members

I am William Shenton who retired from NYCHA in 2000. I submitted previous testimony explaining my reasons for being against changing Section 12-126. After watching the 1/9 hearing I feel compelled to submit further testimony.

If the Section 12-126 is not changed and the OLR decides to impose only one plan and that plan does not cover my or my wife's medical needs, I would have to drop my coverage and enroll in a plan that covers my needs. That plan might even be Medicaid if I am in a nursing home or it could be a private supplemental plan.

In either case, my and or my wife would lose our Medicare part B reimbursement. This is unfair and punitive.

Some of the OLR rules concerning split benefits should be examined. They are unfair and need to be changed.

I worked for the NYC Department of Education for 53 years before retiring in 2020. I currently have Medicare medical insurance as well as the NYC supplementary Emblem Health coverage. I have found this insurance to be very suitable in helping to meet my needs and wish to continue with them, even if I have to pay a monthly premium. This is far more preferable than being forced into a Medicare Advantage Plan, many of which have been shown to be inferior to traditional Medicare although they offer the appearance of being equal. I want the ability to choose my doctors and not have to be concerned about pre-approval for certain procedures.

I would encourage the City Council to amend whatever law is necessary so that retirees will have a CHOICE to remain with traditional Medicare, even if it means that we will have to pay for it.

Thank you for your consideration.

-William H. Voges

Dear City Council Member:

The City Council is being threatened that if they don't amend the statute to force retirees into the Medicare Advantage, the Mayor will do that on his own. Amending the statute does the same thing! Why should the City Council amend the law if the Mayor will do this anyway? Why do his dirty work? Let the Mayor take the political hit for hurting retirees and remove City Council Members from the ire of retirees and constituents in their next election. If the Mayor does this act, the Retirees will be able to challenge and win this in court where we have been successful because the City has violated the law and this is his way around it. If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing us from winning this in Court. Don't prevent us from winning again in court. We served our time as employees and have a right to enjoy our time as retirees with proper care that we earned and paid for.

Don't have to buy the Big Lie. Don't amend the Code, protect it like every City Council before you has against a greedy Mayor. Protect 12-126. Scheinman has no jurisdiction over the City Council nor the Retirees.

We request that you do NOT support the bill being introduced on January 9th by Civil Service and Labor Chair DeLaRosa.

Thank you for protecting us from financial peril and losing our healthcare.

Sincerely,

Name : William J. Schillinger

Agency: FDNY RETIRED MEMBER'S ASSOCIATION

Years of service:

Year retired:

From: blangweil@aol.com
Sent: Thursday, January 5, 2023 2:29 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Retiree Health Plan

I am an 85 year old retired NYC teacher. I have ben using the same doctors for over 22 years. When I mentioned that the city

may force me to participate in a Medicare Advantage plan, they said they will not participate. How can I, at my age, be expected to look for

new doctors that I can feel comfortable with, and that would accept this new plan. It is very unfair and something that gives me great concern

and turns my gray hair even grayer.

William Langweil, 1996 NYC retiree

**William Laziza Testimony Statement for January 9 Public Hearing
of the Civil Service and Labor Committee**

Greetings and Salutations to the Honorable members of Civil Service and Labor Committee of the New York City Council.

Thank you for allowing me to speak.

I am a retired CUNY Employee, and and a member of the PSC CUNY Retirees group.

I chose to work for lower wages at CUNY because of the retirement package offering a small pension and healthcare for life.

During my tenure, I became disabled due to illness partly brought on by stress from long hours and constant worry with keeping my assignments under control, on budget and fully functioning to serve CUNY, NYC, and its citizens, day in, and day out.

My particular story is too long to detail here. Although the work was challenging and I had to put in more hours than I was being paid for, I was happy and I felt that my wife and I were protected, in the long term, by the benefits that I was earning through my years of service.

Now that I have retired, the healthcare benefit has been a life saver for me. I have limited income and I need to maintain my health more than ever.

Please reject the proposed changes to amend the City's Administrative Code section 12-126.

I urge you to VOTE NO on the proposed change when it comes up for a vote.

But then, what is to be done with the entire issue of retiree healthcare?

Here's a suggestion...

The PSC has put forward a proposal for an alternative to resolving increasing health insurance costs for city workers and retirees that takes a longer-term view, while protecting vulnerable retirees from the many dangers of Medicare Advantage plans.

Please take the time to give this plan a fair chance and your full consideration. This plan has been put together by experts who are familiar with the issues confronting the city today and how we got here.

In not too many years you too may face retirement and find yourself in the same situation we retirees are in today.

This is not the time to kick the can down the road with a decision to compromise one group or the other. This is the time to find a lasting solution that will serve all NYC

employees and retirees in the best way possible.

Please think of all of us and find a way to honor the commitment that CUNY and the New York City Government made when we were hired with the understanding that if we worked hard and did our job, we would be rewarded with the benefit package that was agreed to at the time.

We did our job for you, it's time for you to do yours for us.

Thank you for your time and consideration.

William Laziza

My name is William Terry, and I retired from the New York City Police Department January 2002, October 2003 it was discover that I had a tumor in my left kidney which had to remove which requires me to have Mri once a year an a scan since months before Mri,under my current medical coverage there is no prior pre-approval for these test like medicare advantage which requires pre-approval. I'm asking each council member to vote no on amending 12- 126

William Terry Retired

Police Officer

From: Wilson Gil <wilsongil49@gmail.com>
Sent: Tuesday, January 10, 2023 9:01 AM
To: NYC Council Hearings
Subject: [EXTERNAL] NO TO AMENDING CODE 12-126!!!

NO TO AMENDING CODE 12-126!!!

Wilson Gil

Testimony Statement of William Russo
Dated January 11, 2023

Re: New York City Council Committee on Civil Service and Labor
Proposal to Amend the Administrative Code 12 - 126 in relation to Health Insurance
coverage for city employees, city retirees, and their dependents

Thank you Madam Chair, and thank you to all the New York City council members who have listened to all the speakers today. My name is William Russo. I am a retired New York City Housing Authority, (NYCHA) public service employee. I served for 34 years from 1976 to 2010. I am resident of Brooklyn and a constituent of Council Member Mercedes Narcisse.

I call upon this committee to vote 'NO' to amending New York City Administrative Code 12-126.

The labor union leaders that testified to you earlier today and who have submitted written material, members of the Municipal Labor Committee, do not represent retirees. Retirees and their dependents who will be affected by the proposed amendment were not consulted individually or as a group. We did not have a voice, input or no vote in the deliberations that led them to recommend that the Admin. Code 12-126 be amended. That amendment is intended to permit the City of New York to impose a Managed Care Healthcare program on retired public service employees.

For my first 14 years at NYCHA, I was a an active Union member. I held board positions in the Housing Assistant, Assistant Property Manager and Property Managers Chapters of the Teamsters Union, Local 237. For the final 20 years of my career I served in various appointed Managerial positions and I was a member of the Managerial Employees Association. I am familiar that demands and issues arise and are negotiated by both sides of the bargaining table. The MLC did not seem to care about retirees at all or future retirees for that matter.

The Municipal Labor Committee is proposing, in effect, that the Council eliminate Administrative Code 12-126 to pave the way so that a Managed Care Plan, so-called 'Medicare-Advantage' can be unilaterally required for all retirees. It will force retirees to pay \$191.00 per month, for each covered Managed Care retiree and any dependents. This is unreasonable, unfair and unjust. It is in effect a 'tax' on citizens without representation.

Organized labor should look out for their active and their retired former members. Those still active may be unable to work someday, others will retire, all will age. Today we heard testimony in-person and via 'Zoom' from public service retirees. Many of them told their own, their spouses and their dependents compelling stories of severe life-threatening illnesses, disabilities and terminal illnesses. They are the vulnerable people we must protect by ensuring that they get the best care possible. Many of those we heard from told of how they cannot afford a new \$191.00 monthly cost that would be imposed on any covered retiree, spouse or dependent. It would cause a hardship and affect their ability to provide for their basic needs.

Public Service former employees now retired and in their 60's, 70's, 80's, 90's and beyond are being asked to bail out the City of New York once again! In the 1970's when the City of New York was in a financial crisis. Public Service employees gave up pay raises to help save the city from bankruptcy. The esteemed Municipal Labor Committee Chair, Union Leader Harry Nespola knows that full well. He had yet ascended to his current positions in the Labor Union diaspora.

It's ironic it seems. The monthly fee that would be imposed on retirees for Managed Care Healthcare would, according to reports in the media, be used to fund pay raises for current non-retired public service employees. Some of those retirees, employees who did not get raises in the past would in effect, be paying for pay raises of current employees.

The New York City Organization of Public Service Retirees is a 'Movement' akin to the nascent organizing of the early 1900's. I am a member of that organization and the son of an immigrant family. My late mother Anna was a dressmaker, a member of Unite Here (formerly the International Garment Workers Union) and my late father William, was a member of the Plumbers Union. I recall the advocacy of union leaders of the past for the rights, salaries and benefits of their members.

Testifying before you earlier today a Municipal Labor Committee union leader characterized advocates against their proposed plan as followers of "ghosts of the past". The ghosts are the cabal who went into a room and using smoke and mirrors and reflecting off each other came out and said they made a decision. There are no ghosts of the past on our side.

We are however mindful of the union leaders of the past! Let us all recall a time when our city had labor leaders like: Victor Gotbaum, DC 37; Barry Feinstein, Teamsters Union, Local 237; Michael Quill, Transportation Workers Union and John DeLury of the Sanitation Workers Union. They were strong advocates who, I believe, would never suggest imposing a Medicare-Advantage Plan on retirees. In fact, unlike today those past union leaders looked after their respective retirees and formed employee retiree divisions of their unions.

Committee members what we all have in common in this room and in common with those who have left this room, as well as those who support those who are in this room, is public service. Public service is the noblest profession in the world! It offers meaningful career opportunities. Throughout public service you find a spirit of mentoring. I was a teacher of civil service exam techniques for 30 years during my career. I instructed young people on how to take promotional exams in many different titles.

This proposed amendment concocted behind the scenes is a betrayal. How it was arrived at is troubling. President James Madison warned of the tyranny of the majority but he also warned of tyranny of the minority. What we have here is the potential for tyranny of the minority and we should not accept it. Protect our New York City Public Service Retirees, their spouses and their dependents.

Therefore, I call upon this committee to vote 'NO' to amending New York City Administrative Code 12-126. It is time for the leaders of both sides of the table to resolve this matter in an open, democratic and reasonable manner.

William Russo

Brooklyn, NY 11234

Email: viabravo@gmail.com

Testimony

My name is Wynne Shilling. I have been paying into Social Security since I turned 11, that is 69 years. I have paid into Medicare since it's inception. So when I hear either the term "entitlement" or "Replacement" I become angry. I signed onto Medicare NOT a replacement called Medicare Advantage. Personally, I will not settle for less than what I signed up for, which is The United States Medicare Package. What I signed up for is what I am entitled to. If your committee and the City of New York wants to consider what it's workers are entitled to, then you must vote in favor of keeping our Medicare in it's original form—and not any other package. We are entitled to nothing less. And we will settle for nothing less because Medicare is what we contributed to and, after all these years, we really need.

Thank you for reading this comment.

Respectfully,

Wynne Shilling,
Professor Emerita, York College - CUNY Sent from my iPad

Lake Worth, FL 33467
Wynneshilling215@gmail.com

From: Chen Yangrou <YChen31@schools.nyc.gov>
Sent: Tuesday, January 10, 2023 9:43 AM
To: NYC Council Hearings
Subject: NO TO AMENDING CODE 12-126

To Whom it May Concern,

Hope you and your family stay safe and well.

I'm writing to express my wish. NO TO AMENDING CODE 12-126!

Best,

Yangrou Chen

DOE Paraprofessional

Good Day, My name is Yolanda Pumarejo and my City Councilperson is the Honorable Kamillah Hanks of District 49 on the North Shore of Staten Island. I am here today as a career public servant with 37 years in City government, as a Social Service professional. I began my career with the Agency for Children's right out of college at the age of 23. My plan was to stay for 6 months and move on, but once there I realized the rewards of having a career in City government including the ability to help the most vulnerable children and families in New York City. This is one of the most difficult services provided in New York City. We risk our lives everyday, to ensure our children are safe with little to no recognition.

As my career progressed, I became involved with my union the Social Service Employees Union Local 371 eventually becoming the Executive Vice President. You should know that during this time there was little to no mention of any deals being made by the MLC to divert money from the Health Stabilization Fund for salary increases and to institute this draconian health plan. It was reported that if any changes occurred to the health benefits for retirees, they would have the option to enroll in the managed care program or to remain in their current plans cost free. Never ever was this Health Plan discussed in detail with union members. Who would agree to being forced into a managed care program.

A Promise is a Promise!!! There must be a moral obligation to all the women and men who have spent their careers running this City. If the MLC wants to negotiate this moving forward, so be it but not on the backs of current retirees. There are other ways to realize these savings. Just ask us and we will be happy to share suggestions and solutions to rising health care costs.

In addition, this body should be clear that the Arbitrator's ruling is an opinion and not a decision as stated in his report. The Court's decisions have been very clear and now it's your turn to do the people's work and Vote No.

In closing I would just like to remind this body that the DC37 Retirees are the backbone of their political action program. Do not be afraid! You support us and we will support you.

THANK YOU FOR VOTING NO TO AMEND ADMINISTRATIVE
CODE 12-126. IN SOLIDARITY.

Testimony to:

Monday 1/9/23 - Committee on Civil Service and Labor

I retired in May 2022.

As I conducted some research to help with selecting a Medicare plan I became aware of issues and concerns with the city's attempt to move all retirees to a Medicare Advantage plan. I also learned of numerous issues with Medicare Advantage insurance from sources like Senior Citizens League, AARP, NYC Organization of Public Service Retirees and CMS the federal agency in charge of Medicare.

So I decided to sign up for a Medicare Advantage plan knowing that I could switch at year end. I felt this would allow me to get some first hand experience of care under a Medicare Advantage plan.

I selected the Aetna Medicare Advantage plan. It seemed like the best option (I live in NYC) and I was able to continue with my PCP - primary care physician and continue my treatment for a rotator cuff tear with the same specialists. Other than continuing my doctor visits related to this issue, all my other visits over the next few months were annual preventive care - mammogram, optometrist, routine blood work, flu shot etc. All went seamlessly as it had in the past before I was on Medicare.

In November I got a serious ear infection, I couldn't get an appointment with my PCP so I saw another doctor in the group. Before my visit I confirmed that this doctor was in Network. However, when I reviewed my Aetna December claim summary. The claim for this visit was listed as in Network but it was denied. I contacted Aetna to inquire why the claim was denied. I did not get a explanation for the denial other than it was an error and would be resubmitted for processing. It was processed a few weeks after my inquiry.

What is disturbing here is - what would have happened if I hadn't been closely monitoring my claims and overall care process.

This was a routine doctor's for a very common ailment that was treated with a prescription for antibiotics. If this claim is denied what else will be denied in the future.

I switched to SeniorCare a traditional Medicare plan during open enrollment. Based on all I've learned about Medicare Advantage in the past months, especially from CMS - Centers for Medicare & Medicaid Services. I do not want a Medicare Advantage plan

Is Medicare Advantage all bad, no.

However, I should not be denied my ability to chose traditional Medicare.

I was an active union member, I served as shop steward, I worked in IT, I chose to work for the city, retiree health benefits always factored in my decision

Please do not remove my ability to choose traditional Medicare which is available to anyone on Medicare.

Please do not amend Admin code 12-126 or take any actions that will negatively impact my health benefits and care.

Yvette Mitchell

New York NY 10037

I am a NYC UFT Retiree with 35+ years of service. My husband and I are both enrolled in Traditional Medicare and Emblem Health Senior Care as our supplementary insurance. He is a cancer patient at Memorial Sloan Kettering and with our current insurance, he is being successfully treated. I have great fear that if we are forced into a Medicare Advantage Plan, any privatized advantage plan, we will incur great costs and the many tests that are frequently ordered during his care will be rejected or delayed, and also that many of our doctors, both at MSK and elsewhere, will no longer be willing to treat us. Continuity of care is extremely important. For profit Medicare Advantage Plans have recently come under great scrutiny by Federal health officials and others and have been found to be sub-par in many areas.

The Stabilization Fund was created to balance costs between GHI (Emblem) and HIP so elderly and disabled retirees could have the premium free health care that they were promised (and we realized and accepted that we earned lower wages over the years in order for this to happen.) Many lower income retirees could not afford to pay a high premium, fees and co-pays to remain on traditional Medicare with a supplementary plan if Medicare Advantage were the only premium free choice. Michael Mulgrew and the MLC have used the Stabilization Fund as a bank and borrowed from it. Now they are unable to repay what they have illegally taken and are trying to repay it on the backs of retirees, and probably in-service employees in the future as well. They have defrauded the fund, and us, their loyal constituents.

City Code Section 12-126 provides that NYC will fund health care at the HIP level to ensure this premium free care for retirees. If Mayor Adams wants to take away the healthcare rights of elderly and disabled retirees, he **should not be assisted by the City Council** by amending Section 12-126. The City Council should not participate in the illegal effort to force Medicare Advantage on the retirees, taking away traditional Medicare benefits which were promised and are desperately needed. Mulgrew and the MLC should not be allowed to continue their deceit. Mr. Scheinman's document was neither an order nor a requirement, simply a recommendation. The current version of Section 12-126 has existed for over half a century and retirees and their lawyers can and will fight in court to keep these benefits, and also show that the savings needed for health care can be secured in other places than on the backs of retirees, as noted by Council Member Gale Brewer in December, 2022. There are compromises that can be made to solve this issue.

I urge the City Council **not to amend Section 12-126** in order to protect retirees' health care and ability to maintain a healthy and affordable retirement.

Respectfully submitted,

A dedicated devoted retired NYC teacher with 35+ years of service

NYC Council must not change 12-126 and leave healthcare for municipal workers as is.

afroditi182000@yahoo.com

I am a UFT member and I am calling to ask you to vote NO to changing Administrative Code 12-126. The Mayor and City Council should immediately appoint a Blue Ribbon Commission to address healthcare costs and potential savings -- with all stakeholders at the table, specifically retirees. The unions are desperate and have been putting out disinformation about the Health Stabilization Fund and the cost of protecting seniors' healthcare. And they have been telling active workers that if they don't contact their City Council members and ask that 12-126 be changed, the actives will have to pay \$1500 in premiums -- pitting actives against retirees. This is outrageous. Enough gas lighting! Let's deal with real facts, real choices, and real savings. Mayor Adams is acting in BAD FAITH, forcing unions to put health care costs onto individual members, most of whom would NOT be able to afford the increase, in order to approve raises for in-service members. The divide and conquer politics must stop! Privatization is NOT the answer!

We believe the Code, which states, "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 H.I.P.-H.M.O. on a category basis," (of individual and family) protects us ALL EQUALLY. PROTECT IT!

From: Anthony <antanuch@aol.com>
Sent: Monday, January 9, 2023 1:42 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Anthony (city worker)

Do NOT amend admin code 12-126.

Where to begin ?? It's been a two year fight and every step of the way has given me panic attacks, stress, and bad days. I'm disabled and my mental condition has gotten worse over the last two years because of the stress that this fight has caused. I tell my doctor " Doesn't seem like people care if I'm here or not, I'm not important, and taking away my healthcare would have gone unnoticed if it were not for the Retirees organization".

I can't afford to opt out for the \$191.00 per month because I don't make enough money. I also can't afford the Medicare advantage plan bc of the \$125.00 mandatory RX plan you have to buy. No one talks about that for some reason. I can't afford either plan! Where do I fit into all this ??

Amending this code is bad in so many ways. Active and retired workers are protected by the code that was implemented so many years ago. Amending the code will limit my choices and give control of the stabilization fund to the very people that misused it.

There are other cost affective savings plans that can be used instead of charging retirees. Audit the health care system annually, create competition for Emblem health, combine welfare funds to create more bargaining power and better prices.

The city and the MLC have not been honest and that has to mean something to the person reading this. I worked hard for my health benefits in a difficult job. DO NOT AMEND CODE 12-126 AND PROTECT THE PEOPLE WHO ARE MOST VULNERABLE.

You must NOT change the city admin code 12-126, and leave municipal workers' healthcare as is. NYC should not solve its financial woes on the backs of municipal workers and retirees!

beckyg047@gmail.com

Please you must NOT change the city admin code 126-12, and leave municipal workers' healthcare as is. NYC should not solve its financial woes on the backs of municipal workers and retirees!

thymine-relay.0@icloud.com

You MUST NOT change the city admin code 12-126 and leave municipal workers' healthcare as is. NYC should not solve its financial woes on the backs of municipal workers and retirees!!!

femmegirl101@yahoo.com

You must NOT change the city admin code 12-126, and leave municipal workers' healthcare as is. NYC should not solve its financial woes on the backs of municipal workers and retirees!

nena24k@aol.com

From: Esch1941 <esch1941@gmail.com>
Sent: Tuesday, January 10, 2023 12:40 PM
To: Testimony
Subject: [EXTERNAL] NYC retirees

Message to NYC Council

After consultation with our legal team, we offer you this information. On December 15, 2022, Martin Scheinman issued a 31-page document that has no force of law. As the signature page at the end explains, it is just a “Recommendation.” Scheinman has no authority to order the City and the MLC to force retirees into Medicare Advantage, which is far worse than the traditional Medicare benefits that retirees have long received.

As he admits, Scheinman’s limited authority comes from a 2018 Agreement between the City and the MLC. Under Section 5 of that Agreement, he and two others member of the “Tripartite Health Insurance Policy Committee” are authorized to “make recommendations to be considered by the MLC and the City.” The Agreement does not allow the Committee, let alone Scheinman alone, to order anyone to do anything. Moreover, the Agreement requires the Committee to make “recommend[at]ions” for implementation as soon as practicable during the term of this Agreement but no later than June 30, 2020.” Thus, not only are recommendations non-binding, but they are also now two-and-a-half years too late.

Some have attempted to make Scheinman’s document seem more consequential than it really is by calling it a “decision” or “order” or “award.” However, it is none of those things. It is just a non-binding (and untimely) recommendation, as the document itself makes clear. Although the 2018 Agreement allows Scheinman to arbitrate certain disputes between the City and the MLC, there was no dispute between the City and the MLC here – both are aligned with respect to forcing Medicare Advantage on retirees. Thus, Scheinman was not acting as an arbitrator and was not issuing a ruling, decision, or award on anything.

Scheinman’s document is a transparent and futile attempt to make it seem like the City is being ordered to take away traditional Medicare from Retirees. The document does not—and cannot—require the City, or anyone else, to do anything. If the Mayor wants to take away the healthcare rights of elderly and disabled retirees, he should not pretend that anyone is making him do it. And the City Council should not assist him in this charade by amending Section 12-126. The City Council should not participate in the illegal effort to force Medicare Advantage on Retirees, who are entitled to the traditional Medicare benefits they were promised and which they desperately need. Let the Mayor be the one to strip retirees of these hard-earned benefits. The retirees will challenge him in court, and they will win. Again. But if the City Council amends Section 12-126, the path to victory in court becomes much harder. Give retirees the chance to fight and win in court with the current version of Section 12-126, which has existed for over half a century. If they lose, the City Council can always amend the statute later.

You must NOT change the city admin code 12-126, and leave municipal workers' healthcare as is. NYC should not solve its financial woes on the backs of municipal workers and retirees!

genesisc1124@gmail.com

From:
Sent: Monday, January 9, 2023 11:27 AM
To: NYC Council Hearings
Subject: [EXTERNAL] Medicare advantage

Please be aware that as a former NYC teacher, I am not pleased with the uncertainty concerning our health benefits. We all worked arduously to educate students and believe that our benefits should be what we were promised upon retirement.

Thank you for your acknowledgement of this issue.

IleneKarp

Former teacher at Tottenville High School English Department

Sent from my iPhone

Testimony on Medicare Advantage for 1/9/23 Hearing of the Committee on Civil Service and Labor

I am a retired City manager who began employment on 5/27/68. My job, for six Human Resources Administration commissioners, involved saving the agency money. My Director once complimented me, a civil servant, to a pure political appointee. Yawning, he said, ***“Hey, a million here, a million there, and pretty soon we’re talkin’ real money!”*** We saved money proactively, by changing procedures, installing automation, and at times crafting amendments to existing legislation and suggesting new legislation or regulations. My offices were in 180 Water Street, 20th Floor. We were evacuated on 9/11/01.

Mayor Giuliani ordered us back into the toxic zone of Lower Manhattan a mere six days after the attack on the World Trade Center. As a result, some of my colleagues are now under ground. My former Director has chronic lymphocytic leukemia, and I am a World Trade Center respiratory patient.

Now I find that the City’s Mayor, with the assistance of some members of the City council and labor, is urging that City retirees such as me be forced to accept the Medicare Advantage health insurance plan, and, to do so, will amend S. 12-126 of the City’s Administrative Code.

I find it impossible to understand this position. MA Advantage, per analyses performed by the Federal authorizing agency, HHS/OIG, by private medical organizations such as Kaiser-Permanente and City of Hope, have found that this type of “insurance” results in “worse patient health outcomes”, e.g., the premature deaths of cancer patients, through denials of and delays to necessary medical procedures and medications. The Department of Justice (DOJ) has been filing one lawsuit after another, indicting one MA Advantage program after another for “massive overcharges” (Medicare fraud involving illegal charges for “phantom” procedures and meds which the program never administered to patients).

In my opinion as someone whose life’s work involved municipal cost-cutting and operations improvement, this shows that Medicare Advantage is structurally prone to fraud and cost overruns.

Also in my experience, THE FASTEST WAY TO CUT MUNICIPAL HEALTH COSTS IS TO ELIMINATE THE INSURANCE MIDDLEMAN BY ADOPTING SINGLE-PAYER (AKA “MEDICARE FOR ALL”).

I have not retired yet, but expect to in the next decade. My concerns about the change to put retirees on a Medicare Advantage plan are the following:

1. I have checked with my doctor, and he is not on the previously proposed plan nor the presently proposed plan. I would lose my doctor.
2. I have checked with retirement communities in which I might want to live to ensure I get graduated health care as I age, they do not want to deal with Medicare advantage plans and might not accept me if I have such a plan.
3. These plans are not available in all states. I do not want a Medicare advantage plan to dictate where I can live when I retire.

You must NOT change the city admin code 12-126, and leave municipal workers' healthcare as is. NYC should not solve its financial woes on the backs of municipal workers and retirees!

kyriaki.georgiadis@gmail.com

You must NOT change the city admin code 12-126, and leave municipal workers' healthcare as is. NYC should not solve its financial woes on the backs of municipal workers and retirees!

laura.97@aol.com

SUBJECT: PROTECT RETIREES [#protect12dash126](#)

Dear CM _____,

If the City Council amends this Administrative Code, they will affirmatively be hurting retirees and preventing us from winning this in Court. Don't prevent us from winning again in court. We served our time as employees and have a right to enjoy our time as retirees with proper care that we earned and paid for.

Don't buy the Big Lie. Scheinman has no jurisdiction over the City Council nor the Retirees and his recommendation is just that, and it's not binding! and the Judge DID NOT say you only had to offer one plan or the Medicare Advantage Plan. He said you can't charge us for our current plans because they are under the benchmark.

A progressive City Council changing the law we won our case on twice, in two courts and before six justices in order to force the elderly, infirm and disabled to pay for insurance or to only have a privatized public health benefit, Medicare Advantage, tells us you're no longer progressive. You're not thinking of the people who built this City, rebuilt it after 9/11 and now seniors or disabled.

Don't amend the Code, protect it like every City Council before you has against a greedy Mayor. Protect 12-126.

We request that you do NOT support the bill being introduced on January 4th by Civil Service and Labor Chair DeLaRosa.

Chair DeLaRosa and Speaker Adams should not be perpetuating the BIG LIE that they are only doing this because the Judge and Arbitrator said so. Your press release reads like the UFT or DC37 wrote it. Sad that our own unions don't rely on facts anymore, but when your own elected officials perpetuate a lie, it's just pure disintegration of democracy and human decency.

Protect Retirees vested health benefits from being eroded by greed. YOU are supposed to be here to protect us, not be complicit to robbing us of our health care when we are at a time in our lives that we need it most.

Name lainiek46@aol.com Retiree or Employee

Agency, years of service, year retired

1 **Hon. Christopher Marte** CMarte@council.nyc.gov Legislative Office: 212-788-7259 District Office: 212-587-3159

2 **Hon. Carlina Rivera** clrivera@council.nyc.gov Legislative Office: 212-788-7366 District Office: 212-677-1077

3 **Hon. Erik Bottcher** ebottcher@council.nyc.gov District Office: 212-564-7757

4 **Hon. Keith Powers** Powers@council.nyc.gov Legislative Office: 212-788-7393 District Office: 212-818-0580

5 **Hon. Julie Menin** JMenin@council.nyc.gov Legislative Office: 212-788-6865

6 **Hon. Gale Brewer** GBrewer@council.nyc.gov District Office: 212-564-7757

7 **Hon. Shaun Abreu** SAbreu@council.nyc.gov Legislative Office: 212-788-7007 District Office: 212-928-6814

8 **Hon. Diana Ayala** dayala@council.nyc.gov Legislative Office: 212-788-6960 District Office: 212-828-9800/ 347-297-4922

10 **Hon. Carmen De La Rosa** CDeLaRosa@council.nyc.gov Legislative Office: 212-788-7053 District Office: 917-521-2616

11 **Hon. Eric Dinowitz** edinowitz@council.nyc.gov Legislative Office: (212) 788-7080 District Office: (718) 549-7300

12 **Hon. Kevin Riley** kriley@council.nyc.gov Legislative Office: (212)-788-6873 District Office: (718) 684-5509 or 347-326-8652

13 **Hon. Marjorie Velazquez** MVelazquez@council.nyc.gov Legislative Office: 212-788-7375 District Office: 718-931-1721

14 **Hon. Pierina Sanchez** PSanchez@council.nyc.gov Legislative Office: 212-788-7074 District Office: 917-409-6376

16 **Hon. Althea Stevens** ASTevens@council.nyc.gov Legislative Office: 212-788-6856 District Office: 718-588-7500

18 **Hon. Amanda Farias** AFarias@council.nyc.gov Legislative Office: 212-788-6853 District Office: 718 792-1140

22 **Hon. Tiffany Cabán** tcaban@council.nyc.gov Legislative Office: 212-788-6963 District Office: 718-274-4500

25 **Hon. Shekar Krishnan** SKrishnan@council.nyc.gov Legislative Office: 212-788-7066 District Office: 929-293-0206

26 **Hon. Julie Won** JWon@council.nyc.gov Legislative Office: 212-788-7370 District Office: 718-383-9566

27 **Hon. Nantasha Williams** NWilliams@council.nyc.gov Legislative Office: 212-788-7084 District Office: 718-776-3700

28 **Hon. Adrienne E. Adams** aeadams@council.nyc.gov Legislative Office: 212-788-6850 District Office: 718-206-2068

29 **Hon. Lynn Schulman** LSchulman@council.nyc.gov Legislative Office: 212-788-6981 District Office: 718-544-8800

31 **Hon. Selvena N. Brooks-Powers** sbrooks-powers@council.nyc.gov Legislative Office: 212-788-7216 District Office: 718-471-7014 or 718-527-4356

33 **Hon. Lincoln Restler** LRestler@council.nyc.gov Legislative Office: 212-788-7348 District Office: 718-875-5200

34 **Hon. Jennifer Gutierrez** JGutierrez@council.nyc.gov Legislative Office: 212-788-7095 District Office: 718-963-3141

35 **Hon. Crystal Hudson** CHudson@council.nyc.gov Legislative Office: 212-788-7081 District Office: 718-260-9191

36 **Hon. Chi Osse** COsse@council.nyc.gov Legislative Office: 212-788-7354 District Office: 718-919-0740

37 **Hon. Sandy Nurse** SNurse@council.nyc.gov Legislative Office: 212-788-7284 District Office: 718-642-8664

38 **Hon. Alexa Aviles** AAviles@council.nyc.gov Legislative Office: 212-788-7372 District Office: 718-439-9012

39 **Hon. Shahana Hanif** SHanif@council.nyc.gov Legislative Office: 212-788-6969 District Office: 718-499-1090

40 **Hon. Rita Joseph** RJoseph@council.nyc.gov Legislative Office: 212-788-7352 District Office: 718-287-8762

41 **Hon. Darlene Mealy** DMealy@council.nyc.gov Legislative Office: 212-788-7387 District Office: 718-953-3097

43 **Hon. Justin Brannan** jbrannan@council.nyc.gov Legislative Office: 212-788-7363 District Office: 718-748-5200

45 **Hon. Farah N. Louis** flouis@council.nyc.gov Legislative Office: 212-788-6859 District Office: 718-629-2900

46 **Hon. Mercedes Narcisse** MNarcisse@council.nyc.gov Legislative Office: 212-788-7286
District Office: 718-241-9330
<https://youtu.be/66y51SEpQkA>

Please, DO NOT change the city admin code 126-12, and leave municipal workers' healthcare as is. NYC should not solve its financial woes on the backs of municipal workers and retirees!

msong0201@gmail.com

From: z z <singlewhip98@yahoo.com>
Sent: Saturday, January 7, 2023 10:14 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Health Care

Dear City Council:

Please do not amend The City Code in order to change healthcare for employees, retirees, and their dependents.

The City should look for other ways to trim the budget.

Thanks.

Mr. Retiree
Parks
31 years

Sent from my iPhone

You must NOT change the city admin code 12-126, and leave municipal workers' healthcare as is. NYC should not solve its financial woes on the backs of municipal workers and retirees!

sandra.cevallos918@gmail.com

From: Vicki <vickih@nyc.rr.com>
Sent: Monday, January 9, 2023 7:22 PM
To: NYC Council Hearings
Subject: [EXTERNAL] Code 12-126

Thank you very much for the meeting today. Everyone in charge needs to be applauded.

I am a retired UFT member
since 1966.

I heard often that the basic Medicare and IRMAA will still be refunded under the Advantaged Plan.

My question:

What is the status of the Medicare and IRMAA refunds IF a retiree is able to OPT out of the Advantage plan? Also, what about the other benefits we have now if someone opts out?

Thank you for your time and knowledge.

Sent from my iPhone