



Legislation Text

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Int. No. 1096

By Council Members Marte, Holden, Lee, Krishnan, Bottcher, Paladino, Marmorato, Vernikov and Ariola

A Local Law to amend the administrative code of the city of New York, in relation to protecting the vested health insurance coverage and contributions of retired employees of the city of New York

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council hereby finds and declares as follows: It is the policy of the City of New York and of this Council to preserve traditional Medicare and the choice of a Medicare supplemental plan and not diminish health care benefits. The Council states that it is critical to protect the vested health insurance coverage and the contributions of city retirees against any diminishment in order to ensure full access to health care and to minimize the need for emergency room and Medicaid expenditures. The Council also recognizes that city retirees earned and paid for their benefits and were made promises during their employment, including in Summary Program Descriptions, of what benefits they would be provided during their retirement. The Council further finds that eligibility for retiree health coverage is provided pursuant to the terms of section 12-126 of the administrative code of the city of New York and Summary Program Descriptions.

This local law recognizes that the protections of vested retiree health coverage provided in section 12-126 of the administrative code of the city of New York have repeatedly come under attack by different city administrations, leaving city retirees who earned and paid for these benefits to turn to the Council every time for protection.

The Council recognizes that city retirees loyally served the City with the promise of specific health care benefits in retirement. It also recognizes that a material change in those health care benefits may prevent city retirees from seeking medical care because of financial hardship.

Further, the Council finds that:

Many public employers have offered their retirees choices of health insurance plans to supplement their Medicare policies;

These offered choices are made in accordance with the Summary Plan Descriptions that public employers provide their employees and retirees;

Under federal law, a Summary Plan Description governs the health insurance, health care benefits, and levels of these benefits that employees and retirees receive, and these employees and retirees should be able to rely on this information;

Some of these plans for retirees serve as Medicare supplemental plans, also known as “Medigap” policies, in that they pay for 20 percent of the cost of a medical appointment or service after Medicare pays for its statutorily required 80 percent. A retiree is then able to see any health care provider throughout the United States (including its possessions and territories), as long as the provider accepts Medicare. More than 95 percent of health care providers throughout the United States accept Medicare. These Medicare supplemental plans or Medigap policies entrust medical decisions to the physician or other health care provider of employees and retirees;

However, many public employers have implemented or have proposed implementing new modalities of health insurance for employees and retirees. These proposals include the imposition of Health Maintenance Organizations (HMOs) for employees and Medicare Advantage Plans (MAPs) for retirees; These plans have been found to reduce health care consumers' access to necessary medical care due to protracted pre-authorization procedures and frequently have forced them to stop using their long-time health care providers, if the providers did not choose to become part of these plans; Accordingly, these health care consumers are at increased risk of delaying their care or increasingly relying on urgent care, emergency room use, Medicaid, or all of these. This puts their health at increased risk and results in costlier care.

§ 2. Section 12-126 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

e. (1) The city shall not diminish the health insurance coverage provided to city retirees and their dependents or the contributions the city makes for such health insurance coverage below the level of such benefits or contributions made on behalf of such city retirees and their dependents by the city as of December 31, 2021.

(2) For the purposes of this subdivision, the term "diminish" means to cause any change in health care offered that could potentially make it harder for city retirees residing anywhere in the United States, including its territories and possessions, to access their health care than before such change was made. These changes include, but are not limited to, increasing the cost of such health care, subjecting city retirees to Medicare Advantage Plans or any managed care plan or any form of privatization of the public health benefit Medicare, requiring them to use health care providers only from pre-designated panels or networks, or requiring them to wait for pre-authorization for medical procedures that are recommended by their health care providers.

§ 3. This local law takes effect immediately and is retroactive to and deemed to have been in effect as of December 31, 2021.

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