



The NYC Organization of Public Service Retirees

FACT CHECKING



Amending Administrative Code 12-126
Frequently Asked Questions

YELLOW HIGHLIGHT SIGNIFIES MISINFORMATION

Why are DC 37 and the Municipal Labor Committee pushing to update Administrative Code 12-126?

WHAT DC37 CLAIMS: The language update we're requesting with this amendment specifically allows the Municipal Labor Committee (MLC) and the City of New York to collectively bargain our healthcare options. Collective bargaining is what we believe in—it's a right that has been afforded to working people and their unions for decades. Having this flexibility will help us rein in the high cost of healthcare so that our more than 150,000 members and 89,000 retirees won't have to sacrifice their premium-free benefits while also allowing the MLC to negotiate additional optional plans.

THE TRUTH: The City and the MLC have the [1992 MLC agreement](#) that requires the City to negotiate all aspects of healthcare. The MLC invoked it when the City published an RFP in 2013 without negotiating with them. The MLC sued and won. We have had choice since the inception of our Employee Health Program.

This proposed amendment will not help rein in costs, it takes choice AWAY from the retiree and employee and puts it in the hands of the MLC (which is controlled by the UFT & DC37) and the City of NY. Reining in costs would have to be done at the provider/insurer level and the cost savings would only benefit the City and MLC. Savings on the backs of the people who need medical care and earned and paid for the benefit is despicable. By law, the City has to pay for our plans up to the HIP HMO cap. Removing all plans offered, changing the law we won our case on, putting everyone in managed care plans does not prevent premiums, it only serves to diminish a benefit we earned and paid for and that you are negotiating away for value in your current collective bargaining negotiations.

What is the administrative code language that is being introduced and what does it do?

WHAT DC37 CLAIMS: The language retains the current benchmark for health insurance that's been in place for over four decades, but allows for an alternative plan to be negotiated between the City and the MLC in order to continue to provide choices for both active workers and retirees.

THE TRUTH: While the proposed amendment to the administrative code keeps the original language, it would allow the MLC and the City to elect what plan to peg a "class of individuals" to. Such ambiguous language removes the equal protections afforded to all employees and retirees and allows for what could amount to arbitrary segregation of classes. Given your history, you are perfectly fine to add copays, narrow networks, force us into inferior managed care plans, and diminish our benefits. We have no reason to trust you, rather we put full faith in the law that has served us well as legislated in 1967 by the City Council.

What are the consequences of not amending the administrative code?

DC37's CLAIM: DC 37's active members and retirees could be forced to pay premiums for themselves and their dependents if no action is taken. New York City is the only major municipality that provides this benefit for city workers, and the City needs every available tool to retain and recruit its workforce. If the administrative code is not amended, retirees will not keep their current healthcare plan as-is—the current plan is not financially sustainable. Amending the code will simply protect the option to offer multiple plans and maintain our benefits at a lower cost to the City.

THE TRUTH: What you really mean is that the City refuses to continue paying for Medicare eligible retirees as is required by law and, by removing that obligation and placing it on the federal government, the active and pre-Medicare retirees will be saved from being charged premiums. How long will it be before the plan pegged for active and pre-Medicare retirees is also changed?

What is the status of the appeal? Why not wait for the judge's decision?

DC37's CLAIM: Amending the administrative code was only deemed necessary after a lawsuit brought by a group of retirees resulted in the decision rendered by Judge Lyle Frank on March 2. The decision underscores that the City is not obligated to give retirees "an option of plans," and in fact could satisfy its obligations under the Administrative Code by removing choice in plans. Although the City has appealed this decision, it could take months for there to be a decision on appeal, and there have been multiple requests for continuances as the retiree group has consistently sought to delay it. Even after that decision is finally made, further appeals could occur, which will only further delay the implementation of a solution for healthcare costs.

THE TRUTH: Almost this entire statement is disinformation. Blame the victim is now DC37's tactic. Justice Lyle Frank gave his decision on March 3, 2022, not March 2nd. The proposed amendment takes away the choice of premium free plans to retirees/employees. It allows DC37/UFT/MLC/City to select plans that are inferior to our current plans, as they have proven they are willing to do after attempting to implement the Medicare Advantage Plus Plan (MAPP). The proposed change forever passes costs to employees and retirees if they peg a plan that is not equivalent to the protections of HIP HMO cap and permits them, not the employee/retiree, to elect the choice of free plans currently offered. This will add to the City's trouble of recruiting quality workers when applicants see the benefits they were promised when hired can be stripped away and removed in employment or retirement by their former unions and employer. The City CANNOT unilaterally remove healthcare options without the approval of the MLC. The "retiree group" that brought the lawsuit is the only entity trying to preserve benefits, in essence, by doing what the unions should be doing: fighting for retirees.

What is Medicare Advantage?

DC37's CLAIM: The Medicare Advantage Plan is designed to provide better benefits for NYC retirees at lower costs. District Council 37 played a major role in crafting this plan, which provides better care than plans previously offered. The Plan is premium-free, provides comprehensive services and includes National Access Plus, which allows members to see any doctor or hospital who accepts Medicare without being tied to a provider network. Members pay the same co-pay or co-insurance whether their provider is in- or out-of-network, and out-of-network providers who accept Medicare will receive the same reimbursements under the Plan as they do from traditional Medicare. With a Medicare Advantage Plan, we are able to access federal subsidies that are not available for Medigap plans such as Senior Care. The Medicare Advantage Plan requires pre-authorization to discourage providers from making unnecessary referrals, which contributes significantly to the exorbitant cost of retiree healthcare. Pre-authorization is already required of active members and pre-Medicare retirees.

THE TRUTH: Medicare Advantage (MA) plans have been proven to be inferior to Traditional Medicare with supplemental plan. Care would NOT be better than what we currently have, and that has been proven by [Health and Human Services](#), The Office of the Inspector General, The [Government Accountability Office](#), and [The NY TIMES](#) reporting how MA insurance companies are bilking the federal government. Most have been charged with fraud by the Department of Justice and AETNA is under investigation by the DOJ. Pre-authorizations are a profit producing method employed by for profit companies, such as those that offer MA plans. Additionally, the proper comparison of plans should be to Traditional Medicare with supplemental, not to plans that active members and pre-Medicare retirees have. A major point you fail to address is what happens if the federal subsidy is reduced. As happened with HIP VIP in 2017, benefits to retirees will be reduced and co-pays increase.

Will there be premiums added to healthcare benefits if the administrative code bill passes?

DC37's CLAIM: NO. The MLC is trying to update the administrative code to maintain a choice of plans and prevent the imposition of premiums. In fact, the plan that a retiree group (representing a small fraction of retirees) is trying to push as an alternate option would impose significant costs on active employees and still does not cover the shortfall.

THE TRUTH: We have had choices for decades. What has changed is the City's willingness to follow the letter of the law as has been in effect since 1967. What has also changed is the MLC has weakened the unions to a point where they have to submit to the City's demands rather than stand up and fight for the rights of employees and retirees. When DC37/UFT/MLC/City tried to implement the MAPP, the first caveat was to strip all plans from the retirees. We were to be auto-enrolled into the MAPP, and we could only keep the plan we were currently in if we paid a penalty premium. The only organization fighting for the earned rights of retirees is the "retiree group" you so dismissively refer to. NYC Organization of Public Service Retirees is an organized, growing group of retirees with affiliates throughout ALL agencies. The "alternate option" you claim we are pushing is the plan we currently have, and have had for decades, and we demand the City keep the promises made to us. The "shortfall" you refer to was not created by the "retiree group", rather by the MLC/City misusing the Health Insurance Stabilization Fund for raises and budget shortfalls. There are other options for savings that would not have harmed retirees yet you chose not to use them. You are blatantly pitting active employees against retirees with your rhetoric.....shame on you!

Why do we have to do this now?

DC37's CLAIM: Every month we wait for a decision or delay action on the administrative code, the bill for city employee and retiree healthcare grows and adds to the crisis at hand. Inaction or a decision to not amend the administrative code will continue to cost the City of New York \$50 million per month, which has significant implications on next year's City budget and future fiscal year budgets. As a result, our active members, retirees and their dependents could be forced to pay premiums to cover the shortfall, and all will lose the power of choice in available healthcare plans

THE TRUTH: You voted to change the administrative code when the MLC and City was caught violating a law in effect for 55 years that protects ALL employees and retirees. The MLC knows it either has to sell off a benefit to pay their debt from the 2018 MLC agreement or has to pay off the value they owe the City. The MLC knows it owes the City almost \$1.2B, and told all the unions on September 8th, 2022 that this was the path forward for the City "to eat the \$600M - \$1B it is owed by the end of this year." Admit to the bad decisions made in the past with the health savings agreements and stop compounding those mistakes. Giving \$1B from the HISF to the City in 2014 was not enough, you then agreed to save the City more money (\$2.4B, for a total of \$3.4B) through the 2014 and 2018 savings agreements.....neither of which replenished the HISF. In essence, the City has benefitted twice over.....where will it end?