

Municipal Labor Committee

55 Water Street, 23rd Floor / New York, NY 10041 / (212) 815-1474

December 15, 2022

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Executive Secretary
ELLEN MEDWID

To: Municipal Labor Committee Members

From: Harry Nespoli, Chair

Re: Martin Scheinman Decision

Arbitrator Martin Scheinman has issued a decision regarding ongoing health matters. As we had informed you, in light of the delay in implementing the Medicare Advantage Plan and the hastening draw down of the Stabilization Fund, the City had applied to Scheinman to enforce the 2018 Health Agreement. In the attached award, Scheinman finds that the Stabilization Fund has effectively run out of money and that the City and MLC should proceed to negotiate appropriate terms for an MA plan with Aetna within the next 25 days. Assuming terms are agreed upon, he directs that the MLC put that agreement to a vote. The City had argued that a vote was unnecessary because of the arbitration but Scheinman agreed with us that MLC procedures require a vote for a program of this nature. Should the MLC not approve the Aetna program, the matter would revert to him for consideration of how benefits provided for by the Stabilization Fund – including the provision the GHI-CBP premium-free – are to be paid for, including the imposition of premiums on actives and pre-65 retirees. Finally, he, once again, implored the City Council to amend the Administrative Code to allow for “choice” in retiree plans but directed that if the City Council does not act to restore the ability of the City and MLC to offer pay-up options for retirees, Senior Care (and the vast majority of the other options) will be discontinued.

As you will recall, a group of retirees initially challenged the MLC's ability to bargain healthcare and the City's ability to adopt a Medicare Advantage plan. While Judge Frank affirmed the MLC's role and the implementation of the Medicare Advantage plan, he read the Administrative Code to preclude offering optional retiree pay-up plans until the cost surpassed that of the actives plan. The appellate court agreed with Judge Frank, including noting that the City need not offer alternative plans. The delay resulting from these challenges and the restriction on the MLC's ability to negotiate to continue Senior

Care as a pay-up, have prevented the savings lifeline needed to bridge the Stabilization Fund and the many benefits it supports until MLC and City can complete a thoughtful process (now underway) to bid out and restructure the larger health benefit program. The MLC had insisted upon the maintenance of choice when implementing the Medicare Advantage program and fought to preserve that choice, but the matter was forced to an unfortunate decision by outside groups, foot dragging by some and the inaction of the City Council.

As always, the MLC will face the current challenges and work to create the best outcome possible. The work to vet a possible agreement with Aetna informed by past experience with the Alliance is underway and we will continue to press to protect our members and retirees as we navigate the needed changes.