

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE E. FRANK PART 52M

Justice

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NYC ORGANIZATION OF PUBLIC SERVICE RETIREES,
INC, LISA FLANZRAICH, BENAY WAITZMAN, LINDA
WOOLVERTON, ED FERINGTON, MERRI TURK LASKY,
PHYLLIS LIPMAN,

Petitioner,

- v -

RENEE CAMPION, CITY OF NY OFFICE OF LABOR
RELATIONS, CITY OF NEW YORK,

Respondent.

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INDEX NO. 158815/2021

MOTION DATE N/A

MOTION SEQ. NO. 002

**ORDER - INTERIM (MOTION
RELATED)**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 2, 57, 63, 64, 65, 79, 80, 81, 82, 96, 113

were read on this motion to/for INJUNCTION/RESTRAINING ORDER.

The underlying petition arises out of allegations that respondents have unlawfully amended the Medicare plan of current retirees. The Court has previously held on October 21, 2021 that the selection of the Alliance to administer the proposed Medicare Advantage Plus Plan was not arbitrary and capricious, however the implementation of the plan was irrational. As such, the Court ordered the parties to conference and negotiate a favorable implementation process and for the respondents to present to the Court a plan consistent with the October 21 order. Based upon the conferences held by this Court with the parties on November 23, 2021 and December 8, 2021, along with the documented discussion that have taken place between the parties and the updated proposed plan presented by the respondents to this Court on December 7, 2021, the order of this Court is amended as indicated below.

The preliminary injunction will remain in effect until the following conditions are met: Respondents must abide by the terms of the plan it submitted to the Court on December 7, 2021,

NYSCEF Doc. 157, with the following additions and amendments: (1) The effective date of the Medicare Advantage Plus Plan (the “Advantage Plan”) shall be April 1, 2022, with the opt-out period to end March 31, 2022. However, there will be a continuing opt-out period until June 30, 2022, even while the Advantage Plan is in effect; (2) respondents shall send to all retirees a letter containing a list of the corrections and additions made to the previously sent Enrollment Guide as discussed between the parties, on or before January 7, 2022. The letter must contain information on how a retiree can obtain a corrected Enrollment Guide free of charge, and the specific web addresses where the corrected Enrollment Plan may be seen; and (3) respondents must ensure that there only be one set of deductibles in the calendar year 2022 for all retirees.

In addition to the requirements above, beginning January 7, 2022 and on a biweekly basis thereafter, and until such time that the Advantage Plan is effective, the respondents shall submit a report to the Court and to petitioners detailing how many medical providers have been contacted personally regarding the plan within the geographic area discussed in the December 7, 2021 plan, approximately how many medical providers in such areas have yet to be personally contacted about the plan, and how and when those additional medical providers will be contacted. This report shall also document how many live webinars regarding the Advantage Plan have been held, their dates, and how they were advertised. Finally, all of the correspondence that the respondents say they will be sending as part of their December 7, 2021 plan shall be sent out on or before January 14, 2022.

This interim order is limited to the preliminary injunction that was granted pursuant to the Order of this Court dated October 21, 2021¹. As such, the merits of the underlying petition will be decided when the preliminary injunction has been lifted.

¹ See NYSCEF DOC. 114.

The foregoing constitutes the Decision and Order of the Court.

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12/9/2021

DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE