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February 18, 2022

**Via NYSCEF**

Justice Lyle E. Frank  
Supreme Court of the State of New York  
60 Centre Street  
New York, New York 1007

Re: NYC Organization of Public Services, Inc. et al. v. Renee Campion et al.  
Index No: 158815/2021  
Law Dept. No. 2021-028140

Dear Justice Frank:

On behalf of Respondents and The Alliance, and pursuant to this Court's December 14, 2021 order (NYSCEF Dkt. No. 166), we write to provide a fourth update on the implementation of the City's new NYC Medicare Advantage Plus Plan (the "MA Plan"). Per the Court's instruction, we provided an initial update on January 7, 2022, NYSCEF Dkt. No. 173, a second update on January 21, 2022, NYSCEF Dkt. No. 182, and a third update on February 3, 2022 NYSCEF Dkt. No. 200.

Below, we provide a further update on the efforts of Respondents and The Alliance to implement the MA Plan, and address Petitioners' February 5, 2022 submission. *See* NYSCEF Dkt. No. 204.

**Retiree outreach**

Since our last update, we have continued to provide further outreach to retirees in several forms.

**1. Webinars**

Between "general attendance" webinars for retirees as well as those hosted in partnership with the unions, there have been over 100 retiree education meetings to date, presenting to tens of thousands of retirees. In addition to the general attendance webinars already conducted, eight (8) additional webinars are scheduled for the following dates: February 18, February 22, February 24,

March 1, March 7, March 18, March 24, and March 29.<sup>1</sup> As noted in previous updates, attendees at *all* general attendance webinars can ask questions by inputting them into the webinar chat function. Questions have been relatively scarce at the general attendance webinars, but any questions not addressed during the live webinars are referred to customer service for a response.<sup>2</sup>

In addition to these general attendance webinars, we are continuing to schedule and conduct union-specific webinars in collaboration with the many unions that represent City employees and retirees, which commonly involve robust question-and-answer exchanges. We have hosted several more union-specific webinars since February 3 (as noted in the previous letter), and the full schedule of upcoming union webinars is below:

- The Organization of Staff Analysts' (Retiree Club) has a session scheduled for February 23, 2022.
- The Uniformed Fire Officers Association has scheduled an additional webinar for March 2, 2022.
- The District Council 37 has a session scheduled for March 3, 2022.
- The United Federation of Teachers has a webinar scheduled for March 8, 2022.
- The Council of School Supervisors and Administrators has a webinar scheduled for March 16, 2022.

## **2. Educational Video Series**

The Alliance is continuing to develop an educational video series campaign about the MA Plan (including prior authorization, provider network basics, and additional health/wellness program information), and anticipates development concluding by the end of February. Release of the series is anticipated for early March.

## **3. Alliance Call Center/Hotline**

As the Court knows, The Alliance has for months operated a hotline at which retirees can call avail themselves of a wide array of resources: among other things, they can ask questions about the MA Plan, request hard copies of the Enrollment Guide and prior authorization information, and process opt-out requests (or opt-out rescissions).

The Alliance has devoted substantial effort and attention to its hotline. The call center is currently staffed by more than 200 (205) associates dedicated to the MA Plan, supplemented by an additional 100-plus associates from other teams. These associates handle a significant call volume – over the first half of February, the hotline received *14,348* calls. Those calls were answered promptly; the average “speed of answer” was five seconds; nearly 96 percent of calls

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<sup>1</sup> Once again, the member webinar has now been posted on The Alliance’s website for on-demand viewing by retirees at the following link: NYC Medicare Advantage Plus Plan – Retiree Education 1/6/2022 1-Edited (vbrick.com). The webinar is also available on OLR’s website, under the link “View the NYC Medicare Advantage Plus Plan Retiree Education Video.”

<sup>2</sup> Petitioners’ contrary claims, e.g. Feb. 5 Ltr., NYSCEF Dkt. No. 202, at p. 7, are simply unfounded.

(95.55 percent) were answered within 30 seconds; and less than three percent (2.87 percent) of calls were abandoned.<sup>3</sup>

The Alliance also believes its call center associates are addressing City retirees' needs. While no formal surveys have yet been conducted, The Alliance continues to receive anecdotal evidence of retiree satisfaction – namely, unsolicited praise from retirees for the assistance provided by The Alliance's associates. A summary of such feedback from the past three weeks is enclosed here as **Exhibit K**.

In case the Court is not already aware, Petitioners sent a letter dated February 16, 2022, describing several instances in which retirees had trouble with the call center in processing or obtaining information about the status of an opt-out or rescission request.<sup>4</sup> We are grateful that Petitioners in this instance brought these issues to our attention in cooperative fashion. The Alliance promptly looked into those issues, and has already followed up with the affected retirees: among other things, for six retirees who had opted out and later rescinded, The Alliance's call center directly has contacted those retirees to confirm their intent; for seven retirees who were unable to locate an opt-out confirmation record, The Alliance has already mailed an opt-out confirmation letter to them. The Alliance has also provided additional training to the involved call center associates. However, for the reasons explained above, The Alliance has no reason to believe that these instances are indicative of any broader issue with the call center or the opt-out process. With hundreds of associates, thousands of opt-out requests/rescissions, and roughly a quarter-million City retirees, perfection is the goal but we all know it is not attainable. The Alliance will continue to work to resolve any additional issues that arise during implementation.

### **Provider outreach**

Since our prior updates, Respondents and The Alliance have continued to liaise with providers in numerous ways. In addition to all the outreach set out in the January 7, January 21, and February 3 updates:

#### **1. Webinars**

Additional provider webinars were conducted on February 4 and February 8; further webinars have been scheduled and that schedule is outlined below. As we previously informed the Court, providers have been and will be invited to these webinars in several ways – through monthly provider newsletters, through regularly scheduled touchpoints with providers, via FAQs, and via email as an “e-vite.”

<b>Date of Provider Webinar</b>	<b>Time of Provider Webinar</b>	<b>Status</b>
2/24/2022	1 - 2pm EST	To be conducted
3/8/2022	3 - 4pm EST	To be conducted

<sup>3</sup> The statistics were much the same in January, when the hotline handled 24,487 calls, with the same average speed of answer.

<sup>4</sup> The letter also attached several emails from retirees who appeared to have satisfactory experiences with the call center.

3/16/2022	10 -11am EST	To be conducted
3/22/2022	1 - 2pm EST	To be conducted
4/28/2022	Noon - 1pm EST	To be conducted
5/16/2022	9 -10am EST	To be conducted
6/7/2022	1 - 2pm EST	To be conducted

## **2. Newsletter and Provider Web Portal Posts**

In addition to the email and direct mail campaigns described in prior updates, we have also confirmed that additional newsletters and online posts to were also shared with providers that have seen City retirees in the past in the following additional states:

BlueCross BlueShield Plan	Type of Outreach	# of Providers Contacted
BCBSAZ	Newsletter (Feb and March)	36,000
IBC (PA)	Web Portal Posting	Available to All Providers
BCBSNC (NC)	Web Portal Posting	Available to All Providers
Horizon (NJ)	Newsletter (March)	Available to All Providers
Florida Blue Medicare	Web Portal Posting	Available to All Providers
BCBSSC	Newsletter	Available to All Providers
	Web Portal Posting	Available to All Providers
BCBSVT	Web Portal Posting	Available to All Providers
BCBSAR (AR)	Newsletter	Available to All Providers
	Web Portal Posting	Available to All Providers
Wellmark (IA & SD)	Newsletter	8,400
BCBSRI (RI)	Web Portal Posting	Available to All Providers
	Newsletter	Available to All Providers
BCBSMI (MI)	Web Portal Posting	Available to All Providers
BCBSMN (MN)	Web Portal Posting	Available to All Providers
Regence (ID, OR, UT, WA)	Web Portal Posting	Available to All Providers

### 3. Telephonic Campaign

In addition to all of the prior written updates (email, postcards, numerous newsletters and updates) to providers regarding the MA Plan, The Alliance and its dedicated staff of more than 30 associates have continued their telephonic outreach campaign to providers across the country who have recently seen City retirees as patients. *See* Jan. 21 Ltr. NYSCEF Dkt. No. 182, at pp. 3-4 (explaining methodology). As of today, The Alliance has undertaken significant telephonic outreach to these providers, including in New York, New Jersey, and Florida— more than 11,000 (11,564) contacts have been attempted, and more than 95 percent of provider targets have been contacted. For most states, The Alliance has already reached out to *every* Priority 1-4 provider for which it has contact information.<sup>5</sup> That process has been labor-intensive and required significant diligence; The Alliance’s team attempted to speak to a live representative up to five times for each provider before leaving a voicemail.

And indeed, contact has been made in the vast majority of cases. Most notably, 99 percent of targeted New York providers (3,236/3,272) have indeed been individually and directly reached

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<sup>5</sup> The exceptions are three states where The Alliance has been unable to obtain permission from local plans to telephonically contact providers directly, and where provider outreach is being conducted by those local plans – Florida, Massachusetts, and South Carolina. (This explains why, as Petitioners have inquired, it is taking longer to contact Florida providers than providers in other states.) But as described in prior updates, those plans have conducted significant direct outreach to providers: (1) Florida providers received at least two direct communications in January, one via email and another via a provider portal update; (2) emails were sent to 20,000-plus Massachusetts providers, and all Priority 1 Massachusetts providers have been reached via telephone; and (3) South Carolina has completed telephonic outreach to all Priority 1-4 providers (277), and sent emails to all targeted providers as well as including information in the monthly newsletter and provider portal posting.

(either via a live representative or via voicemail after efforts to speak in-person provided fruitless), and the remainder are providers that lacked voicemail capacity. All 539 Priority 1-4 New Jersey providers have been reached. The Alliance is pushing to complete additional Florida provider educational efforts, and expects phone outreach to roughly 1,000 Priority 1/2 Florida providers to be completed by next Friday, February 25.

### **Response to Petitioners' February 5 submission**

While most of Petitioners' February 5 submission does not warrant a response, we would like to address a few points.

*Network status.* The Alliance has never claimed, as Petitioners ~~writ~~allege, that “doctors who accepted *another Emblem or Anthem plan* are automatically considered in-network” for the MA Plan. *See* Feb. 5 Ltr., NYSCEF Dkt. No. 202, at p. 5 (emphasis added). We have been crystal clear – the MA Plan is a *Medicare Advantage PPO*, and if a provider participates in an Empire, Emblem or Blue Cross Medicare Advantage PPO network in a particular state – as the providers listed in the FindCare tool do – then they are in-network, full stop. This is why we previously informed the Court (and Petitioners) and have been advising retirees that network status is *not* best determined by simply using the (new) MA Plan's name.

The February 5 letter claims that it encloses “affidavits from several providers” disagreeing. *See* Feb. 5 Ltr. NYSCEF Dkt. No. 202, at p. 5. We do not see that. We see a single provider affidavit, from a Dr. Jacobs in Brooklyn, who may (it is unclear) dispute the scope of his signed contract. Dr. Jacobs's unique situation has no salience to the broader MA Plan, or the entirely uncontroversial and straightforward proposition that participants in a Medicare Advantage PPO network are in-network for Medicare Advantage PPO plans like this one.<sup>6</sup>

*Hospitals.* Petitioners no longer dispute, Feb. 5 Ltr., NYSCEF Dkt. No. 202, at pp. 5-6, that “all New York City hospitals” and “95% of hospitals nationwide” are in-network for the MA Plan. It remains the case that out-of-network hospitals need not be in-network to see retirees, given that the MA Plan is an open-access PPO. Additionally, The Alliance has confirmed after outreach that several of the hospitals flagged in Petitioners' submissions, including the Mayo Clinic's Arizona and Florida locations, and M.D. Anderson in Houston, will see City residents on an out-of-network basis. Given that, it is unclear why Petitioners feel entitled to claim that outreach to hospitals has been “inadequate.” *Id.* To the extent Petitioners' complaint is that hospitals' network status is not universally known by employees of those hospitals, The Alliance and Respondents cannot possibly be reasonably charged with ensuring informational dissemination amongst the many thousands of local hospital employees, or hundreds of thousands nationwide.<sup>7</sup>

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<sup>6</sup> Petitioners' claim that “only 5% of the doctors” listed in The Alliance's February 3 submission “said they were going to participate,” Feb. 5 Ltr. NYSCEF Dkt. No. 202, at p. 2, plainly ignores the *overwhelming majority of providers in the chart*, who are listed as PAR, and are thus in-network. *See* NYSCEF Dkt. 200, at p. 4, n.4.

<sup>7</sup> Petitioners' claim that Respondents have “avoided” discussing the distinction between hospitals and providers, Feb. 5 Ltr., NYSCEF Dkt. No. 202 at p. 6, makes little sense, given that the distinction is baked into Medicare itself. Nor have Respondents ever suggested that all doctors associated with a particular hospital necessarily share the same network status.

Petitioners' claim of inadequate outreach is particularly off-base as to Memorial Sloan Kettering ("MSK"). As relayed in prior communications, MSK sent out bills in January 2022 containing boilerplate language stating that the hospital did not participate in "any" Medicare Advantage plans. That boilerplate was wrong; MSK *was* participating in several Empire and Emblem Medicare Advantage plans as of January 2022, and MSK's website indeed indicated that MSK would participate in the MA Plan as of April 1, 2022.<sup>8</sup>

As soon as The Alliance became aware of the MSK boilerplate, it pushed the hospital to correct the record. And MSK did so: in response to feedback from The Alliance, MSK sent affected patients a letter stating:

We are writing to tell you that your January 2022 bill from Memorial Sloan Kettering had incorrect information.

The bill said: "It is important to know that MSKCC'S Hospital and Doctors are not providers in any Medicare Advantage Networks." This information is incorrect. **As of January 1, 2022, MSK is in-network with some Medicare Advantage plans, including plans offered by the Empire Blue Cross Blue Shield and Emblem networks.**

For a full list of insurance plans that participate with MSK, please visit [mskcc.org/insuranceplans](https://mskcc.org/insuranceplans). This list is updated regularly.

We apologize for any confusion this caused. If you have questions, please call our Patient Billing Department at 646-227-3378.

Thank you for choosing MSK for your care.

This episode was unfortunate, but it resulted from an oversight at a major hospital system, and was swiftly remedied at The Alliance's insistence. It is precisely because such issues are inevitable that The Alliance has a dedicated provider outreach team for continuing educational efforts and issue resolution work, so as to minimize impacts to members. Moreover, the MSK issue involved only a single provider among the many thousands participating in the MA Plan; the truth about MSK's network status was always ascertainable, and was reiterated to retirees immediately after the boilerplate error came to light. In short, the MSK bills were a non-issue.

We will provide a further update in two weeks, and look forward to discussing these issues further with the Court at the next status conference.

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<sup>8</sup> Petitioners' suggestions that this reference was "buried deep" within a webpage, and that no retiree "would ever go searching for" that website, Feb. 5 Ltr. NYSCEF Dkt. No. 202, at p. 6, do not stand up to scrutiny; the pertinent information was set out on the "Medicare & Medicaid" page of the "Insurance" section of MSK's website. See <https://www.mskcc.org/insurance-assistance/insurance-information/medicare-medicaid>. Far from obscure, that is precisely where any reasonable visitor would go to check on MSK's acceptance of a Medicare Advantage plan.

Respectfully submitted,

/s/ Michael E. DeLarco

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*Counsel for The Alliance*

Respectfully submitted,

/s/  
Rachel M. DiBenedetto

William S.J. Fraenkel  
Assistant Corporation Counsels

cc: All counsel of record



# EXHIBIT K

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**From:** [REDACTED]  
**Sent:** Wednesday, February 16, 2022 12:47 PM  
**To:** [REDACTED]  
**Subject:** {EXTERNAL} Fwd: Med /Adv .opt out

This email originated outside the company. Do not click links or attachments unless you recognize the sender.

[REDACTED],  
Below is an email from [REDACTED] who is grateful for the help from [REDACTED]. Please this on to her.

Best,  
[REDACTED]

Sent from my iPhone

Begin forwarded message:

**From:** [REDACTED]  
**Date:** February 16, 2022 at 12:39:24 PM EST  
**To:** [REDACTED]  
**Subject:** Re: Med /Adv .opt out

Hey how are you doing [REDACTED] this is [REDACTED], you were kind enough to put me in touch with a woman [REDACTED] from Anthem she called me numerous times she's been of a tremendous help the woman should be cloned that's how helpful she is and just keeps on reaching out when she finds more info this is an FYI thanks again  
She's done a lot to help me yeah pretty much resolve my issue thank you so much

On Wed, Feb 9, 2022 at 2:20 PM [REDACTED] wrote:

[REDACTED]

On Wed, Feb 9, 2022 at 2:20 PM [REDACTED] wrote:

No problem. I will ask someone from Med Adv Plus to contact you directly. Please confirm after they contact you.

[REDACTED]

**Uniformed Fire Officers Association**

**Family Protection Plan**

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Wednesday, February 9, 2022 2:17 PM  
**To:** [REDACTED]  
**Subject:** Re: Med /Adv .opt out

Hey [REDACTED] I'm sorry I misunderstood Your communication I thought you wanted me to reach out somewhere at medicare advantage

My number is [REDACTED]

On Wed, Feb 9, 2022 at 1:16 PM [REDACTED] wrote:

[REDACTED]

I didn't see the best phone number to contact you at. Please advise the best contact number for you.

[REDACTED]

**Uniformed Fire Officers Association**

**Family Protection Plan**

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Wednesday, February 9, 2022 1:15 PM  
**To:** [REDACTED]  
**Subject:** Re: Med /Adv .opt out

Thanks for your response.

Stay safe brother

On Wed, Feb 9, 2022 at 12:58 PM [REDACTED] wrote:

Hello [REDACTED],

Please provide the best contact number for someone from NYC Med Adv to contact you.

[REDACTED]

Uniformed Fire Officers Association  
Family Protection Plan

[REDACTED]

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

From: [REDACTED]  
Sent: Wednesday, February 9, 2022 12:28 PM  
To: [REDACTED]  
Subject: Med /Adv .opt out

Hello [REDACTED] my name is [REDACTED] I'm a retired lieutenant I want to complement you on this morning's zoom the question that I had that was not addressed is this:

I am the HCP for my father a retiree on Medicaid, his primary care physician provides home visit service ,when I approached him the Dr. about the Medicare advantage plan two months ago he recommended that I opt out.

At that time I didn't realize the extent of the monthly cost , I'm trying to avoid opting out. it is very convenient for me to keep him as the primary care physician ,change is not good at this point in my fathers life.

Where can I refer him to show that he's assured that his allowable payments received would be the same.

FYI [REDACTED] says you know your stuff Thank you and stay safe brother

Sent from my iPhone

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**From:** [REDACTED]  
**Sent:** Friday, January 28, 2022 11:34 AM  
**To:** [REDACTED]  
**Subject:** {EXTERNAL} Thank you

This email originated outside the company. Do not click links or attachments unless you recognize the sender.

Good morning [REDACTED]. I want to say thank you to you and your team for the presentation last night to our retired and active NYC employed members. The presentation was very well received and informative.

We appreciate it.

I also hope you are feeling better. Stay safe and warm as the snow approaches.

Best, [REDACTED]

[REDACTED]  
Doctors Council  
A United Voice for Doctors, Our Patients & the Communities We Serve  
[REDACTED]  
[REDACTED]

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The director of the [REDACTED] team, [REDACTED], collected the following “recent kudos” given to her team on January 27, 2022:

- Recognizing [REDACTED]: *“I just wanted to let someone know she had excellent people skills, great knowledge of her job. She is an asset to your organization. She had a lot of patient as I had a lot of questions about this plan. She is a credit to have as an employee. Thank you for the service.”*
- Recognizing [REDACTED]: *“I wanted to tell you how wonderful she was, she was very informative about the new plan and I wanted to give a shout out about pleasant and wonderful she was. She went out of her way to telephone doctors for me and making me feel secure about the new plan coming up”*
- [REDACTED]: *I had a wonderful person who has helped me several times, [REDACTED]. He has been absolutely wonderful with me. He has given me so much information. I am not a young woman, I am 70 and I need to be careful with my plan choice. He is absolutely phenomenal. He is so clear and explained everything in detail. He has taken so much time to give me the best advice he could give me. I appreciate everything he has done. He deserves the title of manager or someone higher than that because he is wonderful. I wanted to let you know how I feel as a consumer, customer, future plan participant in your medical plan. I would love to take your plan which sounds better than the one I have right now. I am a retired school teacher. He deserves a compliment and I appreciate that you have a wonderful person working for you and for the company. He’s smart and was thorough on the plan comparisons. THANK YOU!*
- [REDACTED]: *I wanted to leave kudos for [REDACTED], she was wonderful. Her knowledge and the way she disbursed it was clear, articulate and gracious. Two thumbs up. Give her a raise or a promotion, she was terrific.*