

Pollock Cohen Client, New York City Organization Of Public Service Retirees, Secures Another Appellate Victory For Retiree Healthcare Rights

NEW YORK, May 26, 2023 /PRNewswire/ -- The NYC Organization of Public Service Retirees secured another major appellate victory on behalf of Medicare-eligible retired City workers and their dependents. The victory comes in a class action lawsuit filed last year by the Organization challenging the City and EmblemHealth's unlawful decision to impose co-pays on retirees enrolled in the Senior Care plan.

Yesterday, the First Department appellate court unanimously affirmed a decision from Manhattan Supreme Court Justice Lyle Frank prohibiting the City and EmblemHealth from charging 183,000 elderly and disabled retirees co-pays for medical services.

The First Department held that the retirees "established a likelihood of success on the merits" of their lawsuit. It also held that the retirees had demonstrated that they "would suffer irreparable harm—delaying or foregoing medical care, and inability to pay certain expenses, including necessities such as utilities—if they were required to continue paying the co-payments."

Justice Frank granted the retirees' preliminary injunction motion back in January, halting the imposition of the co-pays. Justice Frank ruled that the injunction was necessary because the retirees were "highly likely" to succeed in their lawsuit and because the co-pays were forcing senior citizens living on limited pensions to forego needed medical care and reduce spending on other necessities.

This is the second time in less than two years that Justice Frank ruled in favor of the retirees and the First Department unanimously affirmed. The first time came in 2022, when Justice Frank prohibited the City from "passing along any costs" of retirees' existing health insurance.

In response, Marianne Pizzitola, President of the New York City Organization of Public Service Retirees, issued the following statement: "Once again, six out of six Supreme Court justices have concluded that the City violated retirees' rights and inflicted irreparable harm on them. It is both sad and mind-boggling that the City cannot or will not acknowledge the illegality of its conduct and the extreme suffering it causes. We are incredibly thankful to the Court for recognizing the retirees' meritorious legal arguments and the heartbreaking injury caused by the City and EmblemHealth's wrongful actions. In an April press conference with the PBA, the Mayor said, 'You can't balance the books

on the backs of those who have provided a service to the City.' I guess he forgot about retirees. This appellate decision serves as yet another wake-up call to the Mayor and the MLC, who seem to believe retirees are a cash-cow they can milk to fund reckless spending. If the Mayor and the MLC insist on continuing to violate retirees' healthcare rights, we will continue to take them to court. We will keep fighting for the health and well-being of those who served this City and make sure that the City complies with its legal obligations."

Jacob Gardener, a partner at Walden Macht & Haran, handled the preliminary injunction motion. He stated, "Thanks to the First Department's well-reasoned decision, tens of thousands of senior citizens and disabled first responders—particularly those with serious medical conditions that require frequent medical care—will avoid drowning in co-pays they cannot afford. We look forward to the next step in this battle, which is to secure for the retirees reimbursement for the tens of millions of dollars in co-pays they were improperly charged in the past."

Steve Cohen, a partner at Pollock Cohen, which initiated the case, said, "This vindicates what we've said all along: Promises made should be promises kept."

The New York City Organization of Public Services Retirees are jointly represented by Jacob Gardener of Walden Macht & Haran and Steve Cohen, Sara Mark, Max Rodriguez of Pollock Cohen LLP.