

**Court of Appeals
State of New York**

In the Matter of the Application of

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

Plaintiffs-Respondents,

against

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

Defendants-Appellants.

**BRIEF FOR *AMICUS CURIAE*
THE PUBLIC SECTOR HEALTHCARE
ROUNDTABLE IN SUPPORT OF THE
APPELLANTS**

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STATEMENT OF INTEREST AND POSITION

We, on behalf of the Public Sector HealthCare Roundtable (the Roundtable), respectfully submit this amicus curiae brief in support of the City of New York, in the above-captioned case. The Roundtable is a non-profit, non-partisan coalition of public sector healthcare purchasers from across the United States, including states, counties, and municipalities. We work together to bring a voice to the tens of millions of public sector employees, retirees, and their dependents. These current and former public servants are the bedrock of their communities, performing vital roles such as schoolteachers, firefighters, and law enforcement. They often receive modest incomes for their service, and the health benefits our public sector employers provide are an important component of their compensation. Roundtable members have a fiduciary duty to the public sector consumers that we serve to offer high-quality benefits at an affordable cost, with the overwhelming majority of our members offering Medicare Advantage (MA) Employer Group Waiver Plans (EGWPs) due to their proven track record of delivery cost-effective, comprehensive care.

As over 13 percent of the American workforce is employed in the public sector¹, the Roundtable represents a substantial population with a vested interest in

¹ Bureau of Labor Statistics. Occupational Employment and Wages in State and Local Government. December 2021. Available at: <https://www.bls.gov/spotlight/2021/occupational-employment-and-wages-in-state-and-local-government/home.htm>

the outcomes of this case. The Roundtable is committed to advocating for policies that alleviate financial burdens and enhance the well-being of these active and retired workers. With over 1.6 million retirees covered across 29 public sector purchasers and an average of 12.5 years of utilizing a MA-EGWP for their beneficiaries, our members consistently find this offering both cost-effective and of the highest quality for themselves and those they serve.

Roundtable members have consistently utilized MA-EGWPs to mirror existing plan designs and achieve significant savings. Over the years, both early adopters and those who have transitioned more recently have reported positive outcomes. Specifically, enrollees have expressed general satisfaction with their coverage, highlighting the effectiveness of EGWPs in providing high-quality, affordable healthcare benefits. The experience of our members demonstrates the success of these plans in maintaining cost-effectiveness while ensuring comprehensive care for retirees.

Medicare Advantage Benefits for Public Sector Retirees:

EGWPs play a pivotal role in delivering value-based benefits to public sector retirees at a reduced cost compared to traditional Medicare. Research indicates that EGWP beneficiaries experience lower member cost sharing and enjoy supplementary benefits, leading to increased satisfaction rates among retirees.

Importance of EGWPs in the MA Market:

The increasing adoption of MA plans, particularly MA-EGWPs, by plan sponsors underscores the growing preference for these high-quality, cost-effective options. With over half of retirees being offered an MA option, it's evident that these plans meet the needs of both plan sponsors and retirees. By 2033, an estimated 62 percent of all Medicare beneficiaries will be enrolled in MA², reflecting the continued trend towards these plans.

MA-EGWPs offer stability and predictability in costs, which is crucial for both plan sponsors and retirees. These plans consistently receive higher-than-average Star Ratings and boast high satisfaction rates among members. Additionally, they provide comprehensive coverage, including supplemental benefits and protections for members with high-cost and chronic conditions, thereby ensuring access to quality care while mitigating out-of-pocket expenses.

The widespread adoption and positive outcomes associated with MA-EGWPs highlight their effectiveness in delivering high-quality, affordable healthcare solutions. As the healthcare landscape continues to evolve, MA-EGWPs remain a vital option for plan sponsors and retirees seeking reliable and comprehensive coverage.

² Kaiser Family Foundation. Medicare Advantage in 2023: Enrollment Update and Key Trends. August 9, 2023. Available at: <https://www.kff.org/medicare/issue-brief/medicare-advantage-in-2023-enrollment-update-and-key-trends/>

Adaptability of EGWPs:

Our members report a proactive focus on essential services for retirees, such as telehealth and mail order pharmacy services prior to the pandemic which facilitated seamless adaptation during the crisis. High utilization of telehealth during the pandemic peak and continued robust usage of mail order pharmacy underscore the program's effectiveness in meeting evolving healthcare needs. This demonstrates the value and adaptability of EGWPs in ensuring accessible, quality healthcare services for beneficiaries, particularly during crisis situations.

Case Studies Demonstrating the Benefits of EGWPs for Public Sector Retirees:

A mid-size public purchaser in the South and member of the Public Sector HealthCare Roundtable strongly supports MA EGWPs due to their significant benefits for retirees. With over 38,000 beneficiaries enrolled in the MA EGWP for 18 years, bipartisan support and achieved premium stability have been observed, even lowering premiums compared to two decades ago. Transitioning to MA EGWP has not only reduced actuarial liability by \$1.9 billion but also allowed for the offering of enhanced benefits like free access to gyms, post-hospitalization meal delivery, and incentive wellness programs. These initiatives have resulted in better health outcomes, evidenced by the utilization of MA where retirees received over 42,000 incentive rewards. Overall, MA EGWPs have proven instrumental in

providing quality healthcare coverage and support for retirees, making them a valuable choice for this member.

A small public sector purchaser in the Northeast and member of the Public Sector HealthCare Roundtable will be moving to an MA-EGWP at the beginning of 2025. They are dedicated to ensuring robust healthcare coverage for their retirees. With over 5,500 Medicare-eligible retirees enrolled in their supplemental plans, they faced rising costs, particularly in prescription drugs, prompting the need for a cost-effective alternative. Through extensive research, they found that MA EGWPs offer a compelling solution, allowing them to maintain comprehensive coverage and plan design while substantially reducing costs for their retirees. By making this transition, they are ensuring financial sustainability for their retiree healthcare program and empowering retirees to access quality care without undue financial burden.

Moreover, the move to an MA EGWP presents an opportunity to enhance benefits and streamline administrative processes, aligning with their commitment to delivering value-driven healthcare solutions. They believe this transition will not only benefit retirees but also contribute to the long-term success and stability of their healthcare program.

In conclusion, the Roundtable underscores the pivotal role of EGWPs in offering cost-effective healthcare solutions to public sector retirees. We highlight the successful implementation of MA programs, including EGWPs, which have proven

beneficial for our members. With proper education and a well-planned rollout, similar programs could potentially offer significant benefits to beneficiaries in the City of New York. It is our belief that by leveraging the positive experiences of our members and providing comprehensive education and support, the city can explore the potential of MA programs to enhance healthcare access and affordability for its retirees.

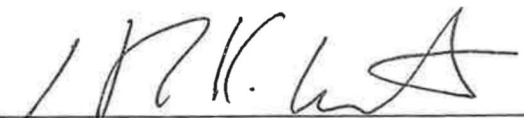
Thank you for considering the perspectives presented in this brief. The Roundtable stands ready to provide further assistance or clarification as needed.

CONCLUSION

For the reasons set forth above and in the City's filings, the Public Sector HealthCare Roundtable respectfully urges the Court to reverse and deny the petition.

Dated: Washington, DC
September 17, 2024

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PRINTING SPECIFICATION STATEMENT

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Dated: Washington, DC
 September 17, 2024

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