



THE CITY OF NEW YORK INDEPENDENT BUDGET OFFICE

110 WILLIAM STREET, 14TH Floor
NEW YORK, NEW YORK 10038

November 24, 2023

VIA EMAIL

Council Member Althea Stevens

AStevens@council.nyc.gov

Dear Council Member Stevens,

At your request, the Independent Budget Office reviewed the fiscal impact of [Int. 1099-2023](#). Per the summary of the legislation, the bill “would require the City to offer Medicare-eligible city retirees and their Medicare-eligible dependents at least one Medigap plan with benefits equivalent to or better than those available to city retirees and their dependents as of December 31, 2021.” Below, IBO provides a brief background on the issues that spurred Int. 1099. IBO concludes that this legislation currently has no direct fiscal impact at this time since the bill, in effect, simply codifies what the City is currently providing in retiree health benefits based on the current status of litigation around these issues. Any future fiscal impacts of this legislation (if passed)—were the City to implement changes to the current retiree health benefits—cannot be quantified at this time.

Background. On July 14, 2021, the de Blasio administration [announced](#) its intention to switch the city’s retirees from a coverage plan that included Medicare Parts A, B and Supplemental “Medigap” coverage to what is known as a Medicare Part C, or Medicare Advantage plan.¹ The Adams administration moved forward with this proposal despite litigation brought on behalf of city retirees against the change in coverage. Initially, the City planned to offer both the new Medicare Advantage plan and the existing Medigap plan, charging a premium for the latter which previously had been offered at no cost to the retiree. In November 2022, the appellate court upheld an injunction based on the New York City Administrative Code §12-126, which requires the City to pay the entire cost of retirees’ coverage up to a statutory cap. In May 2023, the appellate court also upheld a lower court ruling barring new co-pays.

Meanwhile, having not persuaded City Council to amend the Administrative Code, the Adams administration proposed to eliminate the Medigap option entirely, and to offer retirees only a Medicare Advantage plan. This approach was permanently enjoined at the lower court in August with the decision finalized on September 19, 2023. The City issued a Notice of Appeal of that ruling on September 20, 2023 and now has six months to move forward with that appeal.

Pricing. The intent of the proposed legislation is to require the preservation of at least one Medigap plan equivalent to the current offering. The City could also offer a Medicare Advantage plan but would have to continue to cover the full cost of the Medigap plan up to the statutory cap, just as it does today.

The City assumed \$600 million in annual savings resulting from a total switchover to Medicare Advantage. Federal subsidies are available for Medicare Advantage plans and are not available for Medigap plans, so the savings assumption simply reflects the fact that the City can access those subsidies, rather than paying the costs itself. The City’s plan was not to use those funds in its own budget, but rather to use funds to bolster the financial position of the Health Insurance Premium Stabilization Fund (HIPSF). HIPSF was

created to stabilize costs between the City's two primary insurance options for active employees, the HIP-HMO and GHI plans. HIPSF is governed jointly with the Municipal Labor Committee (MLC), and also supports a range of additional benefits collectively bargained for, including union welfare funds, telemedicine, and supplemental prescription drug coverage. A structural deficit has emerged in the HIPSF in recent years, as its annual obligations now exceed its revenues. Absent the projected savings from the Medicare Advantage switch, that deficit would remain unaddressed.

Unless the City prevails on its appeal of the permanent injunction, the projected savings would not occur. That appeal is independent of this legislation. At the present time, Int. 1099 presents no immediate fiscal impact for the City's budget, because without the unilateral switch to Medicare Advantage—the plan that was permanently enjoined by the court—the City is currently and will continue to offer Medicare-eligible city retirees and their dependents at least one Medigap plan. If in the future, the City restructures health benefits for retirees differently, either based on a successful appeal of the injunction or in some other manner, this legislation may then have a fiscal impact. However, without knowing what those future changes might be, when they may occur, or take-up rates for different insurance plans, IBO cannot quantify such impacts at this time.

If you have any questions or would like additional information, please contact me at LouisaC@ibo.nyc.ny.us or (212) 442-0225 or Logan Clark, who prepared this letter, at LoganC@ibo.nyc.ny.us or (212) 814-7464.

Sincerely,

A handwritten signature in black ink, appearing to read "Louisa Chafee". The signature is fluid and cursive, with the first name "Louisa" and last name "Chafee" clearly distinguishable.

Louisa Chafee, Director

¹ For additional background on the switch, please see IBO's testimony to City Council from [October 2021](#) and [January 2023](#).