

Anderson v City of New York

2025 NY Slip Op 34705(U)

December 4, 2025

Supreme Court, New York County

Docket Number: Index No. 164234/2025

Judge: Lyle E. Frank

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

-----X

GEORGE ANDERSON, MIGDALIA ACEVEDO, SAMY MAHMOUD, RAEANN SINGLETON, ANDREA FRANCIS, CHRYSTLE BULLOCK, MONIQUE BROWN, WANDA WILLIAMS, HANDS OFF NY CARE, INC.,

Petitioner,

- v -

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

Respondent.

-----X

INDEX NO. 164234/2025

MOTION DATE 10/29/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 48, 49, 50, 51, 56, 57, 58, 59, 60, 61, 79, 80, 81, 82, 83, 84, 85, 86, 87

were read on this motion to/for PREL INJUNCTION/TEMP REST ORDR

Upon the foregoing documents, the order to show cause is denied and the cross-motion is denied.

Background

Under the NYC Admin Code § 12-126(b)(1), New York City (the "City") has been obligated to pay the entire cost of health insurance coverage for city employees, city retirees, and their dependents. The City (along with Renee Campion and the City of New York Office of Labor Relations, the "City Respondents") also has various collective bargaining obligations with regards to providing healthcare. There are several fully insured plans offered by the City, with the primary plan being a comprehensive benefits plan administered through Anthem Blue Cross (the "CPB Plan"). Over the course of several years, the City has negotiated a new plan with the Municipal Labor Committee (the "MLC").

This new plan (the “NYCE PPO”) is fully self-funded by the City, with EmblemHealth Plan, Inc. and a UnitedHealthcare subsidiary, UMR, Inc. (collectively, the “Administrators”) serving solely in an administrative function. The NYCE PPO was approved in September of 2025 and the city employees and retirees have received a variety of communications regarding the plan change. All participants covered under the previous CBP Plan are automatically transferred to the NYCE PPO unless they opt-out during the open enrollment period, which took place in November of 2025. Petitioners are several city employees/retirees who seek to challenge the transfer to the NYCE PPO, along with a newly formed interest group with the same goal. Three parties have made motions to intervene as respondents which have been granted: The MLC, the Administrators, and NYPD Retiree Emblem/Health Doctor & Dental Information Group (the “NYPD Retirees”, collectively with the MLC, Administrators, and the City Respondents “Respondents”).

Discussion

In this order to show cause, Petitioners seek a preliminary injunction preventing the rollout of the NYCE PPO, set for January of 2026. The enrollment period has already ended, and the requested relief would require that those members who have enrolled in the NYCE PPO be de-enrolled and the administrative efforts already expended to set up the new plan be reversed. Respondents all oppose the order to show cause, and the City Respondents have cross-moved to dismiss the petition. The Administrators have joined in with the cross-motion to dismiss. For the reasons that follow, the order to show cause seeking a preliminary injunction is denied, and the cross-motion is denied.

Petitioners Have Failed to Demonstrate Irreparable Harm

A party seeking a preliminary injunction must demonstrate 1) a likelihood of success on the merits, 2) danger of irreparable harm absent an injunction, and 3) that the balance of equities is in their favor. *See, e.g., Aetna Ins. Co. v. Capasso*, 75 N.Y.2d 860, 862 [1990]. Regarding the second prong, Petitioners argue that they will lose the regulatory protections available for consumers of health insurance if the NYCE PPO takes effect as planned, and there is a potential that there will be a loss of coverage of certain claims with the NYCE PPO. They also argue that there is the potential that the City becomes insolvent and unable to pay out medical claims. Respondents have submitted affidavits attesting to the fact that the potential coverage gaps Petitioners point to in their papers are accounted for, and that the NYCE PPO does “not diminish benefits or provider access presently provided” by the CBP Plan.

To the extent that the parties dispute the facts of the coverage extent of the new plan compared to the old, and the veracity of the Respondents’ statements that the new plan contains the same benefits, those are factual issues that would preclude granting a mandatory preliminary injunction. The rest of the concerns raised by Petitioners are speculative, such as the fear that the City will elect to change the NYCE PPO in order to remove services that are currently covered or that the City will become insolvent. The element of irreparable harm, along with the other prongs, must be shown by clear and convincing evidence. *Gilliland v. Acquafredda Enters., LLC*, 92 A.D.3d 19, 24 [1st Dept. 2011]. A speculative possibility is not sufficient to sustain a showing of irreparable harm. *See, e.g., Matter of G Bldrs. IV, LLC v. Madison Park Owner, LLC*, 84 A.D.3d 694, 695 [1st Dept. 2011]; *N.Y. State Inspection, Sec. & Law Enforcement Emples., Dist. Council 82 v. Cuomo*, 64 N.Y.2d 233, 241 [1984]. Because Petitioners have not met their burden of showing irreparable and imminent harm, the preliminary injunction will not be granted.

The Cross-Motion to Dismiss Issues Raised

The City Respondents have cross-moved to dismiss the petition for failure to state a claim, arguing that they are entitled to enact a self-funding healthcare plan, and the Administrators have joined in that cross-motion. Petitioners oppose and argue that the City is restrained from adopting a self-funding plan such as the NYCE PPO and must instead provide healthcare insurance through a licensed insurance provider. The issues raised are 1) whether Section 12-126 of the Admin Code bars self-funded plans; and 2) whether General Municipal Law Section 92-a permits the Mayor to authorize a self-funded plan, and if so, does GML § 92-a override any prohibition on self-funded healthcare coverage that may be found in Section 12-126.

Admin Code § 12-126 Is Ambiguous on the Matter of Self-Funded Plans

Petitioners base their proceeding on the argument that Admin Code § 12-126 requires the City to provide health care coverage to employees and retirees through an insurance provider, and not through a self-funded plan. The City Respondents disagree with the Petitioner's interpretation. Admin. Code § 12-126 requires the City to "pay the entire cost of health insurance coverage for city employees, city retirees, and their dependents." The term health insurance coverage is defined as a "program of hospital-surgical-medical benefits to be provided by health and hospitalization insurance contracts entered into between the city and companies providing such health and hospitalization insurance." Nowhere in the statute does it explicitly ban self-funded options or require that City may only provide healthcare coverage to employees and retirees through an insurance provider, so the analysis becomes whether this provision implicitly bars a self-funded plan.

Petitioners cite to *Campion* for the proposition that Section 12-126 mandates the provision of healthcare coverage through an insurance company and bars self-funded options. In

that case, the Court of Appeals examined the issue of whether the City was required to pay the cost of healthcare insurance coverage up to the statutory cap for any insurance plan offered to employees and retirees, or only one of the options provided. *Matter of NYC Org. of Pub. Serv. Retirees, Inc. v. Champion*, 43 N.Y.3d 228, 231 [2024]. There, the Court of Appeals held that “the City must pay – up to the statutory cap- for each health insurance plan that it offers employees and retirees.” *Id.*, at 239. *Champion* is distinguishable, because the Court of Appeals did not reach the issue of whether self-funded plans were permitted. It only held that any *insurance* plan the City offers must have the cost of coverage paid for up to the statutory cap, not whether all plans the City offers must be run through an insurance provider.

Ultimately, Section 12-126 is ambiguous on the matter of self-funded plans. It neither explicitly bans nor permits self-funded options. It can reasonably be read to both implicitly require that the City provide healthcare through an insurance company, and to implicitly contain requirements for any insurance plan the City does offer without restricting other models. As the matter stands, the Court finds that the Respondents have not met their burden on a motion to dismiss. The Court notes, however, that the NYCE PPO would fulfill the intent of section 12-126 in that the City would be covering the full cost of healthcare coverage for its employees and retirees.

General Municipal Law § 92-a Is Also Ambiguous

The City Respondents also argue that 12-126 and GML § 92-a operate in tandem, with 12-126 laying out the requirements for the more traditional health insurance plans that the City offers and 92-a laying out the authority for a self-funded healthcare coverage option. Because this section contains the language “notwithstanding any general, special or local law to the contrary”, it overrides Admin. Code § 12-126. *See, e.g., People v. Mitchell*, 15 N.Y.3d 93, 97

[2010]. Therefore, if the City would be permitted under 92-a to offer a self-funded plan, it would override any mandate to the contrary in 12-126 and the petition would be properly dismissed for failure to state a claim.

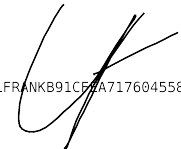
GML § 92-a(6)(a) states that “the governing board of a public corporation that, in lieu of contracting pursuant to subdivision two of this section, self-funds medical, surgical or hospital benefits, may enter into agreements with duly qualified contract administrators [...]” City Respondents argue that the NYCE PPO is therefore permitted under this provision, and that here the Legislature intended to give municipalities the option to self-fund instead of providing traditional insurance packages. Petitioners argue in their reply that this provision only permits the City Council, not the Mayor, to adopt a self-funded plan. The term “governing board” is not defined in Section 92-a. GML § 2 states that the term “includes the board of supervisors of a county, the town board of a town, the common council of a city, and the board of trustees of a village” but does not limit the term to these bodies. In letters and emails to the Court, as well as at the hearing on this matter held on December 1, 2025, various parties have cited to various authorities on the issue of the definition of “governing board” as relates to 92-a. Given the ambiguities noted in the relevant statutes, the Court finds that the City Respondents have not met their burden to dismiss at this juncture. Further briefing on this matter will be beneficial to see if petitioner meets their burden of showing that the actions of the respondents in this matter violate existing law. Accordingly, it is hereby

ADJUDGED that the order to show cause is denied; and it is further

ORDERED that the cross-motion is denied; and it is further

ORDERED that the respondents have thirty days from the date of service of this order with notice of entry to serve an answer to the petition; and it is further

ORDERED that the parties appear virtually for a conference to discuss a further briefing schedule on December 19, 2025, at 2:15 pm.


20251208094715LFRANKB91CF7A7176045588FF180F852CAFFDB

LYLE E. FRANK, J.S.C.

12/4/2025
DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED			<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER			<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE