MIAMIBEACH

OFFICE OF THE CITY ATTORNEY

RAFAEL PAZ, ACTING CITY ATTORNEY

COMMISSION MEMORANDUM

TO: **MAYOR DAN GELBER**
MEMBERS OF THE CITY COMMISSION **FIRST READING**
RAUL J. AGUILA, INTERIM CITY MANAGER

FROM: **RAFAEL PAZ, ACTING CITY ATTORNEY**

DATE: **April 21, 2021**

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 78, ARTICLE II THEREOF, ENTITLED "EMPLOYEE BENEFIT PLANS;" AMENDING SECTION 78-81, "ENTITLED GROUP HEALTH INSURANCE," TO PROVIDE THAT ANY EMPLOYEE WHO ELECTS TO DECLINE PARTICIPATION IN THE CITY'S GROUP HEALTH INSURANCE PLAN FOLLOWING RETIREMENT AFTER THE EFFECTIVE DATE OF THIS ORDINANCE MAY RESUME COVERAGE AND BE ELIGIBLE FOR THE CITY'S CONTRIBUTION TOWARDS THE COST OF COVERAGE IF IT IS DEMONSTRATED THAT THE RETIRED EMPLOYEE HAS MAINTAINED CONTINUOUS COVERAGE UNDER ANOTHER GROUP HEALTH PLAN SINCE THEIR DATE OF RETIREMENT OR SINCE THE DATE ON WHICH THEY LAST OPTED OUT OF THE CITY'S GROUP HEALTH INSURANCE PLAN; REPEALING SECTION 78-82, ENTITLED "HEALTH MAINTENANCE ORGANIZATION;" PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.**

Pursuant to the request of Commissioner Michael Gongora, the above-referenced Ordinance is submitted on First Reading for consideration by the Mayor and City Commission at the April 21, 2021 City Commission Meeting.

BACKGROUND

The City provides medical and dental insurance ("the Plan") to its employees and retirees through a self-funded plan that is currently administered by Cigna Health. The City contributes toward the cost of retiree health insurance coverage that is determined by the City Commission each year as part of the City budget process, based on available funds. *See* City Code Secs. 78-81 (group health insurance) and 78-82 (Health Maintenance Organization (HMO)).

Some governmental entities are moving away from funding retiree health benefits, especially at the rate equal to those of active employees. However, offering post-employment health benefits that are funded by the City is a recruitment tool that aids in the City's hiring process. The Plan currently has approximately 2,800 members, including active employees, retirees, and dependents (excluding police and fire). Twenty-seven (27%) percent of the plan members are retirees and their dependents. The City is currently funding approximately 60% of the premium cost for retiree health benefits.

On March 8, 2006, the Mayor and City Commission adopted Ordinance No. 2006-3505, that made changes to the City's Group Health Insurance Program for retiring employees. The changes adopted in this Ordinance included (1) election to continue participation in group health insurance following retirement; (2) employees who participate in the Defined Contribution Retirement System (401a Plan) must have ten years of full-time City employment to be eligible for retiree health benefits[1]; and (3) any employee hired on or before the effective date of the Ordinance shall be eligible for a City contribution toward the cost of continued health insurance coverage if the employee has made an election to continue to participate in the City's group health insurance prior to termination of City employment, and has not thereafter discontinued or been discontinued from such coverage. The contribution shall be an initial amount of $10 per year of creditable service, up to a maximum of $250 per month until age 65, and $5 per year of creditable service, up to a maximum of $125 per month thereafter.

The 2006 Ordinance requires that an employee who intends to participate in the City's health plan upon retirement, must make a one-time irrevocable written election, prior to termination of City employment, to continue to participate in the City's health plan upon retirement. The Ordinance is silent on the matter of retired employees who become employed with organizations that provide employer-sponsored healthcare coverage. This means that when retired employees are provided with an opportunity to enroll in another employer-sponsored healthcare plan, they are only able to do so with an understanding that reenrolling in the City's Plan in the future could only be done at their expense, with no City contribution toward the cost of coverage.

The currently proposed Ordinance would reverse this requirement, and allow City retirees to reject or leave the City's health insurance Plans, but retain the ability to rejoin and receive payment of the City's contribution so long as they can demonstrate unlapsed coverage from another source for the period that they were not insured by the City.

On March 26, 2021, the City's Finance and Economic Resiliency Committee discussed the substantive amendments contained in the ordinance proposed for First Reading, and forwarded it to the City Commission with a positive recommendation for First Reading.

ANALYSIS

The proposed change to Ordinance 2006-3505 would allow employees who retire with the City, reject retiree health insurance, and thereafter are employed with organizations that provide employer-sponsored healthcare coverage, to elect to come back to the City's Plan at a future date and obtain the applicable City funding toward their healthcare coverage. The returning retiree must demonstrate that there were no gaps in coverage upon their return to the City's Plan. If the

[1] Employees of the Miami Beach Employees' Retirement Plan shall have at least five (5) years of regular, full-time City employment before becoming eligible for retiree health benefits.

employee cannot demonstrate continuous unlapsed health insurance coverage since opting out, they can join or rejoin the City Plan but not receive the City contribution toward the premiums.

The Administration looked at the group of new retirees for the calendar year of 2020. There was a total of fifty-three (53) vested retirees that began their pension benefit in 2020; however, only 45% of them chose to enroll in the City's healthcare Plan. If we were to implement the proposed change to the Ordinance the remaining 55% of retirees who declined to enroll in the plan at the outset of their retirement would be eligible to reenroll in the future with the applicable City subsidy only if they are able to provide proof of continuous medical coverage for the entire period of time following their retirement date. It is difficult to determine the actual fiscal impact of this proposed change, mainly because we do not know the reasons why employees who are retirement eligible age choose not to elect the City's Plan.

The Administration engaged the City's healthcare benefits consultant, Gallagher Benefits Services, Inc. ("GBS"), who has prepared a projected financial impact based on various scenarios. When evaluating the data, GBS determined that currently a vast majority of employees retire prior to age 60. The City has 200 actives between the ages of 55 and 59, but only 78 between 60 and 64. That information supported GBS's decision to use 55 and 58 as the "anchor" years for assumed retirement.

The GBS analysis shown below is the projected impact of allowing retirees to leave the City's health plan at retirement and return later and still receive the City's subsidy. The analysis includes the following key assumptions:

1. Average cost and contributions based on most recent GASB 75 valuation
2. Forty-five (45) eligible retirements per year
3. Annual medical inflation of 5%

Assumed Average Ages Leaving/Returning to Plan

Age Leaving	55	58	58	55
Age Returning	65	65	62	62
Distribution	20%	30%	20%	30%

Summary of Assumed Elections at Retirement

Decision	Class	Assumed% of Retirees	Impact to City
Would have stayed on the plan anyway and still stay on the plan	1	50%	None
Would have stayed on the plan but now leave and return for the subsidy	2	20%	City saves cost while retiree is not on plan
Would have left the plan and never come back – now come back for subsidy	3	15%	City pays cost of coverage after return to plan
Would have left the plan and come back without subsidy – now get subsidy	4	0%	City pays cost of subsidy

Would have left the plan and never come back and still do not come back	5	15%	None

Projected Annual Impact to City:

Year	Estimated Savings/ (Cost) to City
1	$100,476
2	$210,999
3	$332,324
4	$465,254
5	$546,528
6	$634,766
7	$730,462
8	$740,811
9	$750,369
10	$759,031
11	$732,845
12	$702,143
13	$666,539
14	$625,618
15	$578,940
16	$526,029
17	$466,380
18	$399,451
19	$324,664
20	$241,398
21	$148,995
22	$ 46,748
23	($66,097)
24	($190,342)
25	($326,847)

Caveat: *These values are very sensitive to the assumptions used and even small changes in the assumptions will cause material changes in the results. We are confident that the City would see lower costs in early years but take on more expense in later years. Our best estimate is that the early savings will more than offset later expense.*

Based on the analysis completed by GBS, The Administration is comfortable in making an amendment to the current Ordinance No. 2006-3505. The following changes are recommended which will provide retired employees the flexibility to choose the best healthcare plan for themselves and their families as well as to provide the City with the cost savings associated with allowing retirees to opt out of the City's healthcare Plan:

1. Retired employees will be provided the opportunity to opt out of the City's group health insurance plan and subsequently reenroll at a future date with the City's contribution toward the cost of coverage only after submitting documented proof that demonstrates that they have

been continuously enrolled by another group health plan without a lapse in coverage for the duration of time since they opted out. If the employee cannot demonstrate continuous unlapsed health insurance coverage since opting out, they can join or rejoin the City Plan but not receive the City contribution toward the premiums.

2. The above change should only be implemented to Unclassified or "Other" employees who retire on or after the effective date of the amendment and should remain a subject of collective bargaining for any employees who are a part of a collective bargaining unit. Employees who retired before the effective date of this ordinance will still be subject to the prior rule, which is not set forth in Sec. 78-81 (f).

Additionally, the Administration and the City Attorney's Office have cleaned up language in Code sections 78-81 and 78-82 to remove references to City HMOs, because we currently do not offer any HMO Plan to any employee. We left the term "city group health insurance plan" broad enough to encompass HMOs if the City should, at some point in the future, again elect to offer an HMO Plan. To that end, Sec. 78-81 was edited to redact any reference to HMOs, and Sec. 78-82, which deals solely with HMO Plans, has been repealed entirely in our draft ordinance for First Reading.

CONCLUSION

The City Attorney's Office and Administration recommends the City Commission to approve the proposed Ordinance amendment changes as noted above on First Reading

RAP/RR/ym