

# ALLEN PARK RETIREE'S ASSOCIATION

14921 COLLEGE

ALLEN PARK, MI 48101

734-612-0593

[Allanparks2013@outlook.com](mailto:Allanparks2013@outlook.com)

September 14, 2015

Dear APRA Member,

A General Membership meeting was held on Friday September 11, 2015. We know many of you cannot attend and we want to keep you updated.

Here are the highlights from the meeting:

- We are currently in the second year of this lawsuit. There is nothing to be concerned about. Civil litigation can often take years to conclude; we are right on track.
- We keep receiving an inordinate amount of resistance from the Michigan Attorney General's Office. This resistance, through motions, delay tactics, appeals, etc. is designed to do one thing and one thing only-TO MAKE US GO AWAY BY WEARING US DOWN THROUGH FINANCIAL COSTS, ATTRITION (We are a finite group. There are no more employees that will retire under our system) OR JUST PLAIN LOOSING INTEREST IN THIS CASE. We are not about to let any of that happen.
- The Michigan Attorney General's Office recently hired the law firm of Miller-Canfield (The same firm that represented the City of Detroit in their bankruptcy) to assist them in this litigation. Why would the State of Michigan, which has a plethora of paid Assistant Attorney Generals on staff, hire an outside firm to assist them in this case? There is only one logical conclusion. The State knows they have very little chance, if any, of winning this case.
- Our attorney, Mark Porter, has obtained a "Show Order Cause" against BCBS for failing to produce subpoenaed documents from 2013. You may read more about that, in greater detail, in the legal update Mark prepared.
- We are preparing for discovery to commence, along with some depositions, as soon as we get the subpoenaed documentation from BCBS.
- The State is planning to depose several Executive Board members with the next few weeks.
- The proposed change from BCBS Medicare to HUMANA healthcare benefits, for any member on Medicare, was discussed at great length. Although we do not know exactly which plan we are being forced to take, a side by side comparison was done, using the HUMANA information we received, and is attached for your review. Your Board highly encourages you to attend either the 9Am or 1PM HUMANA meeting the City is

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presenting on Wednesday September 16. Your Board will confer with our attorney, immediately following the meetings and will make a decision on how APRA will address this issue.

- A motion for another \$200.00 assessment was unanimously passed. Please forward your check, made out to APRA, to 14921 College Allen Park, MI 48101. (The membership denied making a motion to suspend the \$15.00 yearly dues; please include that amount with the assessment check.)
- A motion to maintain the current Executive Board until this litigation is completed was unanimously passed.

The APRA Executive Board appreciated the large turnout last Friday. Without the support of you, the membership, we can do nothing.

We thank you for your commitment to our cause.

## APRA Executive Board

Dale Covert, President

Michael Falkner, Vice-President

Tammy Jones, Secretary

Colleen Peters, Treasurer

Robert Lonergan, Sergeant at Arms

Russell Pillar, President Emeritus

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Friday September 11, 2015

### **Allen Park Retirees Association – Updates At Court and At City Hall**

#### **1. Where Are We Now?**

##### **[a] State Court of Claims (Lansing).**

**[a-1]** On August 31<sup>st</sup>, the judge at the Court of Claims signed two Orders. The **first** is a **Protective Order** to prevent the release of your personal information through the Court files [home address, driver & Social Security numbers, etc.]. The Attorney General's office and I agreed to the Order and mutually worked out the language to protect your privacy.

**[a-2]** The **second** is a new **Scheduling Order** [that we agreed to] extending discovery to the end of this year.

**[a-3] Order Issued Against Blue Cross-Blue Shield:** On August 19<sup>th</sup>, we filed motion at the Court of Claims, to enforce a subpoena that I issued against Blue Cross on June 5<sup>th</sup>. The subpoena required BC-BS to produce all **2013** documents showing when, exactly, the EM changed your insurance policies. Blue Cross first [intentionally] sent documents for **2014** instead of **2013**, showing a renewal of the EM's changes. I then sent the BC-BS legal department a letter requesting the correct year, and BC-BS has refused to respond. It also did not respond to my motion at the Court of Claims. On September 2<sup>nd</sup>, our motion automatically became "**uncontested**" on the Court of Claims docket – because neither the State nor BC-BS had filed any opposition. On September 9<sup>th</sup> the Court issued the attached Order to BC-BS. The "**Show Cause Order**" gives them 14-days to produce the materials – or to explain to the Court why BC-BS should not be held in contempt of Court. I will keep your Executive Board updated on this issue.

##### **[b] Michigan Court of Appeals (Lansing)**

Which State Court has jurisdiction over the Allen Park Emergency Manager? On April 22<sup>nd</sup>, the Court of Claims refused to accept our Court Order from the Wayne Circuit Court that

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transferred the EM to Lansing's Court. The transfer was based upon the Wayne Circuit Court's finding that the EM was a "**State Official**," and had to go to the Court of Claims. We have filed an appeal "**of right**" at the Michigan Court of Appeals to see which Court has jurisdiction over the State EM. The State AG filed its response in late July.

## [c] Wayne Circuit Court – The Plans To Move to Humana

[c-1] The City has tried to run through a change in health insurance, claiming that it now has the authority to do so. *Fortunately*, your Executive Board members were at that City Council meeting.

[c-2] The City is still under *State Receivership* as of **September, 2014**, based upon the Governor's order that set up the so-called "*Transition Team*."

[c-3] The City also convinced the Wayne Circuit Court in **September, 2014**, that its part of the case should be closed, until the authority of the State to act under **Public Act 436** was resolved by the other State Courts.

[c-4] Written requests were sent to the City's attorney asking for the legal authority to change to Humana. So far, the only response has been to cite "cost savings."

[c-5] That means that the City is simply trying to bootstrap another insurance change, on top of the State's first actions against your insurance. The **over-65** APRA members have received notices of two meetings on **September 16th**. I have recommended to your Executive Board that we learn more at those meetings – and then make some decisions.

## 2. The Other Updates, As of Today

[a] The State Attorney General's office wants to take depositions of some of your Executive Board members, supposedly to learn who should be in the certified class known as "**the APRA**." In reality, it will probably be an attempt to ask about your case in general. I will be present to all of the depositions, to give advice and correct any record of the testimony, as needed.

[b] Because the Protective Order has been signed by the Court of Claims judge on August 31<sup>st</sup>, the Attorney General will now be going to the Allen Park City Hall to look through the exit papers [retirement papers] of the APRA members. That will be done through a formal Request for Production under the Michigan Court Rules – or through a subpoena from the State's AG. The stated reason is to confirm that your members had some kind of contractual, or ordinance-based guarantee of retiree health insurance. The AG has offered to have one of us as an observer. I have requested your Executive Board for permission to decline my attendance as an observer, in order to save a lot of costs for your Association.

Sincerely,

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*Mark A. Porter*

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Legal Counsel for the APRA