

Protecting Consumers from Surprise Out-of-Network Bills

A webinar sponsored by Consumers Union

The webinar will start shortly.
If you haven't done so already,
please dial to hear audio :
(805) 399-1200 Code:275255#

September 16, 2014

**Consumers
Union®**

POLICY & ACTION FROM
CONSUMER REPORTS

Agenda

Welcome	Lynn Quincy <i>Consumers Union</i>
Advocacy's Role: consumer stories & framing the issue	Chuck Bell <i>Consumers Union</i>
New York's New Law to Protect Consumers from Surprise Medical Bills	Troy Oechsner <i>Deputy Superintendent for Health, New York State Insurance Department</i>
Q&A	Panel
Replicating in Other States	Panel
Wrap Up & Next Steps	Chuck Bell

Housekeeping Rules

- During Q&A, phones will be muted, you can press *6 to unmute your phone to ask your question.
- Please queue up your questions in the **chat** feature-we will try to get to as many as possible
- Please do NOT put us on hold – everyone will hear your hold music and we will have to hang you up.

Surprise Out-of-Network Medical Bills

Charles Bell, Programs Director
Consumers Union

New York Consumer Coalition

Over 50 organizations, including:

- AARP
- American Cancer Society
- Consumers Union
- Health Care for All New York
- New Yorkers for Accessible Health Coverage
- New York Public Interest Research Group

Why We Are Concerned About the Issue

- Consumers and employers pay extra so patients have out-of-network option
- Roughly 110 million Americans covered by health plans that have an Out-of Network option
- Basic issue of consumer protection – ensuring patients can get benefits provided by insurance contracts

Why We Are Concerned About the Issue

- Affordability really matters— many consumers have limited ability to pay for unexpected medical charges
- Rules of the road aren't clear – consumers would like to stay in-network to minimize cost, but can't always figure out how to do so
- Price transparency is also important in health care – e.g. for elective surgery, it is helpful to know what you will be expected to pay

Insurance Industry Conflicts of Interest

The logo for INGENIX, featuring the word "INGENIX" in a bold, red, sans-serif font with a registered trademark symbol.

HEALTH CARE REPORT
THE CONSUMER REIMBURSEMENT
SYSTEM IS CODE BLUE

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

January 13, 2009

- Prior database used to calculate OON reimbursement levels was industry-owned
- 2009 NY Attorney General Report found Ingenix OON data was inaccurate, out-of-date, and not routinely disclosed to patients and providers
- \$95 million settlement with private insurers

FairHealthConsumer.org

The screenshot shows the FairHealthConsumer.org website. At the top, there is a navigation bar with the logo "FH Consumer Cost Lookup" and menu items: "ABOUT FAIR Health", "GLOSSARY Of Terms", "HEALTHCARE Resources", "LEARN Reimbursement 101", and "FAQ Questions?". Below the navigation bar is a social media section with "Like 676", "Tweet 19", and "g+1 22" buttons, and a "Keyword Search" box. The main content area features a "NEW" starburst icon next to the headline "Understanding Your Medical Bill". Below this is a large "ESTIMATE YOUR HEALTHCARE COSTS" section with two yellow buttons: "DENTAL GET STARTED" and "MEDICAL GET STARTED". A yellow banner below these buttons says "Healthcare Professionals click [here](#)". To the right of the estimate section is an illustration of a woman sitting at a desk with a laptop and a smartphone. Below the main content area is a section titled "A user-friendly guide to reimbursement fundamentals FH REIMBURSEMENT 101" with a "VIEW ALL TOPICS" button. To the right of this section is a text box with the heading "For business uses of FAIR Health data, contact us" and a paragraph of text about FAIR Health's mission. Below the text box is a "WELCOME MESSAGE" from FAIR Health President Robin Gelburd. At the bottom right corner, there is a logo for "eports".

FH Consumer Cost Lookup x

fairhealthconsumer.org

Apps Suggested Sites Imported From IE National Salt Reduct... www.treasury.gov/r... User:Blueraspberry/cr... advocacy fdcpa Getting Healthcar... cards

English | Español

FH Consumer Cost Lookup

ABOUT FAIR Health | GLOSSARY Of Terms | HEALTHCARE Resources | LEARN Reimbursement 101 | FAQ Questions?

Like 676 | Tweet 19 | g+1 22 | Bringing Fairness and Transparency to Health Insurance Information | Keyword Search

NEW Understanding Your Medical Bill

ESTIMATE YOUR HEALTHCARE COSTS

DENTAL GET STARTED

MEDICAL GET STARTED

Healthcare Professionals click [here](#)

For business uses of FAIR Health data, [contact us](#)

FAIR Health is a national independent, not-for-profit corporation whose mission is to bring transparency to healthcare costs and health insurance information through comprehensive data products and consumer resources. FAIR Health uses its database of billions of billed medical and dental services to power a free website that enables consumers to estimate and plan their medical and dental expenditures. The website also offers clear, unbiased educational articles and videos about the healthcare insurance reimbursement system.

[Learn more.](#)

WELCOME MESSAGE
from FAIR Health President Robin Gelburd

A user-friendly guide to reimbursement fundamentals
FH REIMBURSEMENT 101
VIEW ALL TOPICS

eports®

FH MEDICAL COST LOOKUP: GET STARTED

This medical cost estimator lets you estimate the cost of thousands of medical procedures—right here in your zip code. It will help you plan for your expenses, and also show you how much you're likely to pay if you need care while uninsured.

STEP 1

Enter the location of your service or procedure

06926

STEP 2

Are you:

Insured or Uninsured

Why is this important?

STEP 3

Enter up to 5 CPT codes, separated by commas, or select from the menu of services and procedures.

You may conduct up to

Procedural CPT Code

Quick Search: Enter up to 5 CPT Codes

GO

OR

Browse for Service or Procedure by Category

[Medical Glossary](#)

> Colonoscopy and Other Endoscopy

> Counseling (Mental Health)



Estimate Your Medical Costs

Use the FH Medical Cost Lookup to estimate your out-of-pocket costs according to what healthcare professionals commonly charge for a wide range of [medical procedures](#).

Our cost estimates, which are based on FAIR Health's national database of healthcare claims, offer a neutral, objective source of information that you can trust.

If you are new to the site and would like to estimate your out-of-pocket costs, please learn more [here](#).

UCR-Based

Medicare-Based

COMPARE Both

ESTIMATED OUT-OF-POCKET COSTS: UCR-BASED

PRINT

CPT Code	CPT Consumer Description	Est. Charge	Est. Reimbursement	Out-of-Pocket Cost
45385 	Removal of polyps or growths of large bowel using an endoscope	\$1,470.00	\$1,029.00	\$441.00 Remove



Estimating Your Out-of-Pocket Costs

Your actual out-of-pocket costs may vary based on factors specific to your provider and/or your plan. Some plans base their reimbursement rates on a percentage of "usual, customary, and reasonable" charges, which is referred to as "UCR." Others use a formula based on the Medicare fee schedule that is published by the US Department of Health and Human Services. To learn how your health plan determines out-of-network reimbursement rates and covered services, call the number listed on the back of your insurance card. Then, using the buttons below, estimate your out-of-pocket costs using the method that your plan uses to calculate reimbursement. You may also view a comparison of both reimbursement methods.

Please note: the Medicare-based method is not intended to reflect estimated reimbursement amounts for Medicare beneficiaries. It is meant to reflect reimbursement amounts for

Estimated Out-of-Pocket Cost

\$441.00

GEOZIP: 069xx

This GEOZIP includes zip codes with the following prefixes: 068-069

Reimbursement Percentage is set at 70%

Estimated Charge is set at FAIR Health's 80th percentile

[Understanding Your Medical Cost Estimate](#)

Adjusting Estimated Reimbursements

Adjust Percentage

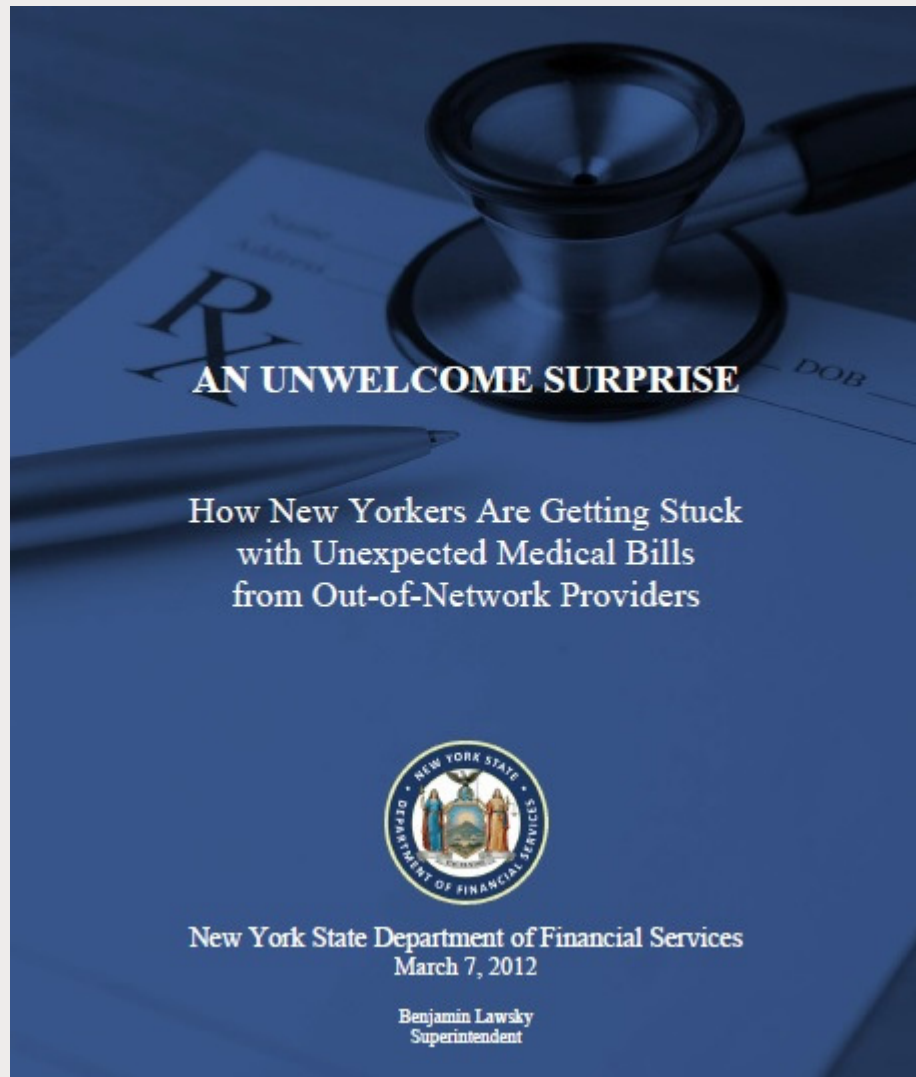


The Estimated Reimbursement amounts above are initially set to 70% of the Estimated Charge. Click [here](#) to learn more about percentages and how they can factor into reimbursement.

If you find that your plan uses a different percentage in determining reimbursement amounts, you can adjust the level used in the estimates above using the slider.

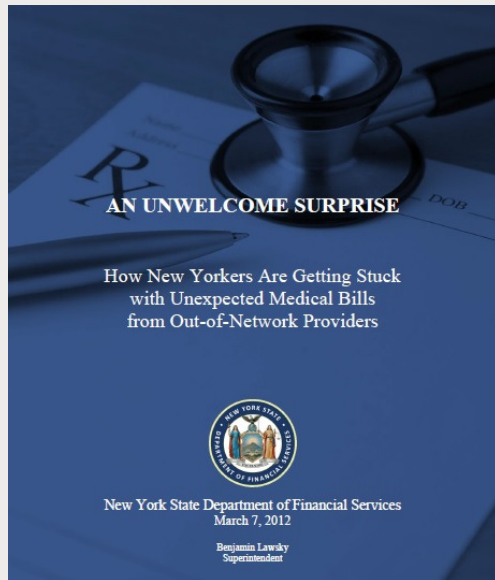
[Click here to use our Advanced Charge Estimator](#)

2012 Dept of Financial Services Investigation



- 2,000 consumer complaints a year about medical billing issues
- Comprehensive set of actions needed to fix the problem

2012 Dept of Financial Services Investigation



Consumers receive surprise bills for many different reasons:

- Comparison shopping difficult
- Lack of disclosure for non-emergency care
- Excessive bills for emergency room care
- Missing protections for inadequate networks
- Reduced insurance coverage
- Difficulties in submitting claims

2012 DFS Report – Changing Reimbursement Practices

The following chart details the shift in out-of-network reimbursement from UCR to set fee schedules from calendar years 2008 through 2011:

	2008	%	2011	%
Enrollees with UCR	5,824,404	80%	3,693,239	59%
Enrollees with Fee Schedule	1,394,618	19%	2,485,970	40%
Enrollees with Mixed UCR and Fee Schedule	51,531	1%	71,337	1%
Total Enrollees	7,270,553		6,250,546	

2012 DFS Report – Benchmarks for Emergency Care

Physician Specialty Area for Highest Bill Reported by Insurer in Upstate NY / Western NY	Highest Bill Reported	Percentage of Medicare Billed	The Amount that Would be Paid at 200% of Medicare
Orthopedic Surgery	\$78,750	5,626%	\$2,800
Neurosurgery	\$89,216	2,599%	\$6,866
Plastic Surgery	\$52,721	7,222%	\$1,460
Vascular Surgery	\$8,165	2,053%	\$3,266

Physician Specialty Area for Highest Bill Reported by Insurer in Downstate NY	Highest Bill Reported	Percentage of Medicare	The Amount that Would be Paid at 200% of Medicare
Orthopedic Surgery	\$233,188	5,721%	\$7,802
Neurosurgery	\$282,500	5,149%	\$10,972
Plastic Surgery	\$200,000	13,513%	\$2,960

Consumer Stories

New Yorkers Speak Out About Surprise Medical Bills



Consumer Stories About Medical Bill Shock
March 24, 2014

- Collected stories as part of statewide legislative alert
- Over 100 people shared their story
- Published in short report for legislators and media

Claudia's Story

- Claudia Knafo, concert pianist living in New York City
- Thought she chose an in-network surgeon
- Doctor's office photographed insurance card and said everything was fine



Claudia Knafo, pianist

Claudia's Story

- Received bill for \$101,000
- Received insurance company check for \$66,891 (70% of UCR); sent to doctor
- Then the insurance company called and said they would only pay \$3,510 (140% of Medicare); “please send money back”
- Caught in dispute for 7 months



Claudia Knafo, pianist

Claudia's Story

	SURGEON CHARGED	INSURANCE COVERED	BALANCE CHARGED TO PATIENT
IN-NETWORK RATE (expected at time of surgery)	[negotiated rate]	All or most costs	\$500 deductible, \$2,500 out-of-pocket limit
OUT of NETWORK RATE #1 (Usual & Customary Rate @ 70%)	101,000	66,891	\$34,433
OUT of NETWORK RATE #2 (Medicare Rate @ 140%)	101,000	3,510	\$97,489

Our Coalition's Position

- We wanted comprehensive protections against surprise OON medical bills; harsh and unreasonable situation for patients caught in the middle
- Both *health plans* and *providers* have a responsibility to help solve this problem
- Better *network adequacy requirements* could help patients stay in-network
- Better *disclosure* would help everybody to understand the rules of the road and play fair
- Need *independent arbitration* for health plan-provider disputes over OON charges – take consumer out of middle of financial dispute

New York's New Law to Protect Consumers From Surprise Medical Bills

An Overview of Chapter 60 of the Laws of 2014

Surprise Bills and Excessive Bills

Issues

- ***Surprise Bills*** when consumers do everything possible to use in-network providers and still receive a bill from a provider who, unbeknownst to the consumer, is out-of-network.
- ***Excessive Bills for Emergency Care***, which can be many times larger than what health plans reimburse.

Solution: Chapter 60 of the Laws of 2014

- ***Hold harmless and dispute resolution*** for surprise bills and emergency services.

Disclosure

Issues

- ***Comparison shopping is difficult*** when consumers are trying to compare OON benefits.
- ***When using services*** consumers should know which providers are OON, how much those providers expect to charge, and how much their health plan expects to cover.

Solution: Chapter 60 of the Laws of 2014

- ***Improved disclosure*** on behalf of health plans, providers and hospitals.

Network Adequacy

Issues

- ***Missing protections for inadequate networks.***
Consumers receive surprise OON bills when in-network providers are not available and the consumer cannot go OON at no additional cost.

Solution: Chapter 60 of the Laws of 2014

Extended network adequacy protections.
Access to out-of-network care when no in-network provider and expanded external appeal rights.

OON Coverage & Claim Submissions

Issues

Reduced insurance coverage for OON benefits.

Difficulty in submitting claims. Not all health plans allow electronic submission of claims and not all providers include claim forms with their bills.

Solution: Chapter 60 of the Laws of 2014

- *Make Available an OON UCR reimbursement option.*
- *Easier claim submission.*

Consumer Protection from Surprise Bills and for Emergency Services

Consumers are held harmless and pay in-network cost-sharing for surprise bills at participating hospitals, ambulatory surgical facilities and when referred for OON services by a participating physician.

Consumers are held harmless for bills for emergency services and pay in-network cost-sharing.

Establishes an independent dispute resolution (IDR) for OON emergency services and surprise bills.

Independent Dispute Resolution

IDR is available to providers, health plans and uninsured consumers.

IDR uses licensed physicians in active practice in the same or similar specialty as the physician providing the service that is the subject of the dispute.

30 day timeframe for IDR determination from submission of dispute.

Independent Dispute Resolution (Cont.)

Prompt Pay Law timeframes apply to the health plan payment.

IDR entity chooses either the OON provider bill or the health plan payment.

IDR entity will consider in choosing the provider bill or the health plan payment:

- Whether there is a gross disparity between fees paid to the physician by other health plans and the fees paid by the health plan to reimburse similarly qualified OON physicians.
- The provider's training, education, experience, and usual charge; the complexity and circumstances of the case; patient characteristics; and UCR.

Independent Dispute Resolution (Cont.)

IDR entity may direct a good faith negotiation for settlement before it renders a decision if settlement is likely or if the health plan's payment and the physician's fee represent unreasonable extremes (10 day timeframe for negotiations to run concurrent with 30 day timeframe for IDR).

Review is binding. Parties can sue, but the review is admissible in suit.

Loser pays cost of IDR. If a settlement is reached, the health plan and the physician evenly divide the prorated cost of IDR.

Improved Health Plan Disclosure

- ***Health Plans Must Disclose:***
 - The health plan reimbursement methodology for OON services;
 - How that methodology compares to UCR;
 - The anticipated health plan payment for a particular service;
 - How that payment compares to UCR; and
 - Any changes to the provider directory (web update within 15 days).

Improved Hospital Disclosure

- ***Hospitals Must Make Public:***
 - A list of standard charges for hospital services.
 - The health plans in which the hospital is a participating provider.
 - The physician groups that the hospital has contracted with to provide services.
 - In registration or admission materials, disclose whether the services of physicians employed by or contracted by the hospital are likely to be provided and how to determine the health plans in which these physicians participate.

Improved Provider Disclosure

Doctors and Other Health Care Professionals Must Inform the Consumer:

- Whether the provider participates with the health plan.
- That the provider's reasonably anticipated charges are available upon request. Provider must provide those charges if requested.
- Doctors only, for a scheduled hospital service (inpatient or outpatient) arranged by the doctor, must inform the hospital and consumer which other doctors whose services are also arranged by the doctor are scheduled to be provided.

Extended Network Adequacy Protections

General Regulatory Review of Network. All health plans must meet minimum standards for adequate provider networks before offering coverage.

Specific Protection for Appropriate Provider. All health plans must allow the consumer to go to an OON provider at the in-network cost share if the health plan does not have an appropriate in-network provider.

External Appeal. External appeal rights are expanded for OON referrals. Review is limited to whether an in-network provider is appropriate (not necessarily the consumer's first choice).

Consumer Choice of OON Coverage

- Health plans that offer group OON coverage must give consumers choice by making available at least one option with a maximum coinsurance of 20% of UCR (UCR defined as the 80th percentile of an independent benchmarking database).
- No requirement that all health plans have OON coverage.
- No prohibition on other OON reimbursement options.

Easier Consumer Claims Submissions

- ***E-claims.*** Health plans are required to accept claims submitted by an insured through the internet, by e-mail or by fax.
- ***Claim Forms.*** Non-participating providers must send patients a universal claim form along with their bill for OON services.

Workgroup

- A workgroup must be convened to review:
 - ***Current OON reimbursement rates***, and make recommendations for an alternative rate methodology; and
 - ***Availability and adequacy*** of OON coverage in individual and small group markets, and make recommendations for any legislative or regulatory changes.
- The workgroup's recommendations must be issued by January 1, 2016.

Q&A

You can enter your questions to the
“chat” feature OR
press *6 to unmute your phone.

Please introduce yourself and mute your
phone when finished speaking.

Wrap Up & Next Steps

Resources:

consumersunion.org/surprise-medical-bills/

Includes links to New York DFS report and the bill language.

Want to follow-up?

Chuck Bell: cbell@consumer.org

Troy Oechsner: troy.oechsner@dfs.ny.gov