

Attorney General Cuomo Announces Creation of an Independent System for the Establishment of Fair and Proper Out-of-Network Reimbursement Rates

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On Tuesday October 27, Attorney General Andrew Cuomo announced the creation of a new, not-for profit company named FAIR Health, Inc. that will work with a research network headquartered at Syracuse University to develop and maintain an independent database for the establishment of “usual and customary” rates for medical services and procedures for purposes of member reimbursement. The goal of FAIR Health, Inc., and the research network, will be to collect billing data and create a fair, transparent and accessible database that will allow consumers and out-of-network physicians to easily ascertain the proper and appropriate reimbursement rates. The research network (coined the FAIR Health schools) consists of Syracuse University, the SUNY at Buffalo, Cornell University, University of Rochester, and SUNY Upstate Medical Center. The funding for FAIR Health, Inc. and the research network will come from the almost \$100 million in settlement monies obtained by the Attorney General’s office following its investigation into the secrecy, and unfair practices, surrounding some health insurance carriers’ reimbursement systems and, specifically, United Health Care’s subsidiary, Ingenix.

Physicians in New York should be encouraged by this announcement and the prospect of a truly independent reimbursement rate setting system run from within New York State’s geographic borders. However, physicians are cautioned that the announcement by the Attorney General lacks several notable specifics. First, there is no time frame set forth for the establishment of the system. Additionally, there is no indication as to what, if any, legislation will be forthcoming to ensure that providers utilize the rates established by FAIR Health, Inc. and what, if any, appeal options will be available to consumers and physicians when a carrier deviates from FAIR Health, Inc.’s schedule. numbers. Finally, it is noted that, while funding for the creation of the system is in place, there is no mention as to how the network will be funded in the future when the settlement funds are exhausted.

Overall, the premise and goal of the new system is laudable and has received praise from the Medical Society of the State of New York, the American Medical Association and State lawmakers. Only time will tell whether the specifics of the yet to be created system will live up to the needs of physicians and consumers alike.

If you have any questions about this or any other related legal issue, please call David Verschell, Esq. at (212) 279-9200 or you can email him at dverschell@abramslaw.com