FAIR Health®
Know Your Source

June 6, 2019

Paige Duhamel
Health Care Policy Manager
State of New Mexico
Office of Superintendent of Insurance
1120 Paseo de Peralta, Room 428
Santa Fe, NM 87501
Paige.duhamel@state.nm.us

Dear Ms. Duhamel:

FAIR Health, Inc. is pleased to respond to the State of New Mexico Office of the Superintendent of Insurance (OSI) regarding its request for information (RFI) from data benchmarking organizations that meet the criteria specified in Senate Bill 337, The Surprise Billing Protection Act (the Act), which contemplates New Mexico-specific data for its determination of the "surprise billing reimbursement rate."

FAIR Health is a national, independent, nonprofit organization qualifying as a public charity under section 501(c)(3) of the tax code. FAIR Health is conflict-free and unaffiliated with any governmental agency, insurer or other interest group in the healthcare sector. FAIR Health was established in 2009 as part of the settlement of a broad investigation by the Office of the New York State Attorney General into certain health insurance industry practices associated with claims reimbursement. FAIR Health was formed as an independent organization to bring transparency, integrity, reliability and accessibility to healthcare costs and insurance information for all healthcare stakeholders, including policy makers, academics, providers, insurers, consultants and consumers throughout the United States.

FAIR Health is regarded as a fair and neutral provider of robust data and data tools by our diverse clients throughout the healthcare sector. FAIR Health produces a variety of data resources, including standard benchmarks to reflect charging and payment practices for specific procedures or episodes of care; custom analytics; and customized research datasets and visualization dashboards and tools. Indeed, many states utilize FAIR Health data as an official benchmark in healthcare-related statutes and regulations. FAIR Health data are also relied upon by many federal agencies and officials, including the Bureau of Labor Statistics, which uses FAIR Health data in connection with the development of its medical price index.

In addition, FAIR Health's data power a free, award-winning consumer website and mobile app, in English and Spanish. These tools empower consumers across the country to estimate and plan for their healthcare expenditures and also offer a rich educational platform on health insurance.

As a conflict-free, nonprofit, benchmarking organization unaffiliated with any stakeholder in the healthcare sector, FAIR Health readily meets all of the criteria specified by the Act, and would welcome the opportunity to serve as the data source for the "surprise bill reimbursement rate."

We are pleased to provide information requested for this RFI in the enclosed response.

Sincerely,

Michelle Scott
General Counsel

State of New Mexico

Office of Superintendent of Insurance

Senate Bill 337, The Surprise Billing Protection Act

Request for Information – Benchmark Data Services

Submitted by FAIR Health, Inc.

June 6, 2019

Please address questions to:

Michelle Scott
General Counsel
212-257-2351
mscott@fairhealth.org

Response to New Mexico RFI

1. **Name of the data benchmarking firm and the name of the primary contact.**

Organization: FAIR Health, Inc.
530 Fifth Avenue, 18th Floor
New York, NY 10036

Primary Contact: Michelle Scott, General Counsel
mscott@fairhealth.org
212-257-2351

2. **Proof of non-profit status.**

Please find attached as Exhibit 1 the ruling letter issued by the Internal Revenue Service dated September 3, 2010, confirming FAIR Health's status as a tax-exempt nonprofit qualifying as a public charity under section 170(b)(1)(A)(vi) of the US Internal Revenue Code effective October 26, 2009. FAIR Health has maintained tax-exempt status as a public charity on a continuous basis since the effective date.

3. **Affidavit specifying lack of affiliation with any stakeholder in the health care sector.**

Please find attached as Exhibit 2 an affidavit from FAIR Health's founding president, Robin Gelburd, attesting to FAIR Health's lack of affiliation with any stakeholder in the health care sector.

4. **Inclusion of New Mexico specific-data on allowed commercial insurance market reimbursement amounts for health care services for plan year 2017 in the database.**

FAIR Health's database contains 4.6 million claim lines for calendar year 2017 and 4.7 million claim lines for calendar year 2018. Accordingly for any date in 2017 on which a plan year started, FAIR Health holds at least 4.6 million claim lines. To protect the proprietary interests of its data contributors, FAIR Health imputes its benchmark values for allowed reimbursement amounts for New Mexico using a statistical methodology that is based on the ratio of regional averages of actual allowed amounts to actual charge values. A description of the methodology is attached as Exhibit 3 and described further in response to question #8 below.

5. **Cost to OSI for access to 2017 plan year data on the 60th percentile of allowed reimbursement amounts for health care services rendered in New Mexico.**

There is no cost to a government agency when FAIR Health benchmarks are established in statutes or regulations as a standard for determining payments or reimbursements. For example, New York and Connecticut refer to a specific percentile of FAIR Health benchmarks as a guideline and standard, respectively, in their consumer protection laws related to emergency services and balance billing. California's code also incorporates a specific FAIR Health percentile from its benchmarks in capping emergency services fees for low-income individuals. These states pay no fees to FAIR Health for these uses of FAIR Health benchmarks. For a state department or agency that needs access to the data, FAIR Health provides direct access free of charge through an online look-up tool, FH Online. This tool makes the benchmarks immediately available to the officials and eliminates any data storage cost to the government.

6. **Cost to health insurance companies to submit data to the benchmarking firm for use in determining New Mexico's "surprise billing reimbursement rate."**

There is no cost to insurance companies to submit data to FAIR Health. FAIR Health accepts claims submissions in their existing digital formats and then validates and organizes the data into the standard FAIR Health format so that the data can be included in the database and used in creating benchmarks and other actionable data analytics. Contributors who license FAIR Health products receive discounts on their fees and reports on the quality of their data submissions.

The FAIR Health data repository contains claims contributed by approximately 60 insurers and claims administrators nationwide. Currently, the FAIR Health data repository contains over 28 billion records

from both fully insured and self-insured private insurance plans; it adds over 2 billion new claim records per year. The claims in the database constitute the records of plans covering over 150 million individuals, approximately 75 percent of the privately insured population of the country, in the aggregate, including those covered by self-insured plans. FAIR Health benchmark products are used by plans that collectively cover 190 million individuals throughout the country.

For New Mexico specifically, the FAIR Health data repository contains approximately 65 million records from 2002 to the present from both self-insured (ERISA) and fully insured plans. In 2017, FAIR Health had 35 data contributors in New Mexico who each contributed more than 10,000 claims for services rendered in New Mexico. Annual contributions for New Mexico amount to 4.6 million claims.

7. **Identification of other states utilizing the services of the data benchmarking firm and contact information for verification. Please include the context in which the state uses the firm's data, e.g., worker's compensation, surprise billing, Medicaid.**

In recognition of the reliability and objectivity of FAIR Health data, the data have been incorporated into statutes and regulations around the country and designated as the official, neutral data benchmark for a variety of state health programs, including workers' compensation (in many states, including Kentucky and Georgia), personal injury protection (PIP) programs and programs establishing fair reimbursement for services rendered to neurologically impaired newborns, among others. FAIR Health data also serve as an official reimbursement reference point in support of certain state balance billing and consumer protection laws targeting balance bills for surprise out-of-network and emergency services.

FAIR Health has provided data and other assistance to officials addressing balance billing issues in over 20 states and both houses of the US Congress. FAIR Health experts have testified at legislative hearings, before insurance and health officials and worked with stakeholders throughout the country to help evaluate and structure consumer protection proposals.

A list of state and federal uses of FAIR Health data is attached as Exhibit 4. Many of the state and federal uses listed on Exhibit 4 contain webpage links that confirm the listings. In addition to the webpage links, the OSI may contact the following references:

Christy Culkin Manager, Medical Services Colorado Division of Workers' Compensation 633 17th Street, Suite 400 Denver, CO 80202-3660 303-318-8668 christy.culkin@state.co.us	Connie R. Mills, BSN, RN, CCM Cost Containment Director Mississippi Workers' Compensation Commission 601-987-4280 cmills@mwcc.ms.gov

FAIR Health can supply additional contacts that may be used for verification upon request.

8. **If any data on allowed amounts is imputed from billed charges, the firm's methodology for imputing allowed claims amounts.**

FH® Allowed Benchmarks are imputed using actual allowed amounts negotiated between insurers and providers participating in insurers' healthcare networks. These allowed amounts reflect the total negotiated fee, including both the member cost share and the insurer's payment for the specific services. FH Allowed Benchmarks are imputed using 12 consecutive months of actual claims from our privately billed healthcare claims repository. Prior to calculating benchmark values, FAIR Health validates the claims and applies outlier rules to eliminate claims with clear errors and claims with values so unusually high or low they would distort the distribution of values.

FAIR Health generally calculates the average of the ratios of the actual allowed amounts to actual billed charges for procedure codes within four regions—north, south, east and west. For each claim line (i.e., each line representing a specific procedure code or service), the ratio of the actual allowed amount to actual billed charge is calculated. The averages of the ratios for the codes in each group then are applied to each billed charge on individual claim lines for the respective codes in the set of claims for the appropriate area.

Imputed allowed amount benchmarks are determined for each procedure code in each geozip by arraying from lowest to highest the imputed allowed amounts for the code in the geozip. Provided there are at least nine occurrences of the procedure code in this array, the percentile benchmarks are determined from the 50th (median) to the 95th percentiles. FAIR Health also uses a second outlier rule designed to eliminate from the range of allowed amount benchmarks any values that are lower or higher than actual allowed amounts.

For a more detailed explanation of the allowed amount methodology, please see the attached Exhibit 3.

9. **Whether the data benchmarking firm requires the state to sign a contract before sharing access to its data.**

FAIR Health does not require a state to sign a contract when FAIR Health is referenced in a statute or regulation. Separately, FAIR Health data are available free of charge to consumers, who may access benchmark data on FAIR Health's national English and Spanish websites, fairhealthconsumer.org and consumidor.fairhealth.org.

10. **Any prohibitions against OSI sharing specified benchmark data with providers and insurance carriers to reach resolution regarding surprise medical bills.**

In the context of resolving surprise medical billing disputes, FAIR Health maintains no prohibitions against OSI sharing specified benchmark data with providers and insurance carriers, many of whom already license FAIR Health data products. As noted above, FAIR Health can provide the state with an online lookup tool that would enable the state to obtain specific benchmarks as needed from time to time. The online tool provides access to the most up-to-date benchmarks and does not require the state to store data or design its own tools. It should be noted that certain uses of the data, particularly publication, which, however, states already using data have not found necessary, may require special permission from the American Medical Association (unless it involves a very limited set of codes and falls within generally understood bounds of "fair use"), which owns the CPT®[1] codes that identify medical services and procedures.

For broader use by insurance carriers and providers who do not already license the data, FAIR Health can license specific state benchmarks for use by commercial carriers for fees much lower than those for regular FAIR Health modules depending on the licensee's number of covered lives; such fees cover the statistical and technical support associated with our module licenses. For providers, FAIR Health makes available at very low fees special datasets that provide benchmarks for providers' particular specialties and the geographic areas where they practice. Often local medical societies work with FAIR Health to offer these datasets to their members at discounted, modest rates, between $200 and $300 per year.

11. **[10.] Any other information deemed by the data benchmarking firm to be relevant to this request.**

In addition to the state uses identified in response to question No. 7, above, a number of federal agencies, including the Government Accountability Office (GAO), the Centers for Medicare & Medicaid Services (CMS), the Food and Drug Administration (FDA), the Centers for Disease Control and Prevention (CDC) and the White House, have consulted FAIR Health. Currently, FAIR Health data are among the resources used by the Bureau of Labor Statistics (BLS) in developing its medical price index.

Because of FAIR Health's statistically significant commercial data collection in all 50 states and the District of Columbia and its high-level security protocols working with such vast data collections, FAIR Health has been certified by the Centers for Medicare & Medicaid Services (CMS) as a Qualified Entity (QE). As a certified QE, FAIR Health has been entrusted with the complete collection of Medicare Parts A, B and D claims for all individuals across the country enrolled in traditional Medicare from 2013 to the present. Claims data on Medicare Advantage enrollees are housed separately in FAIR Health's private claims data repository. As a QE, FAIR Health produces for certain authorized users comparative analytic reports that provide permit such users to "drill down" and compare Medicare and commercial claims experiences.

Thank you for your consideration of FAIR Health's responses to the RFI.

[1] CPT © 2018 American Medical Association (AMA). All rights reserved.

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

SEP 03 2010

Date:

Employer Identification Number:
90-0524293
DLN:
17053183307040
Contact Person:
MICHAEL A LUDWIG ID# 31470
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
June 30
Public Charity Status:
170(b)(1)(A)(vi)
Form 990 Required:
Yes
Effective Date of Exemption:
October 26, 2009
Contribution Deductibility:
Yes
Addendum Applies:
No

FAIR HEALTH INC
C/O PATTERSON BELKNAP WEBB & TYLER LLP
TOMER INBAR
1133 AVE OF THE AMERICAS
NEW YORK, NY 10036

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

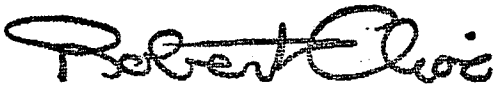
Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

FAIR HEALTH INC

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,



Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosure: Publication 4221-PC

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AFFIDAVIT OF ROBIN GELBURD

ROBIN GELBURD, first being duly sworn, states to the best of her knowledge and belief, for her Affidavit as follows:

1. My name is Robin Gelburd. I have been President of FAIR Health, Inc. ("FAIR Health") since it was founded in 2009.

2. FAIR Health is a national, independent, not-for-profit organization whose mission is to bring transparency to healthcare costs and health insurance information through comprehensive data products, consumer resources and the support of health services research. FAIR Health is organized as a not-for-profit corporation under the New York Not-for-Profit Corporation Act. FAIR Health qualifies as a tax-exempt public charity under section 501(c)(3) of the US Internal Revenue Code.

3. FAIR Health is conflict-free and has no affiliation with any stakeholder in the healthcare sector.

AND FURTHER THIS AFFIANT SAYETH NOT.

Robin Gelburd, President

STATE OF New York :
CITY/COUNTY OF Manhattan :

Sworn to and subscribed before me, a Notary Public for the aforesaid jurisdiction by Robin Gelburd this 6th day of June, 2019.

Notary Public

WENDY F DESIMONE
Notary Public - State of New York
NO. 01DE6180085
Qualified in Suffolk County
My Commission Expires 1/7/2020

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EXPLANATION OF FAIR HEALTH® METHODOLOGY FOR ALLOWED AMOUNT BENCHMARKS

Summary

In addition to producing FH® Benchmarks for billed charges for medical services, FAIR Health creates FH Benchmarks for "allowed amounts," that is, for the amounts negotiated between insurers and the providers participating in insurers' healthcare networks. These allowed amounts reflect the total, in-network negotiated fee, that is, both the member cost-share and the insurer's payment, for specific healthcare services. The allowed amount benchmarks provide insight into contracted, in-network rates while safeguarding the proprietary interests of payors and providers. Unlike FH Benchmarks for billed charges, which are based on non-negotiated, fee-for-service actual charges, the allowed amount benchmarks are imputed using a methodology which produces values that have a high correlation with the actual values but which avoids disclosing actual, but confidential, in-network rates. [1]

The Methodology

FAIR Health determines its allowed benchmarks using 12 consecutive months of actual claims data from privately billed healthcare claims received from approximately 60 insurers and third-party administrators for plans that cover over 150 million individuals nationwide. FAIR Health's allowed amount methodology for the FH Allowed Medical Benchmarks calculates the the ratios of the average of actual allowed amounts to the average of actual billed charges for procedure code categories generally within four regions – northeast, south, mid-west and west. Ratios of the allowed to charge values for codes that are reported infrequently and for codes other than those in the FH Allowed Medical module, currently are calculated on a national basis. Beginning in August 2019, ratios for the benchmarks in the FH Allowed Dental, FH Allowed HCPCS and FH Allowed Outpatient modules also will be determined on the basis of the four regions.

FAIR Health applies the ratio for a code category to each individual claim line with a charge for each code within the particular category and within the particular region in the set of claims underlying each module. The application of these ratios to actual charges, which FAIR Health sorts by 493 local geographic areas where the services were rendered, creates imputed allowed amounts that reflect the economics of their specific geographic areas. These imputed allowed amounts then serve as the underlying data used to determine imputed allowed amount benchmarks. The benchmarks are reported for the 493 geographic regions, called "geozips," which generally correspond to the first three digits of a zip code.

Categorizing CPT®[2] Codes

In determining the ratios used in its methodology for the FH Allowed Medical module, FAIR Health combines related CPT codes into groups based on the official code groupings of the American

[1] FAIR Health produces five sets of allowed amount benchmarks annually: FH Allowed Medical, FH Allowed Anesthesia, FH Allowed Dental, FH Allowed HCPCS and FH Allowed Outpatient.
[2] CPT® 2017 American Medical Association (AMA). All rights reserved.

Medical Association (AMA), provided there are at least 500 occurrences of the codes comprising a group. For example, CPT Code 99215 is in the Level I group, *Established Patient Office or Other Outpatient Services,* along with all codes in the range CPT 99211-99215. If the initial Level I group does not contain a sufficient number of procedures, the codes in that group are placed in a second group with a broader range of similar procedures.

For example, all codes in the ranges CPT 99201-99205 and 99211-99215 are included in the Level II group *Office or Other Outpatient Services*. If the broader group has at least 500 procedures, ratios for the procedures are determined as part of this larger group. If a group still does not contain a sufficient number of procedures, the codes are assigned to a Level III group of broad, related procedure code groups established by the American Medical Association: E&M, Surgery, Radiology, Pathology and Lab, and Medicine. Similarly, the code groupings for the FH Allowed Dental, FH Allowed HCPCS and FH Allowed Outpatient adhere to the official levels of coding prescribed for those code systems and the level at which ratios are calculated is determined by the volume of code occurrences at their respective levels.

The code groups for each module are assembled only after FAIR Health has applied its claims validation process and the recognized "MAD 4" outlier methodology[3] to the billed charges in the 12 months of claims used for each module. The MAD (or Median Absolute Deviation) 4 outlier methodology statistically identifies, and FAIR Health then excludes, the actual billed charges, if any, which are so low or so high that their inclusion in the range of billed charges risks distorting the distribution of billed charges and thereby the benchmarks.

Imputed Allowed Amounts

As noted above, FAIR Health's imputed allowed benchmarks reflect the ratio of the average of actual allowed amounts to the average of actual billed charges for each procedure code. To calculate these ratios, FAIR Health first determines the ratio of the actual allowed amount to the actual billed charge for each claim line (i.e., each line representing a specific procedure or service). The averages of the ratios for the codes in each group of codes are then determined. (As noted previously,for CPT codes in the FH Allowed Medical module, the ratios are determined separately for each of four regions, while the ratios are determined on a national basis for infrequently occurring codes and for other allowed modules, with the allowed dental, HCPCs and outpatient benchmarks switching to a regional basis in August 2019.) Next, the ratios for each category are applied to each billed charge for the codes falling within the category in the set of claims for the appropriate geographic area.If the category of codes within that region do not have at least 500 occurrences, FAIR Health will defer to the national level of the most granular category for which there are 500 or more occurrences. The application of these ratios to actual charges creates imputed allowed amounts that reflect the economics of their specific geographic areas.

Then, in determining the imputed allowed amounts used to create benchmarks, FAIR Health applies a second MAD 4 outlier methodology to the imputed allowed amounts. This second MAD 4 outlier methodology utilizes the actual allowed amounts from the commercial, in network claims, to create the high and low outlier values to exclude those imputed allowed amounts for the particular code, if any, that are higher or lower than these outliers.

[3] The MAD 4 methodology was recommended to FAIR Health by a consortium of independent academic experts at universities throughout the United States. It is a recognized statistical methodology for identifying outliers, i.e., both low and high values in a distribution of data that are extreme and likely to be erroneous. The methodology uses the deviation from the median which is less susceptible to distortion caused by outlying values than is the analog methodology which uses deviation from the mean (average). FAIR Health treats values that are ± 4x the median absolute deviation from the median as outliers and excludes them from the data distribution used to determine benchmarks.

FH Allowed Benchmarks

For each of the 493 geozips, FAIR Health determines the imputed allowed amount benchmarks by arraying imputed allowed amounts for each procedure code in the geozip from lowest to highest and determining the 50th to the 95th percentile values. Provided there are at least nine occurrences of the procedure code in this array, the percentile benchmarks are determined from the 50th (median) to the 95th percentiles. If there are fewer than nine occurrences, the benchmarks are determined using a relative value and conversion factor methodology.

Assessment

The imputed allowed amount methodology produces benchmarks that meaningfully reflect prevailing contracted rates for specific procedures in specific locations. FAIR Health performed a variety of statistical analyses and comparisons to assess the new methodology. Measurement of the overall relationship of all imputed allowed amount values to all actual allowed amounts for all codes at both the national and the geozip level showed a correlation of +0.9.

May 2019

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Government: Laws, Regulations and Studies Referencing FAIR Health Data

Alaska

1. FAIR Health data inform the fee schedule for the workers' compensation program of the Department of Labor and Workforce Development, Division of Workers' Compensation of the State of Alaska.
2. State Health Insurance Plan (http://doa.alaska.gov/drb/ghlb/employee/info/faqs/healthPlan.html#.U_fAMfldV1Y)

Arizona

FAIR Health data are licensed by the state to support the reimbursement of dental claims for disabled pediatric patients.

California

Statute: Emergency Care Charges

California expressly provides by statute that the payments for emergency physicians for services to low-income patients shall be no more than the median or average rates paid by commercial insurers for the same or similar services in the same or similar geographic areas as reported by FAIR Health. California Health and Safety Code, Chapter 2.5 of Division 107, Article 2. Emergency Physician Fair Pricing Policies. Section 127452(b):

"An emergency physician shall limit expected payment for services provided to a patient at or below 350 percent of the federal poverty level … When FAIR Health, Inc. makes available the rate of payment received by physicians and surgeons from commercial insurers for the same services in the same or similar geographic region, the amount of expected payment under this section shall be no greater than the median or average of rates paid by commercial insurers for the same or similar services in the same or similar geographic region."

Colorado

Following a competitive bidding process, the State of Colorado selected FAIR Health to provide its expertise and data resources to aid in analyzing, revising and updating Colorado's workers' compensation fee schedule.

Connecticut

Pursuant to a state law protecting consumers from high surprise bills for out-of-network emergency services, the Connecticut Insurance Commissioner designated only FAIR Health's 80th percentile charge benchmarks for healthcare services as the "usual, customary and reasonable rate" to be used in determining insurance reimbursements for healthcare providers. Public Act 15-146.

Florida

FAIR Health provided Florida and comparator states' data presented at meetings of the Emergency Medical Transportation Working Group that were convened by the State Insurance Consumer Advocate (ICA) and used in the ICA report on ground and air ambulance rates issued in June 2018.

Georgia

Each year since 2015, FAIR Health has provided development assistance and data consultation for the Georgia Workers' Compensation Medical Fee Schedule, which is updated annually. FAIR Health assisted with the development of Georgia's first Workers' Compensation Dental Fee Schedule in 2017 and its first update in 2018. FAIR Health manages the distribution of both fee schedules.

Kentucky
Pursuant to RFP processes, FAIR Health was awarded contracts to advise the Commonwealth of Kentucky and its Department of Workers' Claims and to prepare data studies and analyses for the purpose of updating the 2013, 2016 and 2018 editions of the Kentucky Workers' Compensation Fee Schedule for Physicians.

Mississippi
Mississippi Workers' Compensation Fee Schedule (http://www.sos.ms.gov/ACProposed/00019998b.pdf at page 178): "**Usual and customary** means that when a payment is designated herein as 'usual and customary,' the amount of the payment equates to the charge value reported by FAIR Health, Inc. in its FH RV Benchmarks products at the 40th percentile for the applicable geographic area in Mississippi."

The Mississippi Workers' Compensation Commission publishes their workers' compensation fee schedule every three years. They contracted with FAIR Health to assist in the development and distribution of their 2019 fee schedule and interim year updates for 2020 and 2021.

New Jersey
New Jersey Automobile Insurance/PIP Regulations
N.J.A.C. 11:3-29.4 (e) 1. Amendment adopted October 18, 2012, effective January 4, 2013. PIP. FAIR Health database listed as one of "(n)ational databases of fees, such as those published by FAIR Health … are evidence of the reasonableness of fees for the provider's geographic region or zip code."

New York
1. **2013 Budget Act—Definition of "UCC"—Usual and Customary Cost**
   Effective March 31, 2014, insurers must provide examples comparing benefits provided by their plans with benefits using a percentage of "UCC" as allowed amount. Ins. Law §§ 3217-a(a)(19)(B) and 4324(a)(20)(B) and Public Health Law § 4408(1)(t)(ii). UCC means "the eightieth percentile of all charges for the particular health care service performed by a provider in the same or similar specialty and provided in the same geographical area as reported in a benchmarking database maintained by a nonprofit organization specified by the superintendent. The nonprofit organization shall not be affiliated with an insurer…." The FAIR Health database is the only database designated to provide UCC. See New York State Department of Financial Services, Out-of-Network (OON) Law Guidance, (http://www.dfs.ny.gov/insurance/health/OON_guidance.htm).
2. **New York Medical Indemnity Fund**
   New York State regulations for its Medical Indemnity Fund for birth-related neurological injuries prescribe the use of FAIR Health data for physicians' fees. New York Codes, Rules and Regulations. Title 10. Ch.II. Subch. H, Part 69-10.21 Rates of Payment. "(a) Physicians shall be paid at the 80th percentile of the usual and customary charges for services provided in private physician practices, as reported by FAIR Health, Inc. …."
3. **New York Health Insurance Exchange**
   Use of FAIR Health data to provide consumers with cost information was treated as fulfilling Affordable Care Act requirements for cost transparency; several insurers provide FAIR Health data on their exchange information sites.

North Dakota
FAIR Health data products were used to support the development of the fee schedule for the workers' compensation program of North Dakota Workforce Safety and Insurance.

Pennsylvania
"Effective 11/01/10 when resolving applications for fee review under 34 Pa. Code § 127.256, the [Department of Labor & Industry] will utilize the 85th percentile of the … database published by FAIR Health to determine 'the usual and customary charge' as defined in 34 Pa. Code § 127.3."

(http://www.dli.pa.gov/Businesses/Compensation/WC/Pages/Statement-of-Purpose-of-Adoption-of-Usual-and-Customary-Charge-Reference.aspx#.V0X4BPkrKUk)

Wisconsin
The Wisconsin Department of Workforce Development (DWD) has certified the FAIR Health database for use for workers' compensation fees in accordance with Wisconsin Statutes s. 102.16(2)(h); see http://dwd.wisconsin.gov/wc/insurance/radiology/radiology_database.htm.

United States Government
The United States Government Accountability Office, *Air Ambulance: Available Data Show Privately-Insured Patients Are at Financial Risk,* GAO-19-292, March 2019, https://www.gao.gov/assets/700/697684.pdf.

The United States Government Accountability Office, *Dental Services: Information on Coverage, Payments, and Fee Variation,* GAO-13-754, September 2013, http://www.gao.gov/assets/660/657454.pdf.