

# How State Legislative “Laboratories” Can Use Healthcare Claims Data to Advance Consumer Protection Laws: A Detailed Case Study

Robin Gelburd, President

October 3, 2017



# FAIR Health Mission



# The FAIR Health Repository

>24B

Procedures from 2002 to the Present  
from Medical and Dental Claims

>150M

Covered Lives

493

Geozip Regions Reflecting  
Local Billing Patterns



## Coverage

- All 50 States and District of Columbia,
- US Territories – Puerto Rico, Guam, US Virgin Islands



## 60 Contributors

- National and regional payors
- Third-party administrators



## Private Insurance Claims

- Fully insured and self-insured/ERISA plans
- Cover 75% of privately insured US population



## Quality Testing and Control

- Data validated with expert-vetted tests for completeness, volume, accuracy, etc.
- Recognized statistical outlier methodologies



- One of only five organizations across the country entitled to receive Parts A, B and D Medicare data for all 50 states
- Issue probing reports on key aspects of healthcare industry/provider performance
- Powerful synergies between our private claims data and Medicare collection of claims
- Over 55 million beneficiaries; data from 2013-Present

# FAIR Health State Applications

State	Purpose
Alaska	<ul style="list-style-type: none"> <li>Workers' compensation fee schedule</li> <li>Out-of-network claims pricing under the state health insurance plan</li> </ul>
Arizona	<ul style="list-style-type: none"> <li>Dental claims reimbursement for disabled pediatric patients</li> </ul>
California	<ul style="list-style-type: none"> <li>Benchmark for emergency care for low-income patients</li> </ul>
Connecticut	<ul style="list-style-type: none"> <li>FAIR Health 80th percentile benchmark designated as UCR for emergency services</li> </ul>
Florida	<ul style="list-style-type: none"> <li>FAIR Health consumer website transparency featured by Insurance Consumer Advocate</li> <li>Ground and air ambulance data comparisons and analytics</li> </ul>
Georgia	<ul style="list-style-type: none"> <li>Worked with the state to update and distribute their workers' compensation fee schedule</li> </ul>
Kentucky	<ul style="list-style-type: none"> <li>Data support workers' compensation fee schedule</li> </ul>

State	Purpose
Mississippi	<ul style="list-style-type: none"> <li>"Usual and customary" charges under workers' compensation fee schedule are based on the FAIR Health 40th percentile</li> </ul>
New Jersey	<ul style="list-style-type: none"> <li>Authorized personal injury protection (auto liability) reimbursement standard</li> <li>Department of Banking and Insurance recognizes FAIR Health as consumer information source</li> </ul>
New York	<ul style="list-style-type: none"> <li>Medical indemnity fund for birth-related neurological impairments</li> <li>Benchmark for consumer cost transparency and dispute resolution</li> <li>Medicaid program support</li> </ul>
North Dakota	<ul style="list-style-type: none"> <li>Data used to inform the state's workers' compensation fee schedule</li> </ul>
Pennsylvania	<ul style="list-style-type: none"> <li>"Usual and customary" standard in the workers' compensation program is based on the FAIR Health 85th percentile</li> </ul>
Texas	<ul style="list-style-type: none"> <li>Department of Insurance links consumers to FAIR Health for help with surprise bills</li> </ul>
Wisconsin	<ul style="list-style-type: none"> <li>Certified for use for workers' compensation fees</li> </ul>

**Consumer Protection Laws:** In addition to assisting Connecticut and New York, which already use FAIR Health benchmarks under laws on out-of-network emergency and surprise bills, FAIR Health has provided testimony, webinars and comparative datasets for executive branch officials, legislators and other stakeholders in **Arizona, Connecticut, Colorado, Georgia, Indiana, Massachusetts, Missouri, Nevada, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, Texas, Utah and Washington.**

**Opioid Studies:** FAIR Health's white papers on the increasing diagnoses, costs, demographics and geographic variations in the nationwide opioid epidemic have been featured in hundreds of media outlets and attracted policy makers. FAIR Health is assisting **the President's Commission on Combating Drug Addiction and the Opioid Crisis**, members of both parties in both **Houses of the US Congress**, and officials in **federal agencies** and in **Florida, Ohio** and other states.

# State Consumer Protection Laws Incorporating FAIR Health Data

- **New York:**

- 80th percentile of charges for a particular service in a particular geographic area
- As reported in a benchmarking database maintained by a conflict-free not-for-profit organization not affiliated with an insurer or similar organization
- Plans are not required to reimburse at 80th percentile level but must articulate how they reimburse in comparison to UCC
- Supports “apples to apples comparisons”
- Supports dispute resolution



- **Connecticut:**

- FAIR Health 80th percentile is the UCR standard for payments for out-of-network emergency services



*FAIR Health: the **only** data source officially recognized by both states*

# FAIR Health Claims Data: Resource for Consumer Protection

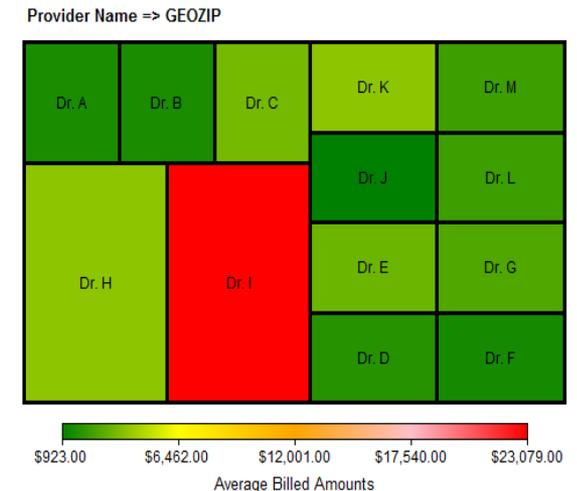
- Quasi-APCD: largest private insurance claims collection
  - Nationally and locally representative
  - Basis for benchmarks for official codes and geozips based on claims for recent 12-month period
  - Benchmarks in percentile ranges of charges and allowed amounts

Description	Mean (Avg.)	Mode	Percentiles							
			50	60	70	75	80	85	90	95
Office Outpatient Visit – 15 minutes	\$96	\$100	\$93	\$100	\$103	\$104	\$108	\$114	\$120	\$136

- Specific charge or allowed percentile benchmark can serve as
  - Reference point
  - Mandatory payment
  - Factor for dispute resolution
- Single specific standard aids certainty and transparency
  - Reduces disputes
  - Helps payors and providers to plan and budget
  - Facilitates comparative disclosure of plans' reimbursement formulae
  - Simplifies consumer information tools

# FAIR Health Support for Consumer Protection Laws

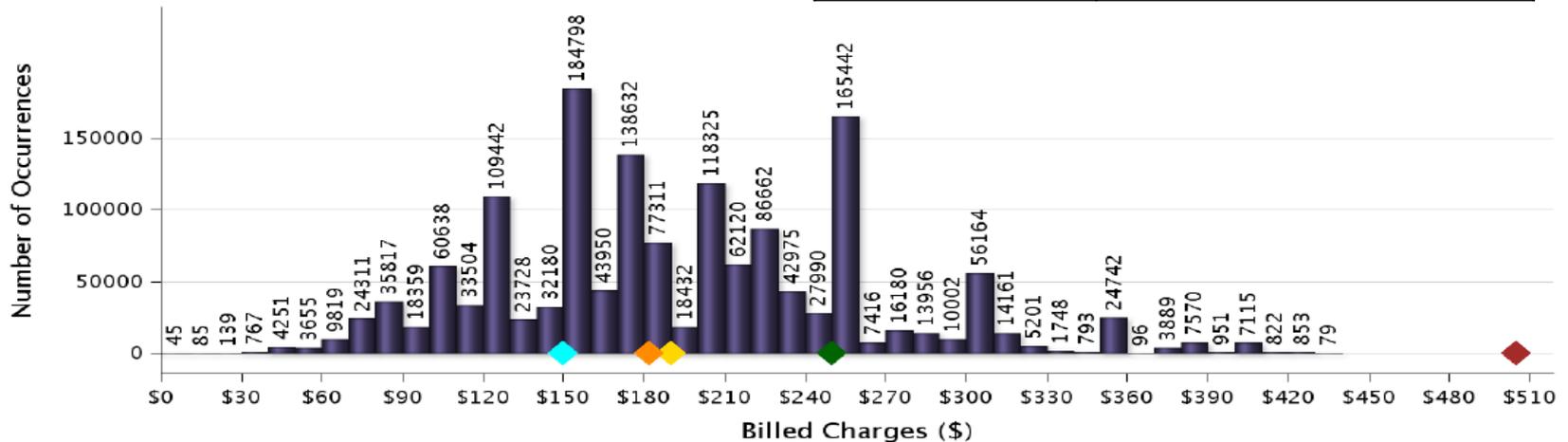
- Comparative Data and Analytics
  - Values comparing allowed and charge amounts
    - Different percentiles featured
  - Comparisons of commercial data to Medicare
  - Trending over time
  - Variety of state geographic groupings
  - Comparisons to different jurisdictions and national variations
  - Feature codes frequently implicated by surprise bills
    - Hospital-based services such as radiology, pathology, emergency, etc.
  - Highlight place of service
  - Charts, graphs, heat maps, histograms
  - Episodes of Care benchmarks
- Presentations
- Written Testimony
- Webinars



# Example Distribution of Charges



Procedure Code	CPT 99213
Code Description	OFFICE OUTPATIENT VISIT 15 MINTUES
Geozip	100
Geographic Description	NY-MANHATTAN
Module   Release	Medical   November 2016



Copyright 2017, FAIR Health, Inc. All rights reserved.

Statistics		Value
Total Occurrences		1,495,115
Range		\$2.00-\$435.00
Mean Charge	◆	\$190.05
Median Charge	◆	\$182.00
Mode	◆	\$150.00
Provider Charge	◆	\$505.00
Allowed Amount	◆	\$250.00

Statistical Term	Definitions
Total Occurrences	The number of charges for the CPT code occurring in the dataset
Range	The lowest and highest charges in the dataset
Mean Charge	The mathematical average of the charges in the dataset
Median Charge	The midpoint of the charges in the dataset
Mode	The most frequently occurring charge in the dataset
Provider Charge	As reported to FAIR Health
Allowed Amount	Benchmark percentile used as chosen by payor

The graph above illustrates actual charges for the specific procedure and geozip region set forth above. The geozip includes the place of service in this matter, as reported to FAIR Health.

# FAIR Health and CMS: A Comparison

Category	FAIR Health Data	Medicare Fee Schedule
<b>Geography</b>	<ul style="list-style-type: none"> <li>• Most benchmarks are organized into <b>493</b> regions</li> <li>• Custom regions available</li> </ul>	<p><b>112</b> Geographic Practice Cost Indices (GPCIs)</p>
<b>Methodology</b>	<ul style="list-style-type: none"> <li>• FH<sup>®</sup> Charge Benchmarks based directly on actual charges in specific region; for infrequently performed procedures, a relative market value methodology is applied</li> <li>• FH<sup>®</sup> Allowed Benchmarks reflect imputed allowed amounts for specific regions; for infrequently performed procedures, a relative market value methodology is applied</li> </ul>	<ul style="list-style-type: none"> <li>• Relative values and conversion factors set by committee</li> <li>• Geographical adjustments for GPCI areas</li> <li>• Some procedures omitted as not relevant to covered population</li> </ul>
<b>Relationship to Market</b>	<ul style="list-style-type: none"> <li>• Mirror market distribution of charges and allowed amounts and also reflect market differentials for charges and allowed amounts as between specialized categories of services</li> <li>• Reflect the experience of the privately insured</li> </ul>	<ul style="list-style-type: none"> <li>• Fees adjusted to meet national budget and policy objectives</li> <li>• Not all procedures are covered because system was designed for particular populations: the elderly, disabled and end-stage renal disease patients</li> <li>• Comparative fees for different types of specialists often differ from market relationships</li> </ul>

# Dispute Resolution

---

## FAIR Health data: choice of both parties to resolve disputes

- Facilitated settlement of suit involving 38 states and Washington, DC; challenge to reimbursement amounts
- 80th percentile benchmark agreed upon as a standard for “usual and customary” charge for five years
- Lebanon Chiropractic Clinic v. Liberty Mutual Insurance Company, Case No. 14-L-521 in the Circuit Court of St. Clair County, Illinois. Court approved February 23, 2015. [www.lebanonpipsettlement.com](http://www.lebanonpipsettlement.com)
- Other cases settled in Oregon, Washington



# Thank You

---



**Robin Gelburd**  
President

**212-370-0704**  
**rgelburd@fairhealth.org**

**For more information, visit:**

- [fairhealth.org](http://fairhealth.org)
- [fairhealthconsumer.org](http://fairhealthconsumer.org) / [consumidor.fairhealth.org](http://consumidor.fairhealth.org)
- Mobile App: FH<sup>®</sup> Cost Lookup / FH<sup>®</sup> CCSalud