Eliminate the Unfair Usual and Customary Rate in the Independent Dispute Resolution Process

LOCAL BUSINESS RELIEF COALITION

Remove the UCR Game

In payment disputes between out-of-network providers and payers Independent Dispute Resolution ("IDR") entities are forced to consider usual and customary costs ("UCR").

The UCR, defined as the 80th percentile of the FAIR Health database of provider billed charges for healthcare services in a particular ZIP code is essentially a list of provider charges, decided solely by the providers. Many providers have unilaterally spiked charges artificially using UCR.

Mandating the use of UCR in IDR determinations unnecessarily drives up costs that are borne by small and local businesses through significantly increased premiums.

Unsustainable Growth of UCR Rates

- **Out-of-network reimbursement rates based on the 90th percentile of FAIR Health:**
  - **Doubled for 82% of service codes over a 5-year period (2012-2016)**
  - **Greatest rate increase for an individual service code ranged from 218% to 2,948% [1]**
- **Median IDR (Independent Dispute Resolution) decision using UCR:**
  - **5.7 times higher than prevailing in-network rates for the same service**

[1]Office of the New York State Comptroller, An Analysis of Reasonable and Customary Out-of-Network Reimbursement Rates for Medical/Surgical Services in the New York State Health Insurance Program, April 2020, available at https://www.osc.ny.gov/files/state-agencies/audits/pdf/sga-2020-18d2.pdf.

New York Needs to Step Up

The law should protect consumers from these artificially inflated charges by paying these out-of-network providers an amount that is better aligned with what in-network providers are paid for these same services.

Removing UCR as a factor that the IDR entity must consider will help take a step to reduce these unnecessary costs and incentivize providers to join networks.