

**By Danny Hakim and Reed Abelson**

In a settlement with one of the nation's biggest insurers, New York's attorney general, [Andrew M. Cuomo](#), has ordered an overhaul of the databases the industry uses to determine how much of a medical bill is paid when a patient uses an out-of-network doctor.

A statement from Mr. Cuomo's office said the industry had engaged in "a scheme to defraud consumers" by systematically underpaying the nation's patients by hundreds of millions of dollars over the last decade.

The move, to be announced Tuesday, is part of a settlement with the insurance giant [UnitedHealth Group](#), which operates the industry databases. It results from a yearlong investigation by Mr. Cuomo's office that concluded the data had understated the true market rates of medical care by up to 28 percent.

The settlement will have a nationwide impact because UnitedHealth, the biggest health insurer in New York, operates the databases used by the entire industry, through its Ingenix business unit. The deal calls for creation of a new independent database, to be run by a university that is still to be selected.

Because insurers typically reimburse patients for only 70 to 80 percent of the "reasonable and customary" cost of medical services when they visit doctors outside the insurer's designated network of physicians, the patient can get shortchanged if the insurer understates the prevailing local fees.

The patient might receive a doctor's bill for \$100, for example, and expect the insurer to pay at least \$70. But if the insurance database says that doctor bill should have been only \$72, based on local rates, the patient might get back less than \$55.

According to Mr. Cuomo, the databases consistently understated the local "reasonable and customary" rates, which Ingenix collects from insurers. The report of the investigation's findings described the industry calculations as "created in a well of conflicts" that produced information that was "unreliable, inadequate and wrong."

In an interview Monday, Mr. Cuomo said: "For years this database was treated as credible and authoritative, and consumers were left to accept its rates without question. This is like pulling back the curtain on the wizard of Oz. We have now shown that for years consumers were consistently low-balled to the tune of hundreds of millions of dollars."

UnitedHealth did not acknowledge any wrongdoing and said it stood by the quality of the information in the database.

“While questions have been raised about the data itself, this agreement does not address those questions,” said Mitchell E. Zamoff, a senior lawyer for UnitedHealth. “We are pleased to have reached an agreement with the attorney general that addresses concerns about the independence of the database products and provides increased transparency that will help consumers make more informed decisions about their care.”

Under the agreement, UnitedHealth will pay \$50 million to finance the creation of the new database, which will be intended to determine the prevailing costs of medical care in specific regions. Although the university to operate that database has not yet been selected, Mr. Cuomo said he would prefer it to be based in New York. Meanwhile, UnitedHealth’s Ingenix unit is allowed to continue running the operations.

No criminal charges have been sought in the case. Nor was UnitedHealth required to pay restitution to consumers, although the disputed reimbursements are the subject of class-action lawsuits around the country.

The attorney general’s agreement tries to address one of the major frustrations of patients in dealing with health insurers when they use a doctor outside of the insurer’s network: the puzzling gap between a doctor’s bill and what the insurer says it will cover.

The inability to decipher the insurer’s calculations can be overwhelming to patients with serious medical conditions.

Mary Jerome, a professor at Columbia who was found to have [ovarian cancer](#) in 2006, said she had been left with unreimbursed medical bills amounting to tens thousands of dollars. Her complaints to the attorney general’s office helped spur the investigation.

Ms. Jerome, who said she had been treated at Memorial Sloan Kettering, in large part because her primary care physician recommended the hospital, expected she would have to pay no more than her \$3,000 deductible for going out of network. But she said she had soon been swamped with bills that left her \$70,000 to \$80,000 in debt.

She found herself trying to decipher bills with more than 200 line items.

“You’re lying there in a morphine grip with someone draining your lungs, trying to figure this out, and you just cannot,” she said. “It cannot be done.” While Mr. Cuomo and his staff predict that the agreement will lead to sweeping changes in how insurers reimburse patients, the agreement’s success depends on the creation of a practical alternative to the existing UnitedHealth business. The database was originally set up by the insurance industry, and the other major insurers would have to cooperate with the new database for it to be able to generate valuable information.

Mr. Cuomo's staff said they were already in discussions with other insurers and expected them to contribute to the costs of setting up the independent database.

Karen Ignagni, the president and chief executive of the industry trade group America's Health Insurance Plans, praised UnitedHealth for its "major leadership effort" in reaching the agreement.

Ms. Ignagni also emphasized that the information would also enable customers, for the first time, to be able to know what doctors are charging for their services before they have an office visit.

The agreement will have little financial impact on UnitedHealth Group, whose annual revenues are around \$80 billion. The company estimates the revenue from the businesses affected by the agreement as less than \$25 million a year — a small fraction of the \$1.5 billion in overall revenue that Ingenix generates through consulting and other services.

Charles Bell, the programs director of [Consumers Union](#), which publishes Consumer Reports, said he hoped continuing lawsuits would help consumers gain some measure of compensation for having been overcharged for so long, but he praised the agreement for helping consumers in the future.

"Insurers need to give the money they were contractually obligated to give," he said. "This is the most basic consumer protection I can think of — you have to do what you're contractually obligated to do."