AMERICAN HEALTH LAW ASSOCIATION

HEALTH LAW WEEKLY

March 27, 2026

DOJ and Ohio Sue OhioHealth for Alleged Anticompetitive Contracting Practices Amidst Continued Scrutiny in Health Care Services Markets

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On February 20, 2026, the United States Department of Justice Antitrust Division (DOJ) and the state of Ohio filed a lawsuit against OhioHealth, the largest hospital system in central Ohio, challenging its contracting practices with commercial health insurers (or payers).[1] The lawsuit alleges that the hospital system used its market power to contractually restrict payers from offering health plans featuring lower-cost rival hospitals and informing patients that cheaper options are available. The DOJ and Ohio (collectively, the government) alleges these restrictions prevent payers from introducing "budget-conscious plans" to the Columbus, Ohio area, including through narrow networks and tiering.[2] The case serves as a reminder that the use of certain contracting practices by large health systems, even those that face meaningful local competition, can draw scrutiny from antitrust enforcers. More broadly, the lawsuit

highlights that protecting competition in health care services markets remains a top priority for enforcers at the federal and state level.

The OhioHealth Case

The government alleges that OhioHealth, which owns or manages 16 hospitals in the state, is the dominant hospital system in Columbus.[3] The complaint asserts that OhioHealth's market power allows it to charge payers much higher rates than its competitors despite the fact that it does not provide higher quality services. Such market power, the government says, is evidenced by OhioHealth's high market share and its ability to impose contractual restrictions on payers that reduce competition.[4]

The Contractual Restrictions

The complaint asserts that OhioHealth restricts payers from offering budget-conscious plans by effectively forcing them to include OhioHealth in all networks for all commercial insurance products and requiring that OhioHealth be featured at the most favored levels of benefits in each network regardless of how its prices compare to competitors. These restrictions, the government alleges, prevent payers accounting for at least 85% of commercial health insurance in the Columbus area from introducing budget friendly plans, including through narrow networks, tiering, centers of excellence, reference-based pricing, and site of service steering (*i.e.*, encouraging patients to have procedures done at a lower-cost facility like an ambulatory surgery center rather a hospital).[5] The government further alleges that OhioHealth's contractual restrictions prevent payers from providing patients with truthful information about the prices of health care services by limiting the dissemination of such information or setting other burdensome requirements on its disclosure.[6]

The Relevant Market

As is typical in antitrust cases involving hospital markets, the alleged relevant product market is the sale of inpatient general acute care (GAC) hospital services to commercial payers and their members.[7] The government identifies two relevant geographic markets, the Central Columbus area, which comprises two counties and most of the city of Columbus, and a broader ten county area not larger than the Columbus Metropolitan Statistical Area (MSA).[8] The government alleges that OhioHealth has market power in GAC services in both markets. In the Central Columbus area, DOJ alleges there are only three systems: OhioHealth, with six area hospitals, including its flagship hospital; Ohio State, which operates a "leading regional academic medical center" and another area hospital; and Mount Carmel, which operates five area hospitals and holds a majority joint-interest in a sixth.[9] In the broader Columbus MSA, the government alleges these three systems control more than 85% of inpatient GAC

discharges.[10] The complaint alleges that OhioHealth's share of inpatient GAC discharges and hospital beds in both markets is over 35%.[11]

Market Power and Anticompetitive Effects

The government asserts that due to OhioHealth's market power, payers must include it in "at least some" of their provider networks to have viable insurance products and are forced to agree to the alleged contractual restrictions (despite attempts to negotiate their removal).[12] The complaint alleges these restrictions prevent payers from offering budget-conscious plans that allow patients to choose lower-cost rivals.[13] This allegedly deters rival hospitals from competing for more patient volume by lowering rates or offering better value. As a result of the restrictions, the complaint asserts that individuals and employers in the Columbus area pay higher prices for health insurance and have fewer plans to choose from.[14]

Causes of Action and Relief Sought

The complaint asserts two claims, one alleging a violation of Section One of the Sherman Act, and the other alleging a violation of Ohio's antitrust statute (the Valentine Act).[15] The government is seeking a declaration that OhioHealth's contractual restrictions violate both laws. It seeks to enjoin OhioHealth from (i) using any agreement provision preventing payers from giving members information and financial incentives to use other providers; (ii) engaging in other conduct replicating the effects of its contractual restrictions; or (iii) retaliating against payers for offering budget-conscious plans.[16]

Takeaways and What to Watch

- While this lawsuit is a noteworthy development for health care services providers, it is not the first of its kind. Federal and state antitrust enforcers have brought antitrust actions in the past relating to similar contracting practices of alleged dominant health systems.[17] For example, in 2016, the DOJ and the state of North Carolina sued Atrium Health challenging analogous alleged "anti-steering" and price transparency provisions.[18] The matter resulted in a 2018 settlement barring Atrium's use of such provisions in the market at issue.[19] Also in 2018, the California AG filed a suit against Sutter Health on the basis of similar alleged restrictions, including purported "all-or-nothing" contracting, and "anti-incentive" provisions punishing plans for placing Sutter facilities on inferior tiers or otherwise incentivizing away from them.[20] The consolidated settlement of that action and a related class action involved a $575 million payment.[21] This case should therefore serve as a reminder that contracting practices of the sort alleged by DOJ and Ohio remain on the radar of antitrust enforcers.
- Similar to the Federal Trade Commission's (FTC) approach to analyzing hospital mergers, the complaint focuses on bargaining dynamics between local hospitals

and payers. Here, the government alleges that because of OhioHealth's size and numerous hospitals, payers must include it in at least some of their provider networks to sell viable health insurance products to employers and individuals in the relevant markets.[22] According to the government, this market power (also evidenced by OhioHealth's "high market share" of over 35%) is what enables OhioHealth to impose the contractual restrictions at issue.[23] Notably, while describing OhioHealth as the dominant area system, the complaint alleges that it faces competition from two area systems that appear to collectively account for a much larger share of the Central Columbus market than OhioHealth.[24] As the case goes forward, evidence regarding payers' ability to construct marketable provider networks in the Columbus area with or without one or more of these three competing systems is likely to be a key issue in assessing the competitive effects of the challenged conduct. The lawsuit's allegations regarding payer bargaining dynamics also underscore that the contracting practices of large health systems, even those that face meaningful local competition, can trigger scrutiny when hospitals are possibly viewed as a "must have" in provider networks.

- In other contexts, anti-steering provisions have been upheld by the courts. Most notably perhaps, in *Ohio v. American Express*, when analyzing alleged restraints in the credit card market, the Supreme Court found that "there is nothing inherently anticompetitive about Amex's antisteering provisions," noting that such provisions stem negative externalities and can promote interbrand competition.[25] As this case proceeds, it will be important to watch how the court evaluates the instant restrictions in the context of the health care industry.
- State AGs are continuing to occupy an increasingly prominent and active role in the antitrust landscape, including through enforcement actions, new pre-merger notification laws, and pending legislation. However, states have long prioritized antitrust matters involving health care providers, particularly since these matters focus on local markets.[26] While the number of state laws requiring notification for health care transactions is increasing,[27] there is nothing new about states partnering with the FTC or DOJ to challenge a merger or conduct in the hospital setting.

The Agencies' Focus on Health Care Services

The government's lawsuit against OhioHealth occurs amidst the backdrop of antitrust enforcers' continuing scrutiny of health care services markets. While we have yet to see a hospital merger challenge from the FTC under Chair Andrew Ferguson (there were six during the Biden Administration),[28] both the FTC and DOJ have taken other recent actions demonstrating that protecting competition in health care services markets remains a top priority.

Sevita/BrightSpring

On January 30, 2026, the FTC announced a proposed consent order to address competitive concerns arising from Sevita Health's (Sevita) proposed $835 million acquisition of BrightSpring Health Services, Inc.'s community living business, ResCare Community Living (ResCare).[29] The FTC alleged that the transaction would combine the two largest national providers of residential services for individuals with intellectual and developmental disabilities (IDD) and that, in certain local markets, the transaction would eliminate head-to-head competition for intermediate care facilities (ICFs) that provide IDD services.[30] Under the proposed consent order, Sevita would be required to divest 128 ICFs and related assets in those local markets, and provide certain assistance post-divestiture. The proposed order also requires Sevita to provide advance written notice to the FTC before acquiring an interest in an ICF in those markets.[31]

UnitedHealth Group/Amedisys

In November 2024, the DOJ together with several state AGs challenged UnitedHealth Group's proposed $3.3 billion acquisition of rival health and hospice services provider Amedisys, alleging that since UnitedHealth's prior acquisition of Amedisys's rival LHC Group, the merging parties have been the two largest home health and hospice providers in the U.S.[32] The government alleged that the parties were close competitors and that the merger would be presumptively illegal in many local markets for home health care, hospice, and home health and hospice nurse labor.[33] In December 2025, the court approved a settlement requiring the divestiture of at least 164 home health and hospice locations across 19 states.[34] In a press release, the DOJ referred to the settlement as the largest divestiture (by number of facilities) of outpatient health care services to resolve a merger challenge.[35]

FTC Warning Letters Regarding Labor Concerns

The FTC has also kept health care labor and staffing in view. In September 2025, it sent warning letters to certain health care employers and staffing firms encouraging a review of employee noncompetes and other restrictive covenants and emphasizing continued enforcement under Section 5 of the FTC Act against restrictions the agency views as unjustified, overbroad, or otherwise anticompetitive.[36] Most recently, at the FTC's January 27, 2026 workshop on noncompetes, Chair Ferguson emphasized that the Commission will continue to scrutinize them on a case-by-case basis, warning that employers who use them "had best be prepared to defend it."[37] Commissioner Mark Meador struck a similar tone, cautioning that overbroad restrictions can suppress wages and restrict worker mobility, including for frontline health care workers.[38]

Conclusion

Taken together, DOJ, FTC, and state actions in health care services reinforce that the industry remains a priority for antitrust enforcers. Practitioners and industry participants should be on the lookout for potential antitrust issues whether they relate to potential transactions or contemplated action, and engage antitrust counsel when uncertainty or concerns arise.

About the Authors

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[1] *United States v. OhioHealth Corp.*, Complaint, No. 2:26-cv-207 (S.D. Ohio Feb. 20, 2026).

[2] *Id*. at ¶31.

[3] *Id*. at ¶ ¶7–8.

[4] *Id*. at ¶11.

[5] *Id*. at ¶33.

[6] *Id*. at ¶34.

[7] *Id*. at ¶38. The government alleges that OhioHealth's conduct also affects outpatient and other services, but does not assert claims based on other markets or define relevant markets.

[8] *Id*. at ¶ ¶45–46.

[9] *Id*. at ¶8, ¶10.

[10] *Id*. at ¶48.

[11] *Id*. at ¶49.

[12] *Id*. at ¶11.

[13] *Id*. at ¶31.

[14] *Id.* at ¶54.

[15] *Id.* at ¶6.

[16] *Id.* at ¶65,

[17] While the FTC is the antitrust agency predominately responsible for reviewing hospital mergers, including those involving non-profit health systems, the FTC does not generally have jurisdiction to pursue alleged anticompetitive *conduct* of non-profits.

[18] U.S. Department of Justice, *Justice Department and North Carolina Sue Carolinas Healthcare System to Eliminate Unlawful Steering Restrictions*, Jun. 9, 2016, https://www.justice.gov/archives/opa/pr/justice-department-and-north-carolina-sue-carolinas-healthcare-system-eliminate-unlawful.

[19] *United States et al. v. The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Healthcare System*; Proposed Final Judgment, 83 Fed. Reg. 63674 (Dec. 11, 2018).

[20] *People of the State of California v. Sutter Health*, Complaint, CGC-18-565398, (Sup. Ct. Cal. Mar., 29, 2018).

[21] Attorney General of California, *Attorney General Bonta Announces Final Approval of $575 Million Settlement with Sutter Health Resolving Allegations of Anti-Competitive Practices*, Aug. 27, 2021, https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-final-approval-575-million-settlement-sutter.

[22] *United States v. OhioHealth Corp.*, Complaint ¶31, No. 2:26-cv-207 (S.D. Ohio Feb. 20, 2026).

[23] *Id.* at ¶11, ¶35.

[24] As referenced above, the complaint alleges that OhioHealth has a market share of over 35% in the Central Columbus market and there are only two other systems (which presumably account for all of the remaining share).

[25] *Ohio v. Am. Express Co.*, 585 U.S. 529, 553 (2018).

[26] *See, e.g.*, *United States v. Atrium Health*, No. 3:16-cv-00311 (W.D.N.C.) (consent decree entered Apr. 16, 2020) (DOJ challenge to hospital system's anti-steering

provisions); *People of the State of California ex rel. Becerra v. Sutter Health*, No. CGC-18-565398 (Cal. Super. Ct., S.F. Cnty.) (settled 2021 for $575 million; state AG challenged alleged all-or-nothing contracting and anti-incentive provisions).

[27] At least 15 states have enacted health care transaction review laws requiring prior notice or approval of material health care transactions. *See, e.g.*, Cal. Health & Safety Code § 127500 *et seq.*; Ind. Code § 25-1-8.5-1 *et seq.*; Mass. Gen. Laws ch. 6D, § 13; N.Y. Pub. Health Law §§ 4550–4552; Or. Rev. Stat. § 415.500 *et seq.*; Wash. Rev. Code § 19.390 *et seq.*

[28] *See e.g., FTC v. Lifespan Corp.*, No. 2:22-cv-00081 (D.R.I. 2022) (transaction abandoned). While no hospital merger challenges have been filed thus far, the FTC under Chair Ferguson has continued to press competition concerns in hospital matters. In March 2025, FTC staff again urged the Indiana Department of Health to deny Union Hospital, Inc. and Terre Haute Regional Hospital, L.P.'s application to merge under a proposed certificate of public advantage (COPA), warning of risks including higher costs, lower quality, reduced access and innovation, and depressed wages, and emphasizing that COPA coverage would shield the transaction from federal antitrust scrutiny.

[29] Sevita and BrightSpring, Analysis of Proposed Agreement Containing Consent Orders to Aid Public Comment, 91 Fed. Reg. 5477 (Feb. 6, 2026).

[30] *Id.* at 5478.

[31] *Id.* at 5480.

[32] *United States v. UnitedHealth Group Inc. and Amedisys, Inc.*, Complaint, No. 1:24-cv-03267-JKB (D.Md. Nov. 11, 2024).

[33] *Id.* at ¶2.

[34] United States Department of Justice, *Court Approves Justice Department's Settlement in UnitedHealth Group and Amedisys Merger*, Dec. 10, 2025, https://www.justice.gov/opa/pr/court-approves-justice-departments-settlement-unitedhealth-group-and-amedisys-merger; *see United States, et al. v. UnitedHealth Group Incorporated, et al*, Proposed Final Judgment and Competitive Impact Statement, 90 Fed. Reg. 39268 (Aug. 14, 2025).

[35] United States Department of Justice, *Court Approves Justice Department's Settlement in UnitedHealth Group and Amedisys Merger*, Dec. 10, 2025, https://www.justice.gov/opa/pr/court-approves-justice-departments-settlement-unitedhealth-group-and-amedisys-merger.

[36] Federal Trade Commission, *FTC Chairman Ferguson Issues Noncompete Warning Letters to Healthcare Employers and Staffing Companies*, Sep. 10, 2025, https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-chairman-ferguson-issues-noncompete-warning-letters-healthcare-employers-staffing-companies.

[37] Andrew N. Ferguson, Chairman, Fed. Trade Comm'n, Address at FTC Workshop Moving Forward: Protecting Workers from Anticompetitive Noncompete Agreements (Jan. 27, 2026).

[38] Mark Meador, Comm'r, Fed. Trade Comm'n, Address at FTC Workshop Moving Forward: Protecting Workers from Anticompetitive Noncompete Agreements (Jan. 27, 2026).