

Anti-Steering Provisions Remain In Antitrust Limelight As Class Action Lawsuits Proceed Through Court

A photograph of a modern building with a curved glass facade, showing multiple floors and windows, set against a light blue sky.

2 MIN READ

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By: Richard B. Dagen, Kaitlin Rittgers

Two class actions based on government enforcement actions involving anti-steering provisions continue to march forward. Most recently, on October 2, 2026, New York-Presbyterian Hospital (“NYP”) lost its motion to dismiss a class action lawsuit challenging the provider’s use of anti-steering and anti-tiering contract provisions. The lawsuit was brought by three self-funded healthcare plans and is based on the same conduct challenged by the DOJ under the Sherman Act in a lawsuit filed in March. NYP did not file a motion to dismiss the DOJ action. The DOJ has signaled its support for the class action in a statement of interest filed in July.

In its opinion denying NYP’s motion to dismiss, the Eastern District of New York rejected NYP’s arguments that the plaintiffs lacked standing and failed to allege sufficient market power. While the court conceded that the plaintiffs’ “‘direct evidence’ path to proving anticompetitive effect [resulting from the anti-steering contract provisions] is . . . not a slam dunk,” it found the health plans adequately pleaded indirect evidence of anticompetitive effect and market power. Specifically, the court said NYP had “no real critique of plaintiffs’ product market definition, nor could it.” The court also found that NYP’s alleged market share of 25-30% was sufficient evidence of market power, particularly since the healthcare market involved high barriers to entry.

The court further stated that “there is no requirement that plaintiffs plead exclusionary conduct or rival foreclosure to state a Sherman Act 1 claim.” The court went on, however, to hold that plaintiffs did allege some degree of foreclosure wherein plaintiffs’ product could not be a tier above NYPs.

A similar follow-on lawsuit was filed against OhioHealth Corporation (“OhioHealth”) in August by Cleveland Bakers and Teamsters Health and Welfare Fund (“CB&T”), a union health and welfare benefit fund. Similar to the class action lawsuit against NYP, the complaint is based on conduct challenged by the DOJ and the state of Ohio under the Sherman Act and the Valentine Act in February. However, unlike NYP, the government actions against OhioHealth were settled in June. The settlement enjoined OhioHealth from using contract terms that prohibited, deterred, prevented, or penalized “Steering, Steered Plans, or Transparency.”

In the class action against OhioHealth, CB&T claims that OhioHealth continues to use its market power in Central Ohio to enforce contract restrictions that “prevent Ohio employers and unions from accessing budget-conscious insurance networks and lower-priced healthcare,” resulting in patients paying 20-30% higher prices for inpatient care and 30+% higher prices for outpatient care. CB&T alleges that OhioHealth uses “secret restrictions” that limit how insurers design their insurance plans, including “provisions that block, financially disincentivize, or otherwise obstruct steering, tiering, and narrow networks” as well as provisions requiring all network insurers to include all OhioHealth facilities if they want to include any of them.

OhioHealth has denied any wrongdoing, stating “[w]e are confident in our position and dispute the allegations in this lawsuit.” The health provider’s answer is due on October 19.

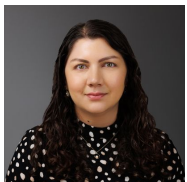
As evidenced by the NYP and OhioHealth class actions, a government investigation and consent may only be the end of the beginning of antitrust issues for health care providers.



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Richard B. Dagen



Kaitlin Rittgers

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