

## CA Attorney General Takes on Sutter Health in Lawsuit Alleging Antitrust Violation

Sutter Health operates two dozen hospitals in Northern California that include over 4,000 beds in total. The not-for-profit system is based in Sacramento and is the largest health system in the northern part of the state. However, its size does not make it immune to legal scrutiny, as a recently-filed case illustrates.

### State AG accuses Sutter of “illegal conduct”

Late last month, Xavier Becerra, California’s attorney general, initiated a lawsuit against Sutter Health, alleging that the health system has engaged in anticompetitive behavior that has caused the cost of healthcare to rise in the area overall. Becerra said that the suit filed in San Francisco County Superior Court is the culmination of a six-year investigation into Sutter by the state attorney general’s office.

“It’s time to hold healthcare corporations accountable and bring down illegally inflated healthcare costs that are imposed on California’s families,” Becerra said after filing the action. “We seek to stop Sutter from continuing this illegal conduct.”

According to Becerra, the investigation revealed that Sutter, approaching contracts with insurers with an “all or nothing” mindset, prevented them from offering lower-cost healthcare plans to those in the region. Therefore, the state attorney general is accusing the health system of violating the state’s antitrust law. In addition, Becerra has leveled the accusations of being less than forthcoming when it comes to sharing provider pricing info, as well as implementing “excessively” high costs for out-of-network providers.

### UC Berkeley study brings to light higher inpatient rates in Northern CA

Becerra buttressed his argument with a report released late month by the Nicholas C. Petris Center on Health Care Markets and Consumer Welfare School of Public Health at the University of California, Berkeley (“Consolidation in California’s Health Care Market 2010-2016: Impact on Prices and ACA Premiums”). The report compared the cost of inpatient medical procedures in Northern and Southern California and found the prices substantially higher in the north...70% higher, on average (around \$223K in the northern part of the state, around \$132K in the southern).

“That’s more than a \$90,000 difference for essentially the same bundle of hospital inpatient procedures,” Becerra pointed out.

In an email to Modern Healthcare, Sutter Health spokesperson Karen Garner said that the health system couldn’t speak to the claims since at the time it had not yet been sent the complaint itself. She went on to say that although Sutter has felt the impact of the costs associated with staffing, facilities, and technology jumping by nearly 40% since 2012, the health system had not raised its rates beyond low single digits within those six years. Garner also said that Sutter’s brand of healthcare integration results in annual savings of “hundreds of millions of dollars” for health plans, government payers, and patients.

### Spokesperson notes that Sutter is not the region’s sole health system

Garner pointed out that Northern California includes a total of 15 hospital systems and more than 140 hospitals,



including Dignity Health, Adventist, and Kaiser Permanente. “And health plans can elect to include or exclude parts of the Sutter Health system from their networks, and health plans have been doing so for many years,” she wrote.

According to data compiled by Modern Healthcare, Sutter Health’s total revenue for 2016 topped \$12 billion. Further, an analysis conducted by Modern Healthcare at the beginning of this year revealed that Sutter’s ratio of charity care to revenue-boosting care was the second-lowest among the largest 20 health systems in the nation for 2016 (0.48% as compared with the 1.4% average).

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