

October 16, 2026

FTC Chairman Ferguson Sends Price Transparency Warning Letters to 24 Large Health Care Companies

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Merrill Stovroff, Wilson Sonsini Goodrich & Rosati

On October 5, 2026, Federal Trade Commission (FTC) Chairman Andrew N. Ferguson sent “hospital price transparency” letters to 24 of the nation’s largest health care service companies.^[1] The letters state that Section 5 of the Federal Trade Commission Act (FTC Act) requires providers to give patients timely, accurate, and complete pricing for health care services, especially non-emergency services scheduled in advance, and that failing to do so may be an unfair or deceptive practice.^[2] The FTC states that it is sending similar letters to other health care service providers.^[3] The FTC letters do not reflect any formal assessment of the recipients’ current practices or conclude that the recipients have violated the FTC Act.^[4] Instead, they encourage the recipients to review their current practices and take “corrective action swiftly” to comply with Section 5.^[5]

Section 5’s applicability to some health care companies is a threshold question. The FTC Act applies to an entity that “is organized to carry on business for its own profit.”^[6] Nonprofit hospitals may not fall within that definition.

Key Points from the Letters

Relationship to CMS Rules

The letters build upon the price transparency requirements of the Centers for Medicare & Medicaid Services (CMS). CMS requires hospitals to post a machine-readable file (MRF) of all standard charges and a consumer-friendly display of shoppable services.^[7] By way of background, starting in 2026, CMS requires hospitals to replace the estimated allowed amount in the MRF with the median, 10th percentile, and 90th percentile allowed amounts, together with the count of allowed amounts used in the calculation. Hospitals must calculate these figures from electronic remittance data using a 12-to-15-month lookback period, and attest in the MRF that the information is “true, accurate, and complete.”^[8]

Chairman Ferguson describes the CMS pricing disclosure rules as the “regulatory floor.”^[9] Compliance with the multiple CMS rules does not mean a hospital has met its obligations under Section 5. Accordingly, the CMS rules “do not provide a safe harbor from liability under the FTC Act.”^[10]

Deception

The letters treat the price of health care services as a “material term,”^[11] so clear and conspicuous disclosure is often necessary. Failing to disclose a price may be deceptive if it is likely to mislead consumers acting reasonably under the circumstances. Both an inaccurate and a partial disclosure can be deceptive. Examples include disclosures that omit physician or facility fees or those that only cover part of the expected course of care, because patients may reasonably believe they have been given the total cost.^[12]

Unfairness

The final aspect of the letter revolves around unfairness. Failing to provide transparent pricing may be unfair if it causes or is likely to cause substantial injury to consumers that they cannot reasonably avoid.^[13] The FTC views “incomplete, inaccurate, or untimely pricing disclosures (where that information is reasonably available to the healthcare provider in advance)” as unfair as it prevents consumers from comparing providers and making informed decisions.^[14] There is no countervailing benefit to such disclosures as they obscure a hallmark in competition.^[15]

What This Means for Providers

Providers should consider whether their pricing disclosures meet the FTC’s stated standard in addition to the CMS requirements and the No Surprises Act requirement that providers give uninsured and self-pay patients a written good faith estimate of expected charges.^[16] That estimate must be itemized, include items expected from co-providers, and is subject to fixed delivery deadlines.^[17] Providers may wish to ensure their good faith estimate practices comply with the FTC’s emphasis on accuracy, timeliness, and completeness.

The FTC’s clear emphasis on accuracy, timeliness, and completeness to comply with Section 5 directly overlaps with the CMS attestation that MRF data is true, accurate, and complete. A disclosure error could thus raise questions under both regimes, although the two agencies enforce separately. The letters’ emphasis on completeness and timing suggests the FTC may look beyond the machine-readable file to patient-facing estimates and scheduling workflows. Although the letters went to companies that operate health care facilities, they urge all health care service providers to act, so physician practices and other non-hospital providers may wish to review their practices as well.^[18]

Considerations on the Other Side

Providers and their counsel may decide to view these letters differently on a few grounds:

- The letters themselves are informational. There are no findings and no new binding requirements.^[19]

- Unlike CMS, which can impose civil monetary penalties for noncompliance with its hospital price transparency rules, the FTC cannot obtain penalties for a first-time violation of Section 5.^[20] After *AMG Capital Management, LLC v. FTC*, the FTC also cannot seek restitution or disgorgement under Section 13(b) of the FTC Act.^[21]
- The letters fail to define “timely” or “complete.” In contrast, the regulation governing the good faith estimates for self-paying patients sets specific delivery deadlines and content requirements.^[22]

^[1] Letter from Andrew N. Ferguson, Chairman, Fed. Trade Comm’n, to [Company] 1 (Oct. 5, 2026) [hereinafter FTC Letter].

^[2] *Id.* at 1; 15 U.S.C. § 45(a).

^[3] FTC Letter, *supra* note 1, at 1.

^[4] *Id.* at 4.

^[5] *Id.* at 1.

^[6] 15 U.S.C. §§44, 45(1)(2); *California Dental Ass’n v. FTC*, 526 U.S. 756 (1999).

^[7] Public Health Service Act § 2718(e); 45 C.F.R. § 180.40; Ctrs. for Medicare & Medicaid Servs., Hospital Price Transparency Enforcement Updates (Apr. 26, 2023).

^[8] Ctrs. for Medicare & Medicaid Servs., CY 2026 OPPS and Ambulatory Surgical Center Final Rule—Hospital Price Transparency Policy Changes (CMS-1834-FC) (Nov. 21, 2025) [hereinafter CMS 2026 Fact Sheet]; 45 C.F.R. § 180.50.

^[9] FTC Letter, *supra* note 1, at 3.

^[10] *Id.*

^[11] *Id.*

^[12] FTC Letter, *supra* note 1, at 3–4.

^[13] *Id.* at 4; 15 U.S.C. § 45(n).

^[14] FTC Letter, *supra* note 1, at 4.

^[15] *Id.*

^[16] 42 U.S.C. § 300gg-136; *see also* FTC Letter, *supra* note 1, at 3.

^[17] 45 C.F.R. § 149.610(b)–(c).

^[18] FTC Letter, *supra* note 1, at 4.

^[19] *Id.*

^[20] *See* CMS 2026 Fact Sheet, *supra* note 8; 45 C.F.R. § 180.90; 15 U.S.C. § 45(m)(1)(A)–(B).

[\[21\]](#) 593 U.S. 67 (2021).

[\[22\]](#) 45 C.F.R. § 149.610(b)(1)(vi)–(vii).

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1099 14th Street NW, Suite 925, Washington, DC 20005 | P. 202-833-1100

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