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Fitch: SCOTUS Change Raises Risk of ACA Repeal, Reduced US Hospital Revenue

Fitch Ratings-New York/Chicago/Austin-22 September 2020: A vacancy in the Supreme Court of the United States (SCOTUS) increases uncertainty about the future of the Affordable Care Act (ACA), given the court's pending decision regarding the severability of the individual mandate, says Fitch Ratings. A repeal of the ACA, which would result in fewer insured patients and lower reimbursement rates, would negatively affect US hospital revenue.

The ACA had a positive effect on the financial profiles of most healthcare issuers since going into effect in 2010, due to an increase in insured patients and a reduction of uninsured patients who self pay. About 25 million Americans have coverage through the health insurance expansion elements of the legislation. Roughly 8.5% of Americans are currently without health insurance, down about 5% from before the ACA's insurance expansion took effect, according to the US Census Bureau. Coverage through ACA serves as a backstop for employer-sponsored healthcare if jobless rates remain structurally high amid the prolonged coronavirus pandemic.

Quantifying the effect of a potential repeal of the ACA on patient volumes and pricing is difficult due to uncertainty regarding its replacement. We expect providers to adapt to new healthcare policies in order to protect credit profiles but a decline in revenue that results in a sustained reduction in cash flow and higher leverage could pressure ratings.

The less people that are covered, even by Medicaid, the greater stress on a hospital's operating margin. Of a hospital's revenue sources, uninsured patients who self pay and Medicaid patients with lower reimbursement rates pose the highest risk to ensuring revenue sufficiently covers costs. Not-for-profit hospitals and publicly-operated hospitals that provide care to a large proportion of uninsured and Medicaid patients will see a reduction in revenue due to increased uninsured care should the ACA be repealed or further weakened.

The coronavirus pandemic has depressed volumes of elective patient procedures and weighed on hospital revenue and operating margins. However, for-profit hospitals and other corporate healthcare issuers are well positioned to defend profitability in the event changes to the ACA threaten volumes or pricing power since strategic M&A has increased scale over the past decade. Challenges to the ACA over the past few years have not curtailed investment by, or in, the corporate healthcare sector due to good underlying demand trends.

Although a full-blown repeal has so far been unsuccessful, changes effected through the courts weakened the ACA. These changes include a reduction in funds for the navigator program, which helps people find insurance, increased leeway by states to define their benchmark healthcare plan and the approval of short-term and association plans with lower premiums.

The SCOTUS vacancy raises uncertainty across the healthcare sector. President Trump intends to nominate a replacement by the end of this week. Confirmations historically average two to three months, making it unlikely a nominee is confirmed prior to Nov. 10, when the court is scheduled to hear California v. Texas, the case challenging the constitutionality of the ACA. Whether SCOTUS hears arguments in California v. Texas with eight or nine judges, the possibility exists that the ACA is upheld or sent back to the lower courts, particularly given Chief Justice Roberts' deciding vote in favor of the ACA in a 2015 case.

Regardless of the pending SCOTUS decision, the outcome of the election is critical to the trajectory of healthcare reform debate. Hospitals will continue to face significant near-term uncertainty about future healthcare policy, given risk of a disputed election result. While this could temporarily be disruptive to the formation of capital for healthcare entities in credit markets, most issuers recently boosted liquidity due to the pandemic.

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The above article originally appeared as a post on the Fitch Wire credit market commentary page. The original article can be accessed at www.fitchratings.com. All opinions expressed are those of Fitch Ratings.