Debt-limit law could spur health M&A

by Ira Teinowitz In Washington
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Healthcare merger deals could surge in the wake of President Obama signing the debt limit extension legislation on Tuesday, antitrust attorneys said.

Pointing to the decrease in Medicare reimbursement rates that the legislation could require, they suggest the new law will further ramp up the pressure to consolidate that the healthcare sector already faces.

The incentives the Affordable Care Act puts on boosting efficiencies in servicing patients — permitting the creation of accountable care organizations and requiring insurers to use more than 80% of premiums for care and not administrative expenses — already were expected to lead to deals. (An ACO is a network of doctors, hospitals and other healthcare service providers created to coordinate and reduce the costs of patient care.)

In addition, on Monday the Centers for Medicare and Medicaid Services cut reimbursement rates for skilled nursing care facilities, further increasing pressure.

The debt extension limit, which seeks to trim $2.5 trillion in federal spending over 10 years, does not exactly mandate Medicare cutbacks, but makes them a likelihood.

The act requires roughly $1 trillion in cuts immediately, then sets up a 12-person special congressional committee to find a further $1.5 trillion in deficit reduction, with recommendations due by Thanksgiving.

If Congress fails to adopt the proposal, automatic spending cuts would kick in, including cuts in Pentagon spending and payments to some Medicare providers.

Attorneys said even the possibility of Medicare cuts could fuel mergers.

"It's going to result in even more supplier consolidation," said Ankur Kapoor, a partner at Constantine Cannon LLP. "You are looking at reimbursements going down, down, down. The only way to respond is to pick up volume and to consolidate."

Robert D. Reif, co-chairman of Epstein, Becker and Green PC's corporate services practice, said that while cuts in defense spending are possible, the potential cuts ahead for healthcare providers are the clearest in the debt legislation.

"They will likely be a reasonable target," he said. He suggested an initial result will be uncertainty and an examination of ways to boost efficiencies at a number of companies.

"There will be real fallout," Reif said, suggesting that the possibility of declining revenue could lessen valuations in the sector, even as the exact cuts ahead remain uncertain; this could spur merger deals.

Kapoor said that ACO provisions were already going to result in "substantial consolidation."

He predicted a number of consolidations.

"Smaller groups will get acquired by larger groups and the larger ones are going to establish an [accountable care organization] to share savings," he said.

With less leeway to get money from Medicare, Kapoor predicted that health providers could stand stronger in negotiations with private insurers who "are going to have to pick up the slack."

The comments came as the U.S. Senate on Tuesday approved the debt deal by a 74-26 vote and Obama signed it, just hours before the U.S. would have been unable to pay some of its bills.

In a Rose Garden statement, the president said that while the legislation solves the immediate crisis, the country still needs a balanced approach.

"You can't close the deficit with just spending cuts; we'll need a balanced approach where everything is on the table," Obama said. "Yes, that means making some adjustments to protect healthcare programs like Medicare so they're there for future generations.

"It also means reforming our tax code so that the wealthiest Americans and biggest corporations pay their fair share," he added. "And it means getting rid of taxpayer subsidies to oil and gas companies, and tax loopholes that help billionaires pay a lower tax rate than teachers and nurses."