

November 12, 2024

(UNH, AMED) Reported Threat of DOJ Complaint Brings Overhang and Extended Invitation to Negotiate

Key Takeaways: We continue to expect that **UNH's** acquisition **AMED** will be completed, despite reports that the DOJ is preparing to sue to block the \$3.3B deal on antitrust concerns. While clearly a setback, this development suggests to us that the parties couldn't reach a deal on the appropriate level of divestitures in the home health and hospice space and that this potential action is part of the Biden DOJ's swan song. We suspect that should a complaint be filed in federal court, this legal process would start to unfold, providing time and incentives for DOJ and UNH/AMED to further try to reach an acceptable settlement, as opposed to an incoming DOJ withdrawing the complaint immediately.

Earlier today, media reports said that the DOJ plans to file – as early as this week – a federal lawsuit to prevent UNH from acquiring AMED on antitrust grounds that the combination would harm competition for home health services. This is despite a separate transaction UNH and AMED lined up to sell an undisclosed number (assumed to be ~100) of agencies to private **VitalCaring's** VCG Luna affiliate to allay fears about too much concentration in certain geographic areas for home health and hospice.

Although it was never disclosed, we suspect there had been discussions among the parties to address vertical antitrust concerns, given that UNH is a serial acquirer of healthcare services ancillary to its health insurance business. Moreover, there are also probably concerns that UNH would use its power and control over its employed physicians and insurance plans to steer patients to its home health and hospice agencies. The parties reportedly met last week with DOJ in a “last rites” meeting.

This potential development comes as investors await a late November decision by the Oregon Health Authority (OHA), which has engaged in a 6-month comprehensive review of the transaction. In March, OHA issued a preliminary report stating a comprehensive review was warranted based on concerns that UNH's acquisition of AMED could:

- Impact a large number of Oregonians who get some type of health coverage or service by UNH.
- Increase concentration in the market for home health and hospice services.
- Raise the risk of reduced competition in OR's healthcare markets due to a serial acquirer that is large health insurer (UNH) owning various types of providers.

Meanwhile, OHA's data showed limited geographic overlap of UNH-AMED home health agencies and hospices in the state. While a resulting report could generate headline risk, we believe most, if not all, of the concerns that OHA would cite could be addressed by divestitures and contracting.

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UnitedHealth Group Incorporated (UNH)

Price:	\$615.73
52-Week High:	\$630.73
52-Week Low:	\$436.38

Amedisys Inc (AMED)

Price:	\$91.19
52-Week High:	\$98.95
52-Week Low:	\$89.55

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Moreover, the anticipated concerns and anticompetitive risks that OHA was focused on likely mirror those expected from the DOJ, given today's reports of a lawsuit. Yet, we are skeptical that this ends up being the stance taken by a Trump DOJ.

Rather, should Justice Department attorneys file a lawsuit in the coming days/weeks, we expect the litigation process to unfold over the next 9-12 months with filings, depositions, motions and potentially a trial. We do not think a Trump DOJ would automatically withdraw the complaint and drop the case once leaders have been confirmed.

We note that were such an acquisition to be announced during a Trump term, it would likely have been greenlit, given: 1) the fragmented nature of the home health/hospice industry; 2) the limited geographic and product overlap for these services owned by UNH/AMED – and where there is concentration like in the southeast, it could be addressed through divestitures – and; 3) the difficulty in proving illegal vertical consolidation specific to the UNH-AMED deal.

However, during the litigation process, we expect there would be opportunities and a bias by DOJ to reach a settlement that favors a UNH-AMED transaction accompanied by divestitures and potentially other policies to firewall against vertical antitrust concerns. This is not to say that an incoming DOJ may not be concerned about vertical healthcare mergers. We are just dubious that UNH-AMED, where UNH is buying a large national player in a very fragmented industry, is the case that they would argue as the tipping point for fighting and blocking vertical healthcare consolidation.

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