

Tuomey Healthcare System, SC Debt Rating Cut To 'BB' On Uncertainty Over Legal Penalties Due To Federal Litigation

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NEW YORK (Standard & Poor's) May 24, 2013--Standard & Poor's Ratings Services lowered its rating on South Carolina Jobs Economic Development Authority's series 2006 revenue bonds, issued for Tuomey Healthcare System, two notches to 'BB' from 'BBB-'. The outlook is negative.

On May 8, 2013, the courts found Tuomey Healthcare violated the Stark Law and the False Claims Act during a retrial of a previous case. While the full ramifications of the court ruling are currently unknown, the government could potentially seek significant damages: Early reports indicate damages could range from \$40 million to more than \$300 million in fines due to nearly 22,000 claims that violated the False Claims Act.

The negative outlook reflects Standard & Poor's opinion of the uncertainty around Tuomey's ongoing litigation with the federal government and continued operating volatility.

"We believe a \$40 million settlement is affordable at the 'BB' rating barring any changes to Tuomey's current operational performance and enterprise profile; we, however, believe any settlements beyond \$40 million would cause us to reassess Tuomey's financial profile and could cause us to lower the rating further," said Standard & Poor's credit analyst Margaret McNamara. "We could revise the outlook to stable if the legal liability were limited to \$40 million with no further settlements possible because we believe that outcome would not materially affect Tuomey's balance sheet and that Tuomey would have sufficient reserves at the current rating level."

Standard & Poor's has limited information on what the system plans to do next, the final amount of damages, and a payment time line. In a public notice to bondholders, Tuomey indicates that depending on the fines imposed on the organization, it could reasonably expect not to comply with certain financial covenants set forth in the master trust indenture; in addition, if the amount of the judgment were tripled, and if statutory penalties were assessed, Tuomey reasonably expects it could be rendered insolvent. Since this case is still ongoing, Standard & Poor's cannot predict the ultimate outcome of this matter; due to the level of uncertainty surrounding this case, however, the rating service believes a lower rating is currently warranted. Standard & Poor's also recognizes that Tuomey has absorbed significant legal costs to date; the rating service thinks this could continue if the case is unresolved, which could continue to hamper operating performance.

RELATED CRITERIA AND RESEARCH

USPF Criteria: [Not-For-Profit Health Care](#), June 14, 2007

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