



MEMORANDUM

To: Reporters and Editors
Fr: Jill Gerber for Sen. Grassley, 202/224-6522
Re: Illinois Supreme Court ruling on hospital's state tax exemption
Da: Thursday, March 18, 2010

Sen. Chuck Grassley, ranking member of the Committee on Finance, today made the following comment on the Illinois Supreme Court's ruling ruled that Provena Covenant Medical Center in Urbana did not provide enough charity care to qualify for a state property tax exemption. The case has been closely watched by tax-exempt policy and hospital experts.

“This ruling underscores what the Government Accountability Office and others, including the former IRS commissioner, have said for a long time. There is often no discernible difference between the operations of taxable and tax-exempt hospitals. Tax-exempt hospitals should give more attention to their charitable activities. That includes not only providing charitable patient care, but also publicizing it to patients, not charging indigent uninsured patients more than insured patients, and cutting aggressive collection practices. On the federal level, I'll continue working to hold tax-exempt hospitals accountable for the federal tax benefits they receive.”

A Chicago Tribune article from today follows for reference.

Illinois Supreme Court rules Provena must pay tax

By Bruce Japsen| The Illinois Supreme Court ruled this morning that Provena Covenant Medical Center in Urbana did not provide enough charity care to qualify for a property tax exemption.

The widely watched ruling, which rejected the Catholic hospital's appeal of a tax review board decision to take away its tax exempt status in 2003, could set the stage for charity care expectations at hospitals around the country.

The ruling -- supported by three judges, supported in part by two and not voted on by two others -- means the hospital will have to begin paying property taxes. It has been considered a nonprofit hospital like most hospitals in the U.S. that are exempt from state property taxes

The Illinois Supreme Court upheld a lower court's decision in the landmark case that pitted Provena Covenant Medical Center against the Illinois Department of Revenue. The revenue department argued Provena should not be exempt from paying property taxes in 2002 when the state said the medical center's charity care was less than 1 percent of revenue. The court also upheld the revenue department's denial of Provena's religious tax exemption, which analysts say is unusual.

The state had no clear definition of how much charity care should be provided or whether unpaid medical bills and services that are offered for free, among other practices, should be included to determine whether a nonprofit hospital receives a property-tax exemption. State lawmakers have debated a level in the past but have not followed through on passing such legislation.

But the ruling clearly puts nonprofit hospitals on notice that aggressive business practices put tax exemptions at risk and the hospital industry worried about a precedent.

"The record showed that during the period in question here, Provena did not advertise the availability of charity care," Justice Lloyd Karmeier wrote for the majority. "Patients were billed as a matter of course and unpaid bills were automatically referred to collection agencies."

The ruling against Provena adds momentum to legislative initiatives at the state and federal level for establishing laws on charity care. The case of the Urbana hospital is being watched closely by hospitals statewide as the high court tries clarify what medical facilities in Illinois need to do to qualify for tax breaks.

The Illinois Hospital Association, which represents 200 hospitals in the state and most of them are tax-exempt nonprofits, described the ruling as "disturbing."

"The court's decision ignores legal precedents and public policy in Illinois that confirms non-profit hospitals are tax-exempt, charitable organizations," said Illinois Hospital Association President Maryjane Wurth.

"For more than a century, the Illinois Supreme Court has recognized a simple, but critical reality: a hospital that treats patients regardless of their ability to pay and that does not provide profits to private individuals is charitable and merits an exemption from property taxes, without regard to the specific amount of free care it provides," she added. "This sudden, about-face by the Court also ignores the findings of an administrative law judge in the Department of Revenue who originally ruled in favor of Provena after hearing considerable testimony and the actual facts of the case."

But Illinois Atty. Gen. Lisa Madigan, whose office argued the case before the court last September, said the ruling is critical for patients. Madigan's office would not comment when asked whether it would introduce legislation calling for hospitals to provide a certain level of charity care.

"Today, the Illinois Supreme Court upheld over a century of Illinois law that requires tax exempt hospitals to provide free health care in exchange for the enormous tax breaks they choose to receive from the people of the state of Illinois," Madigan said in a statement. "This decision is good news for the nearly two million uninsured Illinoisans who lack access to affordable health care."

Justices agreed with Illinois Asst. Atty. Gen. Evan Siegel's argument that 0.7 percent of revenue and only 302 people receiving free care "is not substantial," Siegel told justices when the case was argued before the court last September.

In 2002, Siegel said, 302 patients were given free or discounted care out of more than 100,000 admissions at a cost to the hospital of \$831,724, or about 0.7 percent of its \$113 million in 2002 revenue. Siegel did not specify where the charity care bar should be set.

Justices last fall pressed Siegel and Provena Covenant's attorneys on their definition of adequate charity care.

For its part, Provena Covenant Medical Center said it is indeed charitable, saying it provided "more than \$38 million in free care and other community benefits."

Provena executives also encouraged state lawmakers to examine how charity care is defined but did not advocate a specific level.

"We can only hope this troubling ruling prompts a dialogue among hospitals and elected officials to dialogue about not only how we define charity care but also how we better ensure that the people who need financial assistance get it," Provena Covenant President and Chief Executive David Bertauski said. "We will work to lead the way."

Provena faced tougher odds in part because two justices declared conflicts and could not be a part of the decision.

Provena Covenant is one of six Catholic hospitals owned by Mokena-based Provena Health, which also has facilities in Aurora, Danville, Elgin, Joliet and Kankakee. It is sponsored by three religious orders.