

Nonprofit Hospitals: Officials Target Them, Again

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“Making sure that tax-exempt hospitals abide by their community benefit standards is a very important issue for me,” wrote Senate Finance Committee Chairman Chuck Grassley (R-IA) recently.

This influential lawmaker has, once again, made clear he wants answers about “how many of the nation’s approximately 3,000 tax-exempt hospitals are in compliance with charity care requirements.” It’s not the first time he has spearheaded probes into the nation’s nonprofit health care institutions. He is renewing his earlier inquiry because he has heard reports that “at least some of these tax-exempt hospitals have cut charity care, despite increased revenue.”

Earlier Hospital Compliance Inquiry

In February 2018, Senator Grassley joined in a letter sent by then-Senate Finance Committee Chairman Orrin Hatch (R-UT) – now retired – to then Acting IRS Commissioner David Kautter. By virtue of their oversight authority, they wanted details about how the tax agency monitors and enforces practices of the nation’s tax-exempt hospitals for complying with legal requirements to provide a certain amount of charity care and community benefit.

In the letter, these Senators commended these health care institutions “for the work they perform to ensure access to high-quality, affordable care” in their communities. They also acknowledged that “hospitals often use their resources for items not often accounted for in basic financial reports, such as reinvesting in new models of care and supporting medical research.”

Nevertheless – (and now paraphrasing the letter) – these hospitals get a huge tax break that takes money out of government coffers, so the lawmakers want to make sure “their activities are in line with the benefits they enjoy under the Internal Revenue Code.”

What prompted the probe at that time was “[media reports](#)” raising questions about “whether some nonprofit hospitals were meeting the criteria for tax-exempt status, serving their communities and serving individuals in need regardless of ability to pay.”

In April 2018, Acting Commissioner David J. Kautter responded to the Hatch/Grassley letter. He wrote that the IRS reviews the status of about 1,000 U.S. nonprofit hospitals each year. In addition to looking at Forms 990, the agency checks out hospital websites, and “other information in order to identify the hospitals with the highest likelihood of noncompliance.” For those institutions that “appear to be most at risk of noncompliance,” the IRS begins a compliance check or examination.

The position of the American Hospital Association about this issue has been confidence that “nonprofit hospitals are meeting their mission.” Melinda Hatton, general counsel for the AHA pointed to a 2015 survey of Schedule H filings by hospitals indicating that “13.3% of tax-exempt hospitals and health systems total expenses were devoted to [community benefits programs](#), and that half of that spending was attributable to expenditures for providing financial assistance to needy patients and absorbing losses from Medicaid and other means-tested government program underpayments.” She also cited [analysis](#) by Ernst & Young for the AHA, finding that hospitals’ and health systems’ community benefit activities outweigh the value of their federal tax exemption by a factor of 11 to one.” According to that [report](#), non-profit hospitals in 2013 were exempt from an estimated \$6 billion in federal taxes and provided an estimated \$67.4 billion in community benefits.”

Hospital Compliance: Request for Answers

On February 19, 2019, Senator Grassley, now in his capacity as new chair of the Judiciary Committee, sent [another letter](#) to the Internal Revenue Service, addressed to (current) Commissioner Charles T. Rettig.

Again confirming that nonprofit hospitals are, indeed, important to their communities, he nevertheless cited Internal Revenue Code section 501(r) that imposes certain statutory “community benefit” duties on tax-exempt hospitals, including: community health needs assessment requirements, financial assistance policy requirements, requirements on charges billed to patients, and requirements on billing and collections.

Referring to the earlier (2018) letter to the former Acting Commissioner, Senator Grassley made clear he wants a comprehensive follow-up report on the IRS compliance review activities.

Chairman Grassley concluded by mentioning that, as chair of the Senate Judiciary Committee, he oversaw an investigation into the troubling billing practices of one health care institution, [Mosaic Life Care](#). That investigation resulted in almost \$17 million of debt relief for thousands of low-income patients. Now, as Finance Committee Chair, Grassley emphasizes he is determined to pursue adequate answers to his questions and concerns.

Conclusion

Grassley has asked for a point-by-point response from the IRS Commissioner before April 1, 2019. The status of this inquiry is unclear at this time.

The nation's nonprofit hospitals are likely to remain under the microscope of government officials. And it's not just Congress and the IRS that these nonprofits have to worry about. State officials are also asking questions and taking action. For instance, in early February 2019, the Attorney General of Pennsylvania, Josh Shapiro, announced his office is challenging the public charity status of the University of Pittsburgh Medical Center.

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