

Illinois hospital loses tax-exempt status for not being charitable enough

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In a decision that could have a chilling effect on nonprofit hospitals, the Illinois Supreme Court on Thursday ruled that a Catholic hospital wasn't charitable enough, so it took away the hospital's tax-exempt status.

The ruling upheld a state tax review board's 2003 decision to end Provena Covenant Medical Center's tax-exempt status after the state learned that the center's charity care equaled less than 1% of revenue. Now, the hospital is liable for a multimillion-dollar property tax bill.

The Illinois decision comes as lawmakers in that state and in the nation's capital, as well as the Internal Revenue Service, are watching hospitals more closely with regard to their charitable giving. The IRS is scrutinizing hospitals' year-end tax filings, while lawmakers are talking about legislation to mandate a certain minimum level of charity care to justify tax-exempt status.

The Illinois ruling could bolster those efforts. "My biggest concern is that this will really drive more challenges to property tax exemption status for hospitals and other charities nationally at a time when they really can't afford it," said Elizabeth Mills, senior counsel to the Chicago office of Proskauer Rose.

Mills questioned the court's finding that the hospital wasn't charitable enough, noting that Illinois law sets no particular level of charity care linked to tax-exempt status.

In its decision, the high court concluded that Provena had failed to show "that it dispensed charity to all who needed it and applied for it." State lawyers had argued that only 302 patients at Provena received free or discounted care out of more than 100,000 admissions in 2002. Those patients cost the hospital a mere \$831,724, or about 0.7% of its \$113 million in revenue.

"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."

Karmeier's opinion was joined by two judges in full and two judges in part. Two others did not vote.

Patrick Coffey, a Chicago partner with Locke Lord Bissell & Liddell who represented Provena, was unavailable for comment.

In a written statement, the hospital said it was "deeply disappointed" by the court's decision. "Provena Covenant Medical Center cares for all in our community who need health services, regardless of their ability to pay," the hospital stated.

And the American Hospital Association blasted the ruling. "The court is out of step with the broader view shared by the federal government and the majority of other states about what it means to be a charitable organization," Melinda Hatton, general counsel of the association, said in a statement. "We don't expect that the Illinois court's decision about the property tax exemption will be embraced by other states."

Illinois Attorney General Lisa Madigan, on the other hand, applauded the court for concluding — as her office had argued — that just 0.7% of revenue spent and 302 people receiving free care "is not substantial." Madigan said in a statement, "This decision is good news for the nearly two million uninsured Illinoisans who lack access to affordable health care."

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