Healthcare Trustees of New York State
Annual Conference
September 2006
Issues

Current Challenges Facing Tax-Exempt Hospitals

• Congressional Scrutiny
• IRS Initiatives
• Class Action Lawsuits
Tax Exemption

Under section 501(c)(3) of the Internal Revenue Code, organizations exempt from federal income tax include those “organized and operated exclusively for ...charitable...purposes...”
What’s Charitable?

Charitable purposes:
1. Relief of poverty
2. Advancement of Education
3. Promotion of Health
4. Government purposes
5. Other purposes …beneficial to the community
Changing the Test

The definition of ‘charitable’ has never been static.

In 1969 the IRS eliminated the requirement that a tax-exempt hospital be operated to the extent of its financial ability for those unable to pay.

Instead, tax-exempt hospitals were expected to promote the health of a broad cross-section of the community.
Community Benefit Standard

No fixed definition

- Governed by a board drawn from surrounding communities
- Open medical staff
- Nondiscriminatory treatment for Medicare & Medicaid patients
- Operate an emergency department that serves without regard to patients’ ability to pay
The Challenge

Questions raised by policymakers, journalists and others whether hospitals are satisfying their tax-exempt purpose

Trigger: Concerns that tax-exempt hospital bills were higher for uninsured patients

Backdrop: 47 million uninsured

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A Hospital Bill Can Ruin You!

Have you, or someone you know, been overcharged? Click Here and tell us your story. We would like to help, and would appreciate your comments.

Many hospitals will charge you three or four times their cost. They make a big profit off of you. You pay in order to protect your credit rating. Learn how you can fight back, and defend yourself. Protect Your Credit From BIG Hospital Bills!

Hospitals charge Medicare and the big HMO's only a little above cost - less than half of what they want you to pay. We've obtained some of the pricing for selected hospitals.

The uninsured middle class are a major source of profits for most hospitals. Click here to read more.

Please sign our petition to Members of Congress. Help us fight for fair and consistent hospital pricing!

Overcharged??

If you or someone you know has been charged a high price by a hospital, contact us toll-free at (800) 742-3441, or you can contact us by clicking here.

It is very important to protect your credit rating!
Congressional Scrutiny

• Began with investigation and hearing before House Energy & Commerce Cmte
  – Focus: billing and collection

• Hearing before House Ways & Means Cmte
  – Focus: tax exemption
Finance Chairman

Goal: Overhaul of Tax-Exempt Sector

- Foundations
- Universities
- Not-for-profit hospitals
“I strongly encourage the nonprofit hospital community to take a page from the nonprofit panel. It should come forward with its own substantive proposals for common definitions and reforms in areas such as community benefit, charitable care, charges to the uninsured, debt collection and joint ventures.”

Senator Charles Grassley
October 24, 2004
Remarks to the CEO Summit
Independent Sector
Under Scrutiny

• June 2005 -- detailed Inquiries to 10 Tax-Exempt Hospitals
  – Billing
  – Collections
  – Charges
  – Joint ventures
  – Executive compensation
  – Travel

• Letters to Associations too!
AHA Response

All hospitals should:

• Give free care to those below 100% of FPL
• Give financial assistance to those between 100-200% FPL
• Prohibit loans to executives or board members
• Have written policies on collections and liens
Community benefit: public reporting using standard definitions contained in CHA/VHA model

plus Medicare shortfalls and bad debt
I am engaged in an ongoing review of charity hospitals and it is clear [they] are all over the map when it comes to providing charity care, community benefit and charges to the uninsured. Some …are doing a little, some a lot and some nothing.

I want … IRS to put out new guidance … that puts real teeth to charity care, community benefit charges to the uninsured and other important issues

Senator Chuck Grassley
July 14, 2006
GAO Report on Exec Comp

• Requested by Chairman Thomas and released June 30, 2006

• Findings:
  – Committee or board w/responsibility for approving executives’ salary
  – Conflict of interest policy covers compensation committee and consultants
  – Reliance on market data prior to compensation decisions
IRS Initiatives

IRS Scrutiny of Tax-Exempt Sector

• Executive compensation – 2000 letters
• Compliance checks – 544 hospitals
• Tax-exempt bonds – 20 audits planned
Compliance Check

• IRS says checks are an overdue inventory of how hospitals comply w/community benefit standard

• 80 questions on:
  – Operations
  – Board of directors
  – Medical research
  – Uncompensated care
  – Billing practices
  – Community programs
  – Compensation practices

American Hospital Association
Litigation

Mission challenged ... Hospitals respond
An update on class action litigation facing America's hospitals

FEDERAL CASES

77-- Hospitals won all cases to date

STATE CASES

Total: 122
Favorable court decisions/dismissals: 31
Class Certification Denied: 2
Settlements: 3
Class Action Lawsuits

Federal Suits Challenged Tax Exempt Status

- Higher bills for uninsured were inconsistent with tax-exempt obligations
  - All rejected by Courts

State Suits Challenge Consumer Protection Laws

- Dissimilar billing deceptive/unfair
- More success in state courts
Our Strategy

Assumptions on How to Address Public Confidence and Trust Issues

- Can’t be fixed overnight
- Can’t be fixed with national or state image advertising alone…must involve grassroots actions
- Requires long-term…sustained effort
- Must involve participation of entire health care field…everybody’s behavior linked
- Need to start at home
Helping hospitals reaffirm their rightful place as a valued and vital community resource that merits broad public support.

**COMMUNITY CONNECTIONS**

**CORE PROJECTS**
- Community by Community/Heart of Healthcare
  - Internal
  - External

**Political Advocacy**
- Membership Advocacy ALERTS
  - Phase I: Community Service Report to Legislators
  - Ongoing Series

**State Partnerships**
- PFA Leadership Network
  - Recognition
  - Training Programs

**Communications**
- Member Web Site
- Public Web Site (Caring for Communities.org)
- Crisis Communication
- Member Assistance
  - O&I Group
  - SFC Group
  - IRS Group

**Listening to Communities Toolkit**
- Strategic Checklist for CEOs
- Broadening the Base (Green Bay Packer Model)
  - King Report to Field
  - Annual Meeting Program
  - Model Development

**Friends of America’s Hospitals**