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SENATE FINANCE COMMITTEE REIGNITES INVESTIGATION OF TAX-EXEMPT HOSPITALS: GRASSLEY SEEKS GAO STUDY OF NONPROFIT HOSPITAL'S COMMUNITY BENEFIT

On April 5, 2007, Senator Chuck Grassley, ranking member of the Committee on Finance, sent a letter to The Honorable David M. Walker, Comptroller General for the United States Government Accountability Office ("GAO") requesting the GAO conduct an investigation to determine: 1) how nonprofit hospitals are providing community benefit in exchange for their tax-exempt status, and 2) nonprofit hospitals' practices with regard to executive and board member compensation. In a news release Grassley commented on the problems associated with the imprecise and loose definition of "community benefit," stating:

"We need to get a better handle on how nonprofit hospitals are fulfilling their requirement to serve the community in exchange for the generous tax breaks they receive. This is especially important as policymakers talk about helping the uninsured. We need to make sure tax-exempt hospitals are providing health care to those in need in keeping with their requirement to serve the public."

Background

Over the past two years, Senator Grassley has been examining nonprofit hospitals by conducting a broad investigation into abuse of the tax laws governing charities. Following his 2005 inquiry into charity care, charges, billing/collection practices and executive compensation of 10 leading hospitals, in 2006 Grassley requested the Internal Revenue Service ("IRS") increase scrutiny of hospitals and establish a timeline for new guidance on charity care requirements. Grassley also requested the GAO conduct a survey into hospital charity care, executive compensation, and billing/collection practices. After criticizing the American Hospital Association's decision to include bad debt in the calculation of charity care, Grassley informally endorsed the Catholic Hospital Association's proposed benefit report designed as an attachment to IRS Form 990.

Following the 2006 election, Grassley became ranking member of the Senate Finance Committee, losing his chairman seat to Senator Max Baucus. Although Baucus is more focused on healthcare reform, Senator Grassley continues to seek out abuses of tax-exempt status by charitable organizations. Though Grassley has recently broadened his investigation to include entities such as the Smithsonian, College Athletics' Associations, and Universities, Grassley's recent request of the GAO is an indication that he has not abandoned his pursuit of nonprofit hospitals.

2007 GAO Request

Citing his unease with the broad, post-1969 IRS requirements to qualify for tax-exempt status and the wide discretion allowed in defining community benefit, Grassley requested that the GAO revisit its 2005 investigation, "Nonprofit, For-Profit, and Government Hospitals: Uncompensated Care and Other Community Benefits," which compared the ratio of patient operating expenses to uncompensated care as distributed between nonprofit, for profit and government hospitals. Although the findings of that investigation showed that a small number of government hospitals were carrying a substantial amount of the uncompensated care burden, the investigation was not able to assess and systematically compare (between hospitals or between states) the value of community benefit services such as the provision of health education, screening services to specific vulnerable populations, and activities that benefit the greater public such as education for medical professionals and medical research.

Grassley asked that the following items be expressly examined in the expanded 2007 investigation:

- State established community benefit standards;
- Hospital Industry guidelines for the interpretation of community benefit;
- Standards, policies, interpretations, and reporting to define the components of uncompensated care, charity care; and bad debt;
- Reporting and interpretation of uncompensated care, charity care, and bad debt;
- Reporting and interpretation of the community benefit standard for benefits other than uncompensated care;
- Executive and board compensation; and
- Executive and board involvement with for-profit business ventures with the nonprofit hospital.

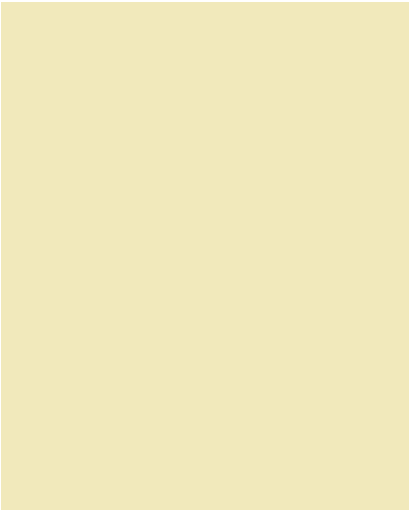
Grassley requested the investigation include examination of a broad range of nonprofit hospitals by size, geographic location, teaching status, and the level of state legislative and regulatory requirements on charity care and community benefit. No deadline for completing this investigation was cited.

Conclusion

The Senate Finance Committee's continued monitoring and investigation of the measurement and definition of community benefit and the desire to require entities to balance benefit conferred on the community with the benefits received by tax-exempt entities indicates that nonprofit reform specifically focused on nonprofit hospitals may still be a high priority. Senator Grassley has repeatedly echoed his desire to return to a pre-1969 definition of community benefit that lays out specific charity care requirements in return for tax-exempt status. The current political climate indicates that health care reform must account for the uninsured, and it appears that Grassley intends to seek a way to either hold nonprofit hospitals accountable for uncompensated care to fill the uninsured gap in exchange for tax-exempt benefits, or reallocate those benefits to care for the uninsured by revoking hospitals' tax-exempt status.

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