

ILLINOIS SUPREME COURT REVIEWS HOSPITAL-BASED PROPERTY TAX EXEMPTION

In 2010, a number of decisions were handed down by state courts reviewing property tax exemptions for hospitals and healthcare providers. Out of those decisions, the opinion by the Illinois Supreme Court in [Provena Covenant Medical Center v. The Department of Revenue](#) deserves special attention. In its opinion, the Illinois Supreme Court reviewed the facts surrounding a property tax exemption valued at \$ 1.1 million sought by Provena Covenant Medical Center ("Provena") for its real estate located in Urbana, Illinois.

Provena is an Illinois not-for-profit corporation that operates a full-service acute-care hospital located in Urbana, Illinois. Provena is exempt from federal income taxes under 501(c)(3) of the Internal Revenue Code and exempt from a variety of Illinois taxes as well.

In 2002, Provena filed an application for property tax exemption for 43 parcels of real estate used for its Urbana hospital facility. In its application, Provena sought an exemption for property owned by a "charitable institution" that is "actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit." The exemption application was denied by local and state authorities, along with several other courts reviewing the matter. On appeal, the Illinois Supreme Court agreed to review Provena's application.

In affirming the Court of Appeal's decision, a majority of the justices agreed that Provena was not entitled to the exemption. This is based on the finding that Provena did not qualify as a "charitable institution" under 35 ILCS 200/15-65(a). However, the justices were split on whether or not the real estate was "actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit" as required by the relevant statutory provision.

CHARITABLE INSTITUTION - A LACK OF CHARITABLE CONTRIBUTIONS

A majority of the justices agreed that being exempt from federal or state income taxes was not sufficient to meet the definition of a charitable institution. They stated that while Provena was a not-for-profit corporation without capital stock or shareholders during its 2002 fiscal year, Provena did not derive most of its funds from private or public charity. They focused on the fact that nearly all of its funding was received by treating patients in exchange for compensation through private insurance, Medicare and Medicaid, or direct payment from patients. According to the Court, only \$6,938 of Provena's income in 2002 came from charitable contributions.

CHARITABLE USE - A DISAGREEMENT AMONG THE JUSTICES

The more controversial issue that was not resolved by the Court was whether or not Provena's real estate was "actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit."

Three of the justices focused their attention on the fact that Provena did not provide charity care to all who needed it and applied for it, nor did Provena advertise the availability of free or discounted medical care. The application process in order to apply for charity care was also a complicating factor. The justices were concerned that patients were required to submit an application for charity care and to provide evidence that their income and assets met Provena's eligibility requirements. If a patient failed to obtain an advance determination prior to being admitted for treatment, then normal collection practices were followed. Those practices involved using collection services, calling the patient, and in some cases, taking legal action.

The same justices stated that Provena provided charity care only after it determined the patient was unable to pay for the services and revenue sources from private payers or Medicare or Medicaid were exhausted. Under Provena's charity care policy, only 302 of 110,000 admissions received reductions in bills. As a result, in 2002, Provena provided charity care in the amount of \$831,724. Provena's charity care was \$286,276 less than the \$ 1.1 million in tax benefits that it would have received from the property tax exemption. In light of the previously mentioned facts, the justices felt that Provena's charity care practices placed obstacles in the way of those who needed charitable benefits.

On the other hand, two dissenting justices were troubled by the fact that the Court attempted to establish a monetary threshold for evaluating charitable use under the exemption statute. They stated that establishing such a threshold is a right reserved for the legislature, not the Court.

Nationwide, local taxing authorities are scrutinizing hospital and healthcare-related applications for property tax exemptions. While the Provena decision does not represent a positive interpretation of the Illinois property tax exemption statute for hospitals and healthcare providers, the decision has limited precedential value as the justices could not agree upon the reason for denying the exemption. The decision should, however, place hospitals and healthcare providers on notice that they should be prepared to provide evidence of their charitable endeavors.