



The Illinois Supreme Court Rules in *Provena*: Non-Profit Hospitals Must Provide Charity Care in Exchange for Property Tax Exemption in Illinois

- The Illinois Supreme Court emphatically held that *charity care* is the standard for local property tax exemption in Illinois, and stated unequivocally that the community benefits standard is *not* the applicable test. The Court ruled that the number of uninsured patients who received free or discounted care (302 patients out of 110,000) from Provena, and the dollar value of the care provided at cost (.7% of revenue) was *de minimus*. With very limited exception, Provena's property was devoted to the care of patients for compensation through private insurance, Medicare, Medicaid or the patient directly. Provena did not use its property primarily for charitable purposes.
- The Court stated that the determination of whether a non-profit hospital qualifies for property tax exemption is determined on a case-by-case basis based on the five factors it set forth in *Methodist Old Peoples Home v. Korzen* in 1968.
- One of the *Methodist* factors is that the charitable activity delivered must help "relieve the burdens on government." The Court stated that "[a]fter all, each tax dollar lost to a charitable exemption is one less dollar affected governmental bodies will have to meet their obligations directly. If a charitable institution wishes to avail itself of funds which would otherwise flow into a public treasury, it is only fitting that the institution provide some compensatory benefit in exchange. While Illinois law has never required that there be a direct, dollar-for-dollar correlation between the value of the tax exemption and the value of the goods and services provided by the charity, it is a *sine qua non* of charitable status that those seeking a charitable exemption be able to demonstrate that their activities will help alleviate some financial burden incurred by the affected taxing bodies in performing their governmental functions."
- The Court made clear the distinction between local taxes on the one hand, and state and federal taxes on the other. The charitable activities of a non-profit hospital must reduce the burdens of *local* government for local property tax purposes.
- The Court did not set a standard for how much charity care a non-profit hospital must provide in exchange for local property tax exemption. That is evaluated on a case-by-case basis applying the *Methodist* factors.
- Highlighting that the "charity" provided by Provena was often illusory, the Court noted that when uninsured patients were given discounts based on Provena's charges, the charges were more than double the actual cost of care. The hospital was therefore still able to generate a surplus even after the "charitable" discount.
- The Court made clear that Medicaid and Medicare shortfalls do not constitute charity. Participation in these programs is optional for hospitals, and enables the institution to qualify for favorable federal tax treatment, which is governed by a different standard than the Illinois property tax benefit. Accepting Medicare and Medicaid patients serves a hospital's financial interest, providing a reliable stream of revenue for the institution. Further, the Court noted that even the Catholic Hospital Association, a

signatory to an *amicus* brief on *behalf* of Provena, does not include Medicaid and Medicare shortfalls in its definition of charity.

- The Court did not count Provena's bad debt as charity.
- Provena argued that the delivery of medical care in and of itself was charitable. The Court dismissed this argument, pointing out that "[a]s a practical matter, there was little to distinguish the way in which Provena Hospital dispensed its "charity" from the way in which a for-profit institution would write off bad debt."
- Community benefits such as ambulance services, support of crisis nurseries, donations made to other non-profits, volunteer initiatives (health screenings and wellness classes), support for graduate medical education, behavioral health services and emergency services training, are *not* considered charitable activities. The Court provided that "while all of these activities unquestionably benefit the community, community benefit is not the test. Under Illinois law, the issue is whether the property at issue is used exclusively for a charitable purpose."
- In addition to failing the charity care prongs of *Methodist*, Provena also failed the requirement that its funds are derived mainly from private and public charity. The Court concluded the hospital generates revenue overwhelmingly from fees in exchange for medical services provided.

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