

## *Hospital Billing, Collection and Tax-Exempt Status*

### Issue

More than 45 million Americans have no health insurance, a number that grew by 10 million over the last decade. Few are able to afford either health insurance or the cost of the health care services they need. While the problem cannot be solved by hospitals alone, America's hospitals are working to make care more affordable for uninsured individuals of limited means. Hospitals already provide billions of dollars in uncompensated care to those most in need – \$27 billion last year alone, based on hospitals' actual costs.

Over the past several years, hospitals have been criticized for charging uninsured patients more than what many government programs and commercial health insurance companies pay for the same services. Hospitals collected only a fraction of these charges, and in overwhelming numbers have reaffirmed their pledge to offer financial assistance to uninsured patients of limited means; however, the issue remains of concern to lawmakers and others.

Nearly 80 class-action lawsuits have been filed against tax-exempt hospitals in federal court – nearly all of which have been defeated. In the state court cases, which number more than 100, the principal allegations are that hospitals are violating state laws by charging uninsured patients more and failing to publicly disclose their charity care policies. While many of these state cases have been dismissed, the filing of these cases has kept the issue before the public and encouraged some state attorneys general to file lawsuits and/or introduce legislation that would require hospitals to furnish specific amounts of charity care.

Three congressional committees have been conducting investigations into hospitals' billing and collection practices over the past several years and have been premised, in part, on accusations that hospitals charge uninsured patients more. In addition, a number of congressional hearings into hospitals' billing and collection practices have focused on whether certain billing and collection practices reported in the press are consistent with hospitals' tax-exempt status.

More hearings are expected this year, and both state and federal lawmakers are advocating legislative mandates that would require hospitals to give financial assistance to uninsured patients of limited means. There also is congressional interest in mandating the income level at which uninsured patients of limited means would be guaranteed financial assistance. Typically, these have been expressed as a percentage of the federal poverty level, such as 200 percent of the federal poverty level, which is about \$37,700 for a family of four.

For several years, Sen. Charles Grassley (R-IA), chairman of the Senate Finance Committee, has led an effort to reform the practices of charitable organizations, including tax-exempt hospitals. Currently, there is no uniform approach or format for tax-exempt hospitals to follow in reporting the "community benefit" they provide, and no requirement for hospitals to make such reports public. In several states, hospitals are required to report their community benefits to an agency that typically, but not always, makes the community benefit information available to the public. The Internal Revenue Service (IRS) also is engaged in significant efforts to ramp up its oversight of the community benefit standard for tax-exempt hospitals. The IRS' 2006 priorities include

focused efforts to determine how tax-exempt hospitals are meeting their community benefit obligations, including revision of the Form 990 to require more detailed reporting of community benefit.

Sen. Grassley has strongly encouraged the hospital field to come forward with its own proposal for common definitions and reforms in such areas as community benefit, charitable care, charges to the uninsured and debt collection.

Congress is considering changes in laws that govern nonprofit organizations, including hospitals. The Senate Finance Committee invited Independent Sector, an organization that represents charities, foundations and other nonprofit organizations, to convene an independent national panel of experts from the nonprofit sector to make recommendations for achieving improvements in transparency, accountability and governance of public charities and private foundations. The Panel on the Nonprofit Sector issued recommendations in June 2005 to address concerns about adequate governance and public oversight of tax-exempt institutions, and these recommendations are being considered as part of Congress' efforts.

**AHA View**

In 2004, the AHA, in consultation with the hospital field's leaders, developed a Statement of Principles and Guidelines on Hospital Billing and Collection Practices. To date, more than 4,290 hospitals have signed a pledge – the Confirmation of Commitment – to adhere to these principles and guidelines or work toward that goal in the near future.

As a next step, hospitals should do what they can to better serve uninsured patients of limited means and to treat all patients equitably, with dignity, compassion and respect.

All hospitals should:

- Offer financial assistance to uninsured patients of limited means and make that information available to the public; and,
- Ensure fair debt collection practices, by their organizations or by outside debt collection agencies.

In addition, all non-government, not-for-profit hospitals should:

- Report community benefit to the IRS in a more consistent, uniform way using the framework of the Catholic Health Association of the United States (CHA) and VHA with modifications to include Medicare shortfalls and bad debt. Developed in the 1990s, the CHA/VHA guidelines attempt to capture the range and diversity of community benefit and encompass local and regional variations in community benefit as well as variations among different types of hospitals. The guidelines provide a standard platform for identifying, describing, quantifying and reporting community benefit.
- Increase financial accountability and transparency in the governance of America's hospitals.