

Illinois Supreme Court Affirms Provena Loss of Tax Exemption

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Practice Area: Nonprofit and Tax Exemption

The Illinois Supreme Court today decided that Provena Covenant Medical Center was not eligible for a property tax exemption under Illinois state law due to an insufficient showing of charity care. The decision marks the end of the road for a back-and-forth battle dating back to 2002, when Champaign County tax officials concluded that Provena did not qualify as a charitable institution under Illinois property tax exemption statutes due to an insufficient level of charity care. That decision was affirmed by the Illinois Department of Revenue, but then overturned by an Illinois district court in 2007. An Illinois appellate court reinstated the denial of the exemption in 2008, and that decision was affirmed by the Illinois Supreme Court today.

While the Provena decision has been closely watched around the country, it is important to note that the case involves an Illinois statute that differs significantly from the exemption for nonprofit hospitals in Wisconsin. Section 70.11(4m) of the Wisconsin statutes does not refer to "charitable institutions" nor does it require any specific amount of charity care. Charity care and other benevolent activities may be relevant under another exemption relating to benevolent associations, but these activities do not provide the standard by which hospital eligibility is determined under section 70.11(4m).

Nevertheless, the Provena case must still be considered against the backdrop of a larger movement for quantifiable benchmarks and greater accountability as to charity care by nonprofit hospitals. This movement is most visible at the federal level in connection with the community benefit standard applicable to exemption from federal income tax, as evidenced by the newly revised IRS Form 990 and increasing aggressiveness by key congressional leaders in Washington. The battle lines have also been drawn at the state and local level, though, as budgetary constraints trigger renewed scrutiny of the benefits provided by nonprofit hospitals in exchange for their tax exemptions.

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