



Alerts

Illinois Supreme Court Denies Property Tax Exemption for Provena Covenant

March 19, 2010

Hinshaw Health Law Alert

Brief Summary

The Illinois Supreme Court has upheld the decision of the Illinois Department of Revenue to deny property tax exemption for Provena Covenant Medical Center (Provena). The Court's opinion affirms an appellate court holding that Provena failed to use the property at issue, where the hospital and related buildings were located, exclusively for charitable purposes as required by the Property Tax Code, to merit its \$1.1 million property tax exemption.

Complete Summary

This highly anticipated decision is the latest development in a legal battle that began in 2003 when the Illinois Department of Revenue revoked Provena's property tax exemption for the 2002 tax year. The Illinois Supreme Court's decision will have significant implications for hospitals seeking to obtain or maintain property tax exemption in the state of Illinois.

The sole issue before the Illinois Supreme Court was whether Provena was entitled to a charitable exemption under the Property Tax Code for hospital property in Urbana, Illinois. The Court reviewed the Illinois Department of Revenue's decisions for clear error, meaning that the Department's decision to revoke Provena's exemption would only have been set aside if the Court was left with the definite and firm conviction that a mistake had been committed. The Court reviewed a number of facts presented to the Department of Revenue including the advertisement and implementation of Provena's charity care policy, its collection practices, the amount of charity care provided at the hospital, and the amount of funds raised mainly from public and private charity.

When examining Provena's \$813,694 advertising budget for print, television and radio ads in 2002, the Illinois Supreme Court noted that none of its ads mentioned free or discounted medical care. The Court also found it problematic that not only was Provena's charity care policy not self-executing, but that it made it the patient's responsibility to provide all of the information necessary to become eligible under the policy. In addition, according to the Court, Provena provided a modest amount of charity care to its patients. In 2002, Provena waived \$1,758,940 in charges, representing an actual cost to the hospital of only \$831,773. The Court noted that this was equivalent to only 0.7 percent of Provena's revenue for 2002 and was \$268,276 less than the \$1.1 million in tax benefits which Provena stood to gain if its property tax exemption was upheld. The Court rejected Provena's argument that the community it served affected

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its ability to provide charity care, noting that approximately 20 percent of the residents in Champaign County, Illinois, lived at or below the poverty level. It also determined that the shortfall in reimbursement available from Medicare and Medicaid did not constitute charity care because participation in these programs was voluntary, and actually provided a steady stream of revenue to Provena.

The Illinois Supreme Court also concluded that Provena was “required to demonstrate that its use of the property helped alleviate the financial burdens faced by the county or at least one of the other entities supported by the county’s taxpayers.” While Illinois law has never required that there be a direct dollar-for-dollar correlation between the value of the exemption and the value of services provided by the charity, the Court concluded that it is a condition “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.” (However, in a dissenting opinion, Justice Anne M. Burke stated that alleviating some burden on government is a reason underlying the tax exemption on properties, not the test for determining eligibility.)

Finally, the Illinois Supreme Court held that Provena’s religious affiliation did not support the tax exemption as the property was not used for religious purposes, but rather for the provision of health care in exchange for a fee.

Significance of Opinion

This decision may potentially renew legislative efforts at both the state and federal levels to establish a minimum level of charity required to maintain both property tax exemption and federal income tax exemption for not-for-profit health care providers. Given the dire financial condition of the state of Illinois and local taxing bodies, it is highly likely that local boards of review will use the criteria specified in this case in an effort to increase tax revenues by revoking property tax exemption from local not-for-profit health care providers and other charitable organizations.

Clearly, in Illinois not-for-profit health care providers should carefully consider the implications of this decision and take appropriate steps to justify their property tax exemption, including reviewing their charity care policies, collection practices, and the actual amount of charity care provided, and documenting activities that lessen the burden of local government.

For further information, please contact [Stephen T. Moore](#), [Roy M. Bossen](#) or your regular [Hinshaw attorney](#).

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