

## Grassley Presses IRS On Nonprofit Hospitals

by Fred Stokeld

Nonprofit hospitals might not be providing enough community benefit to justify their tax-exempt status, according to the Senate's lead taxwriter.

Section 501(r) requires tax-exempt hospitals to assess the healthcare needs of their communities and fulfill requirements on financial assistance, charges billed to patients, and billing and collection, Senate Finance Committee Chair Chuck Grassley, R-Iowa, noted in a February 19 letter to IRS Commissioner Charles Rettig.

But some hospitals might not be complying, Grassley said. "Unfortunately, according to reports, it appears that at least some . . . tax-exempt hospitals have cut charity care, despite increased revenue, calling into question their compliance with the standards set by Congress," Grassley wrote, citing a 2017 *Politico* article.

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The senator asked how the agency is monitoring nonprofit hospitals' compliance with the tax laws, noting that he and his predecessor as Finance Committee chair, Orrin G. Hatch, sent the IRS a similar letter last year. Grassley also inquired about the number of reviews and examinations of exempt hospitals undertaken by the IRS in the last 10 months and how much actual or apparent noncompliance with section 501(r) has been uncovered.

Grassley asked how many hospitals failed to widely publicize their financial assistance policies, engaged in extraordinary collection actions, or did not make reasonable efforts to determine whether their patients qualified for financial assistance. He also requested an update on written advisories the IRS issued to 99 hospitals suspected of noncompliance. The senator asked how many of the hospitals were ultimately found to have violated the community

benefit requirements and what corrective actions were taken.

“I think this is going to have legs because Chairman Grassley cares about this issue and he knows the IRS is facing staffing challenges,” said T.J. Sullivan of Drinker Biddle & Reath LLP.

“Grassley knows how to, and will, make tax-exempt hospitals the squeaky wheel that gets the grease.”

### **Victim, Not Culprit**

When asked about Grassley’s letter, Alexander L. Reid of Morgan, Lewis & Bockius LLP said it is unfair to blame the IRS and exempt hospitals for a problem Congress created and could solve itself.

“The unfortunate reality is that Congress has raised taxes on the nonprofit sector, increased the cost of tax-exempt bond financing, and simultaneously reduced incentives for charitable giving,” Reid, a former legislation counsel for the Joint Committee on Taxation, told *Tax Notes*.

“These policies are having a massive impact on tax-exempt hospitals and the nonprofit sector more broadly.”

Reid also faulted lawmakers for cutting IRS funding, thereby reducing the number of examinations and other compliance efforts. “The best way to increase charitable activity, including the promotion of health and the provision of charity care, would be to craft tax policies that help rather than harm charities,” Reid said. ■