

# United States Senate

WASHINGTON, DC 20510

November 19, 2024

The Honorable Daniel Werfel  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

Dear Commissioner Werfel:

Medical debt is a burden that weighs heavily on the lives of one out of every three adults in the United States.<sup>1</sup> It accounts for 58 percent of all debts in collections,<sup>2</sup> and medical debt disproportionately affects Black and low-income Americans.<sup>3</sup> Unpaid hospital bills account for a significant portion of medical debt in the United States. However, while roughly 73 percent of U.S. adults with medical debt owe money to hospitals,<sup>4</sup> nearly 3,000 nonprofit hospitals<sup>5</sup> – more than half of all community hospitals in the United States – qualify for tax-exempt status as “charitable” organizations.<sup>6</sup>

Under longstanding IRS rules, charitable institutions like nonprofit hospitals must be organized and operated exclusively for an exempt purpose.<sup>7</sup> While the promotion of health is an exempt purpose, not every entity that promotes health is entitled to a tax exemption.<sup>8</sup> Instead, to qualify for a federal tax exemption based on the promotion of health, an organization must “primarily benefit the community.”<sup>9</sup> We are concerned that some nonprofit hospitals may fall short on this measure.

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<sup>1</sup> RIP Medical Debt, “Trapped: America’s Crippling Medical Debt Crisis,” report, October 2023, <https://ripmedicaldebt.org/trapped-america-crippling-medical-debt-crisis/#:~:text=Over%20100%20million%20people%20living,the%20weight%20of%20medical%20debt..>

<sup>2</sup> Congressional Research Service, “An Overview of Medical Debt Collection, Credit Reporting, and Related Policy Issues,” July 20, 2022, <https://crsreports.congress.gov/product/pdf/IF/IF12169/2>.

<sup>3</sup> Urban Institute, “Communities of Color Disproportionally Suffer From Medical Debt,” Miranda Santillo et.al., October 14, 2022, <https://www.urban.org/urban-wire/communities-color-disproportionally-suffer-medical-debt>.

<sup>4</sup> Urban Institute, “Most Adults with Past-Due Medical Debt Owe Money to Hospitals,” Michael Karpman, p. 2, 5-8, March 2023, [https://www.urban.org/sites/default/files/2023-03/Most%20Adults%20with%20Past-Due%20Medical%20Debt%20Owe%20Money%20to%20Hospitals\\_0.pdf](https://www.urban.org/sites/default/files/2023-03/Most%20Adults%20with%20Past-Due%20Medical%20Debt%20Owe%20Money%20to%20Hospitals_0.pdf).

<sup>5</sup> American Hospital Association, “Fast Facts on U.S. Hospitals, 2024,” <https://www.aha.org/system/files/media/file/2024/01/fast-facts-on-us-hospitals-2024-20240112.pdf>.

<sup>6</sup> Congressional Research Service, “501(c)(3) Hospitals and the Community Benefit Standard,” May 12, 2010, p. 1, <https://crsreports.congress.gov/product/pdf/RL/RL34605/10>; American Hospital Association, “Fast Facts on U.S. Hospitals, 2024,” <https://www.aha.org/statistics/fast-facts-us-hospitals>.

<sup>7</sup> 26 U.S.C. § 501(c)(3).

<sup>8</sup> Revenue Ruling 98-15, 1998-12 I.R.B., p. 9, <https://www.irs.gov/pub/irs-drop/rr-98-15.pdf>.

<sup>9</sup> Memorandum for Judith Picken from Assistant Chief Counsel, February 5, 2001, *see also* IHC Health Plans, Inc. v. Comm’r, 325 F.3d 1188, 1197 (10th Cir. 2003).

A recent estimate found the total value of tax exemptions for nonprofit hospitals will total roughly \$260 billion over the next decade, while other researchers put the value at \$28 billion in 2020 alone.<sup>10</sup> However, some nonprofit hospitals are benefitting from these tax exemptions while shirking their responsibility to provide charity care and engaging in abusive collections practices that harm their patients and communities.<sup>11</sup> For instance, the Lown Institute released an analysis of over 1,900 non-profit hospitals revealing that they received \$25.7 billion more in tax breaks than they give back to their community.<sup>12</sup> The crisis of medical debt owned by hospitals in this country shows that the current standard is not working.

In August 2023, we wrote to IRS and the Treasury Inspector General for Tax Administration (TIGTA) about the role of nonprofit hospitals and rising medical debt,<sup>13</sup> and we appreciate that TIGTA will conduct an audit of nonprofit hospital compliance efforts this year.<sup>14</sup> We also appreciate that the IRS plans to audit 35 nonprofit hospitals this year regarding their community benefit activities and that the IRS has announced that it will issue guidance on the application of Section 501(r) regulations.<sup>15</sup>

To ensure that nonprofit hospitals uphold their charitable missions, we further urge the IRS to strengthen and enforce regulations under Section 501(c)(3) and 501(r) of the tax code that pertain to nonprofit hospitals.<sup>16</sup> To that end, we recommend the following:

- 1. Increase oversight of tax-exempt hospitals:** The IRS's oversight of nonprofit hospitals' community benefit activities has historically fallen short despite growing evidence that some nonprofit hospitals are failing to provide sufficient community benefits and in fact,

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<sup>10</sup> Committee for a Responsible Federal Budget, “The Federal Tax Benefits for Nonprofit Hospitals,” June 12, 2024, <https://www.crfb.org/papers/federal-tax-benefits-nonprofit-hospitals>; Kaiser Family Foundation, “The Estimated Value of Tax Exemption for Nonprofit Hospitals was About \$28 Billion in 2020”, Jamie Goodwin, Zachary Levinson, and Scott Hulver, March 14, 2023, <https://www.kff.org/fe8b295/>.

<sup>11</sup> The Colorado Sun, “UCHealth Sues Thousands of Patients Every Year. But You Won’t Find Its Name on the Lawsuits.” John Ingold and Chris Vanderveen, Feb. 19, 2024 <https://coloradosun.com/2024/02/19/uchealth-debt-collectors/>; New York Times, “This Nonprofit Health System Cuts Off Patients with Medical Debt,” Sarah Kliff and Jessica Silver-Greenberg, June 1, 2023, <https://www.nytimes.com/2023/06/01/business/allina-health-hospital-debt.html>; New York Times, “They Were Entitled to Free Care. Hospitals Hounded Them to Pay.,” Jessica Silver-Greenberg and Katie Thomas, December 15, 2022, <https://www.nytimes.com/2022/09/24/business/nonprofit-hospitals-poor-patients.html>; NPR, “Investigation: Many U.S. hospitals sue patients for debts or threaten their credit,” Noam Levey, December 21, 2022, <https://www.npr.org/sections/health-shots/2022/12/21/1144491711/investigation-many-u-s-hospitals-sue-patients-for-debts-or-threaten-their-credit>.

<sup>12</sup> The Lown Institute, “PRESS RELEASE: More than 1,900 nonprofit hospitals receive more in tax breaks than they give back to their community, totaling billions,” press release, Aaron Toleos, March 26, 2024, <https://lowninstitute.org/press-release-more-than-1900-nonprofit-hospitals-receive-more-in-tax-breaks-than-they-give-back-to-their-community-totaling-billions/>.

<sup>13</sup> Senator Elizabeth Warren, “Senator Warren, Bipartisan Group of Senators Urge Treasury, IRS to Investigate Potential Abuse of Tax-Exempt Status by Nonprofit Hospitals to Restrict Care and Overcharge Patients,” August 8, 2023, press release, <https://www.warren.senate.gov/oversight/letters/senator-warren-bipartisan-group-of-senators-urge-treasury-irs-to-investigate-potential-abuse-of-tax-exempt-status-by-nonprofit-hospitals-to-restrict-care-and-overcharge-patients>.

<sup>14</sup> Treasury Inspector General for Tax Administration, “2024 Annual Audit Plan,” p. 18, <https://www.tigta.gov/sites/default/files/reports/2023-10/auditplansfy2024.pdf>.

<sup>15</sup> Bloomberg Tax, “Nonprofit Hospitals’ Community Benefits Come Under IRS Scrutiny,” July 8, 2024.

<sup>16</sup> 26 U.S.C. § 501(r)(7).

actively harm their patients through aggressive collection actions, and the IRS has only revoked a hospital's tax-exempt status once over the past decade due to noncompliance with Section 501(r) requirements.<sup>17</sup> To address this problem, the IRS should enforce existing requirements and enhance its enforcement mechanisms to ensure consequences for negligent noncompliance.<sup>18</sup> This could include increasing the number of audits and reviews of hospitals with regular compliance issues, imposing penalties,<sup>19</sup> or re-evaluating the tax-exempt status for hospitals that do not offer sufficient financial assistance, hinder access to financial assistance, or engage in aggressive collection actions. Further, the IRS should issue reports examining problems with nonprofit compliance and partner with other state and federal enforcement agencies when audits identify potential violations of other state and federal laws.

- 2. Clarify requirements for financial assistance policies:** Currently, the IRS requires nonprofit hospitals to “establish a written financial assistance policy” that “must be widely publicized.”<sup>20</sup> However, public reports suggest that some hospitals have erected barriers that often prevent patients from accessing this assistance.<sup>21</sup> For example, nearly 15 percent of nonprofit hospitals do not prequalify low-income patients for charity care and some hospitals even train staff to only mention financial assistance as a last resort.<sup>22</sup> Further, 45 percent of nonprofit hospitals regularly bill patients whose incomes are low enough to qualify for free or discounted care.<sup>23</sup> The IRS should establish clear standards for nonprofit hospitals’ financial assistance policies and practices. A standardized approach would facilitate consistent protection for patients and transparency in the hospital billing and collections process, ensuring that patients who qualify for financial assistance under existing hospital policies receive it.
- 3. Prohibit nonprofit hospitals from using aggressive collections practices:** The IRS should require that nonprofit hospitals make comprehensive efforts to determine patient eligibility for financial assistance before initiating collections proceedings while also

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<sup>17</sup> Letter from IRS Commissioner Daniel Werfel to U.S. Senator Elizabeth Warren, October 27, 2023, On File with Senator Elizabeth Warren; Kaiser Family Foundation, “The Estimated Value of Tax Exemption for Nonprofit Hospitals was About \$28 Billion in 2020”, Jamie Goodwin, Zachary Levinson, and Scott Hulver, March 14, 2023, <https://www.kff.org/fe8b295/>; see also Press Release, Sen. Charles E. Grassley, *Grassley Releases Results of Inquiry into Missouri Tax-exempt Hospital; Confirms Debt Forgiveness of \$16.9 Million for 5,070 Patients* (May 24, 2016), <https://www.grassley.senate.gov/news/news-releases/grassley-releases-results-inquiry-missouri-tax-exempt-hospital-confirms-debt#:~:text=WASHINGTON%20%E2%80%93%20Sen.%20Chuck%20Grassley%20of%20Iowa%20today%20released%20the>.

<sup>18</sup> 26 U.S.C. § 501(r)(7).

<sup>19</sup> See 26 U.S.C. § 501(r)(3) (nonprofit hospitals must conduct a Community Health Needs Assessment at least once every three years and adopt an implementation strategy to address needs identified in the Community Health Needs Assessment); 26 U.S.C. § 4959 (an excise tax of \$50,000 shall be imposed on nonprofit hospitals that do not meet the requirements in 26 U.S.C. § 501(r)(3)).

<sup>20</sup> Internal Revenue Service, “Financial Assistance Policy and Emergency Medical Care Policy – Section 501(r)(4),” <https://www.irs.gov/charities-non-profits/financial-assistance-policy-and-emergency-medical-care-policy-section-501r4>.

<sup>21</sup> Wall Street Journal, “Hospitals Often Don’t Help Needy Patients, Even Those Who Qualify,” November 17, 2022, Anna Wilde Mathews, Andrea Fuller, and Melanie Evans, <https://www.wsj.com/articles/nonprofit-hospitals-financial-aid-charity-care-11668696836>.

<sup>22</sup> *Id.*


<sup>23</sup> KFF Health News, “Patients Eligible for Charity Care Instead Get Big Bills,” Oct. 14, 2019, <https://kffhealthnews.org/news/patients-eligible-for-charity-care-instead-get-big-bills/>.

conducting outreach to eligible patients in a clear and reasonable manner. For instance, nonprofit hospitals should be required to screen patients for eligibility for financial assistance prior to initiating Extraordinary Collection Actions. Additionally, the IRS should prohibit harmful practices, as well as the delaying or denying of medically necessary care due to outstanding medical bills.<sup>24</sup>

- 4. Issue a new Revenue Ruling:** The IRS should reinstate its previous guidance requiring that nonprofit hospitals provide charity care to the extent of their financial ability.<sup>25</sup> The IRS rescinded this requirement in 1969 based on lobbying from the hospital industry and the faulty assumption that charity care would no longer be necessary after the enactment of Medicare and Medicaid.<sup>26</sup> The current medical debt crisis in this country – the majority of which is owed to hospitals – shows that this assumption was incorrect, and there is a significant need for charity care from nonprofit hospitals. In addition to reinstating this previous requirement for charity care, the IRS should issue guidance on when charity care is appropriate, *e.g.*, when hospitals should assume that patients are unable to pay.


We appreciate your consideration of these recommendations and request a staff-level briefing by December 10, 2024 to understand how IRS will provide relief for patients and families.

Sincerely,



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Elizabeth Warren  
United States Senator



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Charles E. Grassley  
United States Senator

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<sup>24</sup> 26 CFR§ 1.501(r)-6.

<sup>25</sup> Rev. Rul. 56-185, 1956-1 C.B. 202, at 2.

<sup>26</sup> Rev. Rul. 69-545, 1969-2 C.B. 117; Congressional Research Service, “501(c)(3) Hospitals and the Community Benefits Standard,” at 2, May 12, 2010 (“It appears the community benefit standard was adopted partly in response to the enactment in 1965 of Medicare and Medicaid, which some thought would reduce the need for hospitals to provide charity care.”); Senate Finance Committee Minority Staff, “Tax Exempt Hospitals: Discussion Draft,” July 19, 2007, <https://www.finance.senate.gov/imo/media/doc/prg071907a.pdf> (“It is important for policymakers (including those in the executive branch) to recognize that Rev. Rul. 69-545 was not put forward by the IRS in response to any changes in the tax laws [but instead it was]... based on what turned out to be an inaccurate expectation of other legislation (namely that Medicaid and Medicare would eliminate or greatly reduce the need for charity care”); House Ways and Means Committee Hearing on the Tax Exempt Hospital Sector, Statement of John Colombo at 87-88 (May 26, 2005), <https://www.govinfo.gov/content/pkg/CHRG-109hhrg26414/pdf/CHRG-109hhrg26414.pdf> (explaining that nonprofit hospitals began lobbying the IRS for new exemption standards in the mid-1960s, arguing that there would no longer be a sufficient demand for charity care after the passage of Medicare and Medicaid).