GAO Highlights

Highlights of GAO-23-106777, a testimony before the Subcommittee on Oversight, Committee on Ways and Means, House of Representatives

April 26, 2023

TAX ADMINISTRATION

IRS Oversight of Hospitals' Tax-Exempt Status

Why GAO Did This Study

Slightly more than half of the approximately 5,000 community hospitals in the United States are private, nonprofit organizations. IRS and the Department of the Treasury have recognized the promotion of health as a charitable purpose and have specified that nonprofit hospitals are eligible for a tax exemption. IRS has further stated that these hospitals can demonstrate their charitable purpose by providing services that benefit their communities as a whole.

In 2010, Congress and the President enacted PPACA, which established additional requirements for tax-exempt hospitals to maintain a tax exemption.

This testimony discusses the requirements for a nonprofit hospital to qualify for tax-exempt status and challenges with verifying compliance with some of those requirements, and is based on a report that GAO issued in September 2020. This testimony reflects updated information GAO obtained from IRS regarding its implementation of the recommendations made in that report.

What GAO Recommends

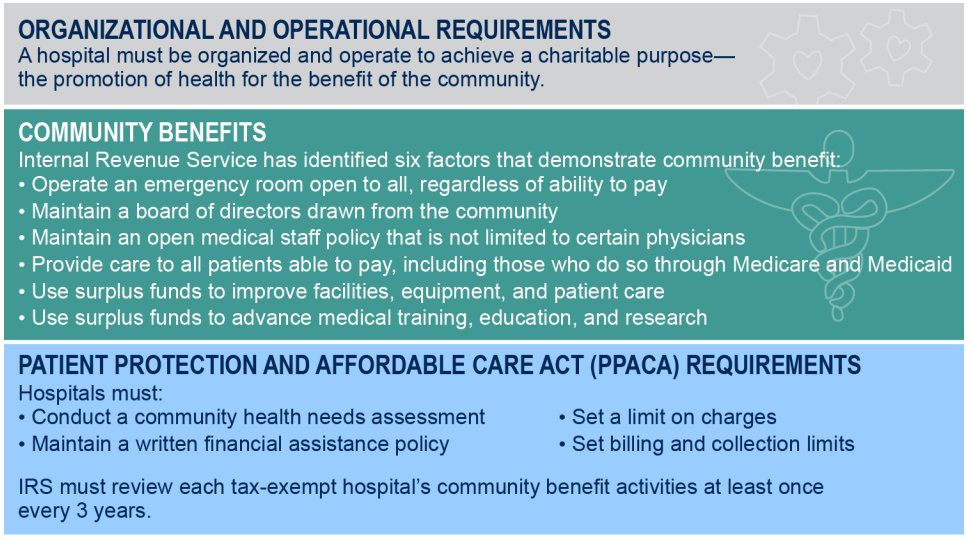
In September 2020, GAO recommended Congress consider specifying what services and activities demonstrate sufficient community benefit. As of April 2023, Congress had not enacted such legislation. GAO also recommended IRS update tax forms to increase transparency about hospitals' community benefits. IRS agreed and made minor adjustments to the form's instructions, but the form still relies on a narrative description of community benefits that hospitals provide.

View GAO-23-106777. For more information, contact Jessica Lucas-Judy at (202) 512-6806 or lucasjudyj@gao.gov.

What GAO Found:

Hospitals must satisfy three sets of requirements for a nonprofit tax exemption (see figure) but hospital community benefits are not defined in law.

Requirements for Nonprofit Hospitals to Obtain and Maintain a Tax Exemption



Source: GAO review of relevant laws and regulations. | GAO-23-106777

In 1969, the Internal Revenue Service (IRS) identified factors that can demonstrate community benefits, but they are not requirements. IRS does not have authority to specify activities hospitals must undertake and makes determinations based on facts and circumstances. As a result, tax-exempt hospitals have broad latitude to determine the community benefits they provide, but the lack of clarity creates challenges for IRS in administering tax law.

Additionally, the form on which hospitals report community benefits solicits that information inconsistently, resulting in a lack of transparency. For example, hospitals may describe the use of surplus funds to improve facilities, equipment, and patient care narratively. This qualitative reporting format does not require tax-exempt hospitals to specify the amount of surplus funds used to improve facilities, equipment, and patient care. It could also result in incomplete information on how hospitals are providing community benefits.

GAO's 2020 analysis of IRS data identified 30 hospitals that reported no spending on community benefits in 2016. According to IRS officials, hospitals with little to no community benefit expenses would indicate potential noncompliance. IRS is required to review hospitals' community benefit activities at least once every 3 years, but was unable to provide evidence that it did so because it did not have a well-documented process to ensure those activities were being reviewed. Consistent with GAO's September 2020 recommendations, in 2021 IRS updated its overall guidance instructing its employees to document whether a hospital organization satisfies the community benefit standard and established an audit code to track that review.

Professional Distinction

Personal Dignity

Patient Advocacy

April 4, 2024

Representative Tina Liebling, Chair
Minnesota House Health Finance and Policy Committee
100 Rev. Dr. Martin Luther King Jr. Blvd
Saint Paul, MN 55155

Chair Liebling and Members of the Health Finance and Policy Committee,

With 22,000 members, the Minnesota Nurses Association (MNA) represents 80 percent of all active bedside hospital nurses in Minnesota and is the largest voice for professional nursing in the state. We are a leader in nursing, labor, and healthcare, and a voice for nurses and patients on issues relating to the well-being of the public, including our state healthcare delivery system.

MNA believes that healthcare is a right, not a privilege, and that to protect the quality and accessibility of patient care requires policymakers to enact reforms that eliminate the ability of corporations, whether those corporations be overtly for-profit or tax-exempt ("nonprofit"), to use our state healthcare delivery system as a profit center for their organization rather than the intended, statutorily defined purpose of hospitals and the services they provide. This pillaging of our state healthcare system is being done on the backs of Minnesota taxpayers, who support our healthcare delivery system, and will continue until the Legislature chooses to leverage the authorities provided to states under the Affordable Care Act (ACA) to establish stronger financial reporting and oversight regulations to ensure that these large corporations – like Allina, Essentia, Fairview, HealthPartners, and the Mayo Clinic – are actually giving back to Minnesotans at a rate that is at least commiserate with the amount these entities receive in tax breaks and other government funding.

MNA is proud to support HF4870, the Tax-Exempt Accountability Law (TEAL), as amended. The provisions on Community Health Needs Assessments (CHNAs), from Section 3 of the original bill, will go a long way to ensure that hospitals are living up to the promises they are making to patients, communities, local governments, and workers about prioritizing and addressing the greatest health needs of the community they have a legal obligation to serve. Unfortunately, existing CHNA reporting and oversight in Minnesota has been

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severely inadequate, with little to no accountability measures built in. Rather than being an accountability tool to make sure hospitals are prioritizing addressing community health needs with their policies, practices, and budgets, existing processes are largely a "check the boxes" compliance activity for hospitals to appease the federal government. Federal law allow states to establish stronger financial reporting requirements than the floor that was set federally under the ACA, which many other states have done – including Texas, Massachusetts, Utah, Pennsylvania – and we urge the Legislature to begin leveraging those existing authorities under the ACA to end this profit-driven, "race to the bottom" that Minnesota's largest health systems seem intent on.

MNA views the goals and changes laid out in Section 2, which are being removed in this hearing through an amendment, as vitally important. While it does not address ever need, it does help begin to address areas where current regulations are severely lacking. Currently, no federal or state laws:[1]

- Ensure that hospitals use the most accurate accounting standards for charity care and unreimbursed Medicaid services;
- Set a minimum level of community benefit spending;
- Require hospitals to spend on community benefit dollars on identified needs;
- Describe in sufficient detail the type of activities that qualify as community benefit spending.

According to a recent report by the Lown Institute, the lack of accountability for the return on investment that Minnesota's "nonprofit" hospitals receive cost Minnesotans $1.1 billion in 2021 alone (the most recent year where tax data is available).[2] According to the report, Allina, Fairview, and HealthPartners all had "fair share" deficits of more than $100 million, while the Mayo Clinic made the report's list of the top 10 worst system deficits in the nation by taking in $478 million more in tax breaks than they gave back to Minnesotans through charity care or other healthcare related community benefits. None of these figures included municipal bonds or state grants, so these figures are likely underestimated when it comes to getting a full picture of the number of taxpayer dollars these entities receive in return for their obligation to serve the public and to operate as a public good. When you have CEOs of "nonprofit" hospitals making over $20 million annually, rampant hospital and unit closures across the state, and healthcare workers fleeing hospitals because the employers have become so insufferably anti-worker in their pursuit of greater profits and market control, it is clear that the existing rules and regulations governing these healthcare assets, facilities, and state oversight are in serious need of being addressed. While this bill, as amended, will only do a piece of what is needed, we hope that it will continue to get us moving in the right direction towards a patient-focused, community-driven healthcare delivery

[1] Source: https://nashp.org/how-states-can-hold-hospitals-accountable-for-their-community-benefit-expenditures/
[2] Source: https://lownhospitalsindex.org/hospital-fair-share-spending-2024/

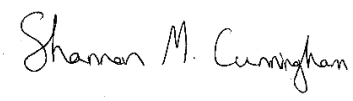
system instead of the current one dominated by the backroom deals of wealthy executives.

We hope that the Legislature will consider further reforms in the future, which MNA will be happy to work on to ensure that patients come before profits. The Lown Report lays out several policy solutions to address the deficits between hospitals' tax breaks and what they give back to the state, including:

- Require hospitals to report their spending on community benefit programs directly related to the priority health needs identified in the hospital's Community Health Needs Assessment, including a breakdown by health need and program, *as Massachusetts does*;
- Create a minimum threshold of community benefit spending for hospitals, based on hospitals' financial positions, previous spending, and local needs, *as Oregon currently does*;
- Require hospitals to report more information on financial assistance and extraordinary debt collection actions on Schedule H, including the number of patients given financial assistance, the number of patients denied financial assistance, the number of each extraordinary collection action undertaken, and the amount recovered through these actions;
- Define eligibility thresholds for financial assistance, as California, Washington, Oregon, and several other states already do;
- Consider intermediate enforcement measures for hospitals that do not comply with an established state community benefit standard.

We would like to thank Representative Bierman for authoring this bill, as well as the co-authors, Representatives Elkins, Fischer, Smith, Feist, and Hanson.

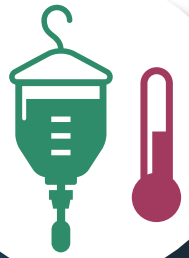
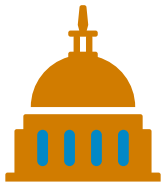
Thank you,



Shannon M. Cunningham
Director of Governmental and Community Relations
Minnesota Nurses Association

Minnesota Hospital Association

Community Benefit Report *Aug. 2023*


at a glance

COMMUNITY CONTRIBUTIONS

$3.4 billion

Minnesota's hospitals and health systems contributed $3.4 billion to their communities in 2021.

UNCOMPENSATED CARE

$655 million

Minnesota's hospitals and health systems contributed almost $655 million in uncompensated care in 2021.*

MEDICAID UNDERFUNDING

$837 million

Medicaid reimburses hospitals 27% below the actual cost of providing care. Hospitals subsidize this care.

MEDICARE UNDERFUNDING

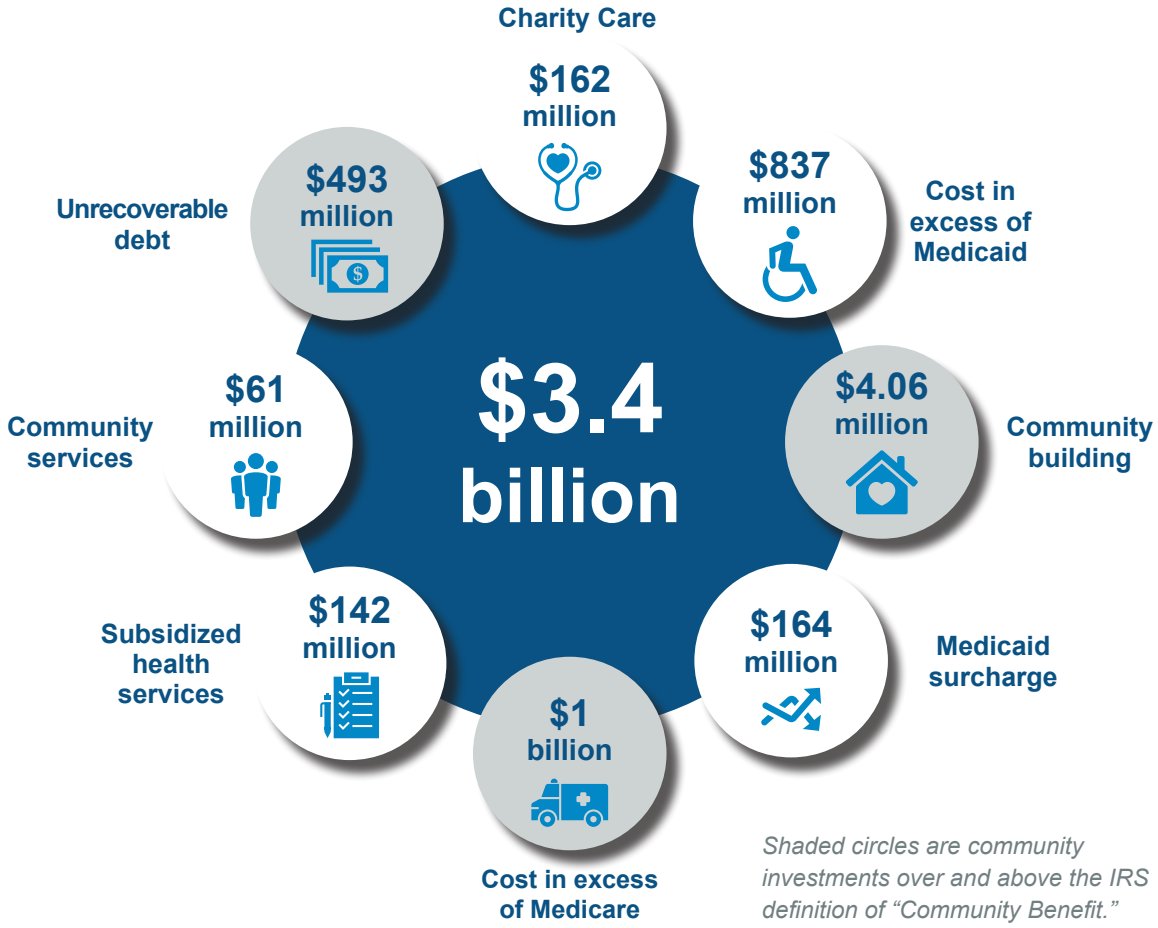
$1 Billion

Medicare reimburses hospitals 20% below the actual cost of providing care. Hospitals subsidize this care.

**Uncompensated care is the combination of charity care and bad debt.*

PROVIDING CARE TO ALL

Minnesota's hospitals and health systems are committed to providing high-quality care to all Minnesotans regardless of the patients' ability to pay. Across Minnesota, hospitals and health systems provide a full spectrum of services to support patients and offer a variety of payment options and services including financial counselors. Financial assistance is provided for patients from whom there is no expectation of payment.



Shaded circles are community investments over and above the IRS definition of "Community Benefit."

M Health Fairview's Partnership with Our Saviour's Community Services

M Health Fairview is piloting a unique respite care program with the non-profit organization, Our Saviour's Community Services, in Minneapolis. Our Saviour's Community Services specializes in providing shelter, on-site health care staff, and other supportive services to unhoused adults who are being released from the hospital with a medical need that makes them too vulnerable to recover on the street or in a traditional shelter.

During the initial pilot, which ran from February to June 2022, 20 people were accepted to the respite care program. Of those who received care and services at Our Saviour's Community Services, 11 have remained out of the hospital and emergency department, and four accessed stable housing. The program has been extended through June 2023 with a possibility of extending further.

BUILDING THE STATE'S ECONOMY

Health care continues to be one of the state's largest private-sector sources of jobs, with hospitals often serving as one of the largest employers in their communities:

- 122,758 people are employed in Minnesota hospitals and health systems **
- $10.2 billion paid in employee compensation*
- $39 billion contributed to the state's economy*

**Study conducted by the Bureau of Business and Economic Research, an entity of the University of Minnesota Duluth*
*** University of Minnesota*

In addition to collectively being one of the state's largest employers, Minnesota's hospitals and health systems also contributed almost $197 million in 2021 to building the state's future economy through a variety of education, workforce, and pipeline development programs. These programs are intended to train and develop the next generation of health care workers to ensure Minnesota is prepared to meet its future health care needs with a diverse and highly skilled group of health care workers.

Hennepin Healthcare's Health Equity Programs

Hennepin Healthcare's health equity department partners with the community, its patients, and families to ensure access to outstanding care for everyone while improving health and wellness through patient and community education and research. This includes programming to increase representation of health care professionals in underrepresented populations. This is accomplished through the work of its Talent Garden Youth Summits and Internships, where youth ages 12-18 years old are introduced to hands-on learning opportunities in health care careers.

In 2022, four youth summits were completed: Black Men with Stethoscopes, Black Women with Stethoscopes, Latino Youth with Stethoscopes, and the Summer Talent Garden Youth Internship Program. More than 296 youth have participated in these events, with inspiring, far-reaching outcomes in their communities and with their peers.

BUILDING HEALTHY COMMUNITIES

Minnesota hospitals and health systems offer a wide range of services and resources that extend access to care beyond the traditional hospital setting like health screenings, health education, health fairs, immunization clinics, subsidized health services, and other community outreach programs. This long-standing effort promotes the health and wellness of individuals and communities throughout the state. Specific areas of community investments:

- Research: $16 million
- Community benefit activity/care total: $62 million
- Community building: $4 million

Windom Area Health's Kid's Choice Education Program

Windom Area Health' Kid's Choice program provides interactive educational presentations on wellness topics every month, all year long, at four elementary schools in the region.

Each session offers a brief presentation along with an activity and covers topics like regular exercise, healthy nutrition, and the importance of a good night's sleep. At the end of the school year, program staff administer a test that covers topics from each presentation.

With 141 kids currently registered, Windom Area Health plans to continue growing this program by partnering with local teachers and staff at Windom Area Health to offer these educational sessions.

No-Cost Child Advocacy Services with the Help of CentraCare

The Central Minnesota Child Advocacy Center (CAC) provides critically important services to victims of child abuse and neglect, enabling them to tell their story the least number of times possible – in a safe, expanded, comfortable space. Starting in 2016, the CAC has collaborated with law enforcement, child protection, county attorneys, advocates, mental health, and medical professionals in one location to provide children the care and advocacy they need.

"A child can come here and meet with an interviewer and share their story. They can then meet with a therapist afterwards and have someone who can help them with those immediate needs to provide some coping skills, some strategies," said Liza Fetterley, CAC child and family advocate.

CAC services are provided to families at no cost. As the organization's main sponsor, CentraCare supports the CAC through financial contributions received from the community.

Since opening in September 2016, the CAC has served more than 1,800 kids and vulnerable adults and that number increases each year.

MINNESOTA HOSPITALS AND HEALTH SYSTEMS

by the numbers

EMERGENCY DEPT. VISITS
almost 2 million

INPATIENT DAYS
2.6 million

AVERAGE LENGTH OF STAY
5.1 days

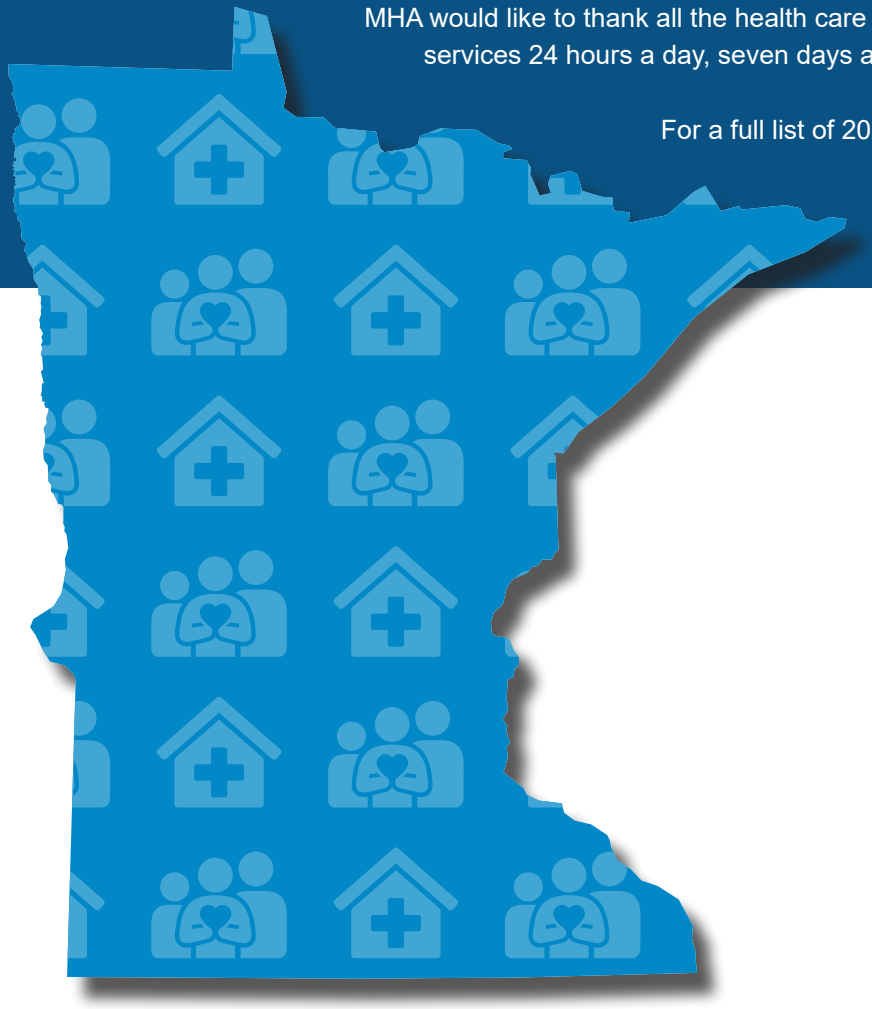
OUTPATIENT VISITS
9.6 million

CHILDBIRTHS
more than 63,000

INDIVIDUALS SERVED
515,360

EVERYDAY FOR EVERYONE

Minnesota hospitals and health systems have been and will always be proud to serve all Minnesotans. Minnesota hospitals and health systems are dedicated to delivering high-quality care, building healthy communities throughout the state, and driving the state's economy despite their own economic challenges.



MHA would like to thank all the health care team members throughout the state for delivering these critical services 24 hours a day, seven days a week, 365 days a year.

For a full list of 2021 community contributions, click here.

For a list of community benefit data by region, click here.

Minnesota Hospital Association

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BUSINESS

Report says tax breaks for Minnesota hospitals, including Mayo, outweigh community benefit

Hospitals say the study is "deeply flawed" for not factoring research, teaching and Medicaid expenses.

By Christopher Snowbeck (https://www.startribune.com/christopher-snowbeck/6370570/) Star Tribune

MARCH 25, 2024 — 11:01PM

A national report finds Mayo Clinic was one of the 10 worst-performing nonprofit U.S. health systems in 2021 when it comes to "fair share" deficit, a measure comparing charity care and community spending against the value of tax breaks it received.

The study, published late Monday night by Boston-based Lown Institute, also found three other large Minnesota nonprofit health care providers — Allina, Fairview and HealthPartners — had fair share deficits that exceeded $100 million each that year.

Mayo Clinic called the report's methodology "deeply flawed" and the Minnesota Hospital Association said its conclusions were false, sensational and based on "cherry-picked categories."

Dr. Vikas Saini, president of the Lown Institute, argues the results in Minnesota and across the country show the need for more transparency in how hospitals report data on community benefits. He is calling for an update to rules for how medical centers win tax exemption.

"If nonprofit hospitals want to enjoy those tax breaks, they need to do more to justify them," Saini said in an interview. "What we're trying to encourage is more community leaders to ask questions about that, because simply saying 'we train doctors, we do research and we lose money on Medicaid' is not sufficient any more. These are big, big businesses."

As charitable entities, nonprofit hospitals are exempt from certain federal, state and local taxes. Each year, they're required to report to the IRS the cost of community benefits they provide, such as financial assistance for patients and community health improvement programs.

The Lown Institute analysis looked at filings from more than 2,400 nonprofits hospitals for 2021.

HANNAH JONES — STAR TRIBUNE, STAR TRIBUNE

Rochester-based Mayo Clinic spent about $478 million less on certain community benefit programs than the clinic saw in savings

Rochester-based Mayo spent about $478 million less on certain community benefit programs than the clinic saw in savings through tax exemptions, according to the report. The calculation factors Mayo's hospital operations across four states, not just those in Minnesota.

Among health systems nationwide, Mayo ranked No. 9 among those with the largest fair share deficits. Mayo's flagship hospital in Rochester had the seventh-largest fair share deficit among individual hospitals.

Saini, noting recent profitability at Mayo Clinic (https://www.startribune.com/mayo-clinic-operating-profit-over-1-billion-staffing-stabilized/600346718/) , said, "You're saying you couldn't close that gap even a little bit?"

Different definitions

The Lown Institute is at odds with hospitals over what is considered a community benefit.

Mayo Clinic slammed the group's methodology for excluding several expense categories that are allowed in IRS filings, including spending on research, as well as training of health care professionals. As a result, Mayo says, the study tends to penalize large, high-quality hospitals.

"Notably, 9 out of 10 hospitals identified as having the 'Largest Fair Share Deficit' on the Lown Index are also hospitals listed on the U.S. News Honor Roll," the clinic said in a statement to the Star Tribune. "As a nonprofit medical center focused on patient care, research and education, Mayo Clinic provides substantial community benefit."

Another big miss, hospitals say, is that the Lown Institute excludes what's known as the "Medicaid shortfall." This is the extra cost health systems absorb when caring for patients in the state-federal Medicaid program. Medicaid generally pays less than commercial health insurers for the same health care service.

"The report's findings hinge on outrageously narrow criteria that arbitrarily dismiss over $1.8 billion in unreimbursed care to Minnesotans on public health plans like Medicaid," the Minnesota Hospital Association said in a statement to the Star Tribune.

Even though the IRS does not automatically recognize Medicare shortfall as community benefit spending, the trade group's tally includes costs from Medicare patients.

Lown Institute says hospitals don't factor large supplemental Medicaid funding they receive when reporting shortfall amounts. Furthermore, Lown says, health systems don't specify their margins on higher payments from commercial health insurers that can compensate for Medicaid rates.

Types of training debated

As for spending on research and training, hospitals' reported figures don't always factor in federal money received for running those programs, Lown says. And, Saini said, hospitals don't have to show how spending on research and teaching fits with community needs, such as training more primary care doctors vs. specialty physicians.

"Federal regulation of community benefit spending is woefully ineffective and in need of reform," he said in a statement. "Though hospitals are required to report their community contributions to the IRS, there is no minimum spend, there are many loopholes and enforcement is practically nonexistent."

In its IRS filing, Mayo Clinic says it spent about $764.5 million on a variety of community benefits in 2021. After removing expenses related to research, training and the Medicaid shortfall, Lown Institute put the value of the clinic's community benefit spending much lower at about $248 million.

This spending was about $478 million less, the report said, than the estimated $726 million in tax breaks Mayo received during the year.

Mayo did not comment on particulars of the calculation. The Minnesota Hospital Association faulted the Lown Institute's estimates for tax breaks, saying they don't account for state and local variations.

That's just one of many problems with the report, said Joe Schindler, vice president for finance policy and analytics at the Minnesota Hospital Association.

"They basically cherry-picked information that's part of community benefits," Schindler said, "but not the entire picture."

He pointed to the most recent Minnesota Department of Health report on community benefit spending (https://www.health.state.mn.us/data/economics/docs/hospcmtybenefitrpt.pdf) , showing how expenses grew by 13% between 2016 and 2019, driven by underpayments from Medicaid and related state programs.

Saini argued, however, that the calculation of Medicaid underpayments — while relevant to hospital financing — isn't always relevant to the question of whether a hospital should be tax-exempt.

"Hospitals use their Medicaid shortfall ... as a community benefit, despite the fact that nonprofit hospitals have similar unreimbursed Medicaid costs as for-profit hospitals," Lown Institute said in a statement.

Christopher Snowbeck covers health insurers, including Minnetonka-based UnitedHealth Group, and the business of running hospitals and clinics.

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