Sanders Issues Non-Profit Oversight Recs As AHA Touts Charity Care Efforts

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Senate health committee Chair Bernie Sanders (I-VT) on Tuesday (Oct. 10) recommended Congress and the IRS take several steps to crack down on non-profit hospitals' charity care practices after a new committee report indicated several of the largest tax-exempt hospital systems are only putting a fraction of their revenues back into charity care. But the American Hospital Association and America's Essential Hospitals each pushed back in their own reports, raising questions about how Congress will handle transparency and oversight for non-profit hospitals moving forward.

Sanders plans to hold a hearing on non-profit hospitals in the coming months, his office confirmed.

In 2022, about one in seven Americans delayed or went without hospital services due to high costs, Sanders' report says. These delayed hospital services could include surgeries, diagnostic testing, and a range of specialized treatments. Those delays create higher risks of worse health outcomes, and higher costs for patients.

But Sanders' report says 12 hospitals out of 16 reviewed "dedicate less than two percent of their total revenue to charity care" in 2021, including three of the nation's five largest non-profit hospital chains, the report says, and half of that dozen dedicate less than 1% of their total revenue to charity care.

It's worth noting that Sanders' report makes no mention of the COVID-19 pandemic.

Sanders' report assessed profit margins using Form 990 Schedule H filings from the 16 non-profit hospital systems that take in $3 billion or more annually. Those hospitals include CommonSpirit Health; Providence St. Joseph; Ascension Health; Massachusetts General Brigham; Cleveland Clinic Hospital; Banner Health; New York Presbyterian Hospital; Memorial Hermann Hospital System; Montefiore Medical Center; Methodist Hospital; Cedars-Sinai Medical Center; Robert Wood Johnson Barnabas Health; Northside Hospital; Allina Health System; Orlando Health; and Baptist Healthcare.

Nearly half of American hospitals are non-profits, according to Sanders' report, meaning they're exempt from federal, state and local taxation. But Sanders' report argues that non-profit hospitals' charity care information is difficult to access, leaving many patients unaware that they may qualify for free or discounted care.

"Non-profit hospitals are given tax-exempt status so they can serve the public good -- not price gouge patients in dire need of health care," Sanders' report says. "These hospitals cannot be permitted to continue to hide the availability of financial assistance

programs or ignore patients' eligibility for fundamental care while ruthlessly pursuing collections in favor of their bottom line. The disparities between the paltry amounts these hospitals are spending on charity care and their massive revenues and excessive executive compensation demonstrates that they are failing to live up to their end of the non-profit bargain."

Sanders pointed to a March KFF study that found tax breaks accounted for 44% of non-profit hospitals' net income in 2020. But those hospitals spent only an estimated $16 billion on charity care in 2020, or about 57% of the value of their tax breaks from that year.

"Non-profit hospitals have provided less charity care even as these hospitals saw a steady increase in their revenues and operating profits," the report says. "One study found 86 percent of non-profit hospitals spent less on charity care than they received in tax benefits between 2011 and 2018. Another recent study found that non-profit hospitals increased their average operating profit by more than 36 percent, from about $43 million to almost $59 million, between 2012 and 2019. In the same time period, the hospitals almost doubled the cash balances they held in reserve, from an average of about $133 million to more than $224 million."

Sanders issued a slew of recommendations based on the report's findings for both Congress and the Internal Revenue Service, though some recommendations don't fall under the health committee's jurisdiction.

At press time, Sanders' office did not comment when asked whether Sanders is collaborating with Senate Finance Chair Ron Wyden (D-OR) on his inter-jurisdictional recommendations.

Wyden previously co-signed a February letter expressing concerns with Providence Hospital's charity care, which Sanders also references in his report.

Providence paid consulting firm McKinsey & Company "at least $45 million to develop a program called 'Rev-Up' to train employees on how to solicit money from all patients irrespective of whether they were entitled to free or discounted care," Sanders says in his report.

Wyden in February called for a wealth of additional information on Rev-Up and questioned non-profit hospitals' rising profit levels.

"Nonprofit hospitals enjoy lucrative tax exemptions in exchange for meeting requirements enforced by the Internal Revenue Service to provide services such as free care for the poor. ... The massive growth in nonprofit hospital revenues raises questions about whether these hospitals' drive to increase revenues -- sometimes at the expense of the neediest patients -- is consistent with their nonprofit status, and raises concern over the full scope of partnerships these hospitals have had with consulting firms to maximize their revenue," Wyden's letter says.

Non-profit hospitals should be held accountable for providing charity care at levels consistent with their tax breaks by both lawmakers and the IRS, Sanders recommends, and policymakers should build a floor on the amount of financial assistance non-profit hospitals should provide to low-income patients, or the total amount of community benefit non-profits should be required to provide to retain their status.

One solution could be Texas' model, Sanders said, which requires tax-exempt hospitals to provide community benefits that amount to at least 5% of the hospital's net patient revenue and also mandates that charity care and government-sponsored health care equal at least 4% of net patient revenue.

Congress should also establish clear, enforceable standards for non-profit hospital financial assistance programs, Sanders recommends, possibly using a structure akin to Oregon's current method -- requiring that non-profit hospitals provide charity care to patients earning up to 400% of the federal poverty level.

Congress should also require hospitals to determine whether a patient is eligible for subsidized care and provide it, Sanders recommends, regardless of whether the patient proactively requests information on financial assistance programs or charity care. Lawmakers should also block non-profit hospitals from refusing to provide care until patients pay off their earlier medical debts.

Lawmakers should also create a clear set of community engagement requirements hospitals would be required to meet to maintain their non-profit status, Sanders says. The Affordable Care Act requires hospitals to conduct community health needs assessments, which helps them better understand local care needs, but hospitals aren't required to implement an action plan to tackle health issues cropping up on the assessments.

Sanders says Congress should change that and hold non-profits responsible for meeting community needs once they're identified, including through partnerships with community health care providers.

The IRS could also increase transparency in the reporting of community benefit data and streamline tax forms, which are often convoluted and vague, Sanders says.

Darbin Wofford, health policy advisor for the think tank Third Way, lauded Sanders' report, and said non-profit hospitals continue to miss the mark. Wofford recommended Congress enact standards for sufficient charity care and put the onus on hospitals for providing financial assistance, including through the 340B drug discount program.

It's not clear whether Sanders will tackle elements of 340B reform as part of the effort to improve charity care operations, though his Republican counterpart, health committee ranking Republican Bill Cassidy, (LA) redoubled his own calls for 340B reform in July.

In an early-July STAT op-ed, Cassidy said more transparency and accountability from 340B participants is necessary to preserve what he views as the program's intent of providing prescription drugs at discounted prices so patients who are uninsured, low-income, reside in rural communities or are otherwise underserved can access the medicines they need.

Cassidy's office confirmed that he had offered to collaborate with Sanders on his own 340B investigation, including a request for information, released in late September.

But the American Hospital Association released its own non-profit report Tuesday (Oct. 10) arguing tax-exempt hospitals provided more than $129 billion in total benefits to their communities in 2020 alone, based on the most recent comprehensive data. AHA criticized Sanders' report for taking a narrow view of community benefits.

"[Sanders'] report is totally off base and does not fully account for the wide range of community benefits that hospitals provide," AHA president and CEO Rick Pollack said in response to the health committee's report. "This tunnel-visioned 'research' neglects to consider that under the law community benefit is defined by much more than charity care and includes patient financial aid, health education programs and housing assistance, just to name a few."

AHA's analysis, which was conducted by Ernst & Young, found that tax-exempt hospitals' and health systems' total community benefits were 15.5% of their total expenses in 2020, based on Schedule H filing data from the IRS.

AHA says that around 7% of non-profit hospitals' total expenses -- about $57 billion -- were allocated toward financial assistance for patients and underpayments from Medicaid and other means-tested government programs.

The hospital lobby pointed to an additional report from Ernst & Young, which found that about $9 in benefits returned to the community for every $1 hospitals retain through their tax exemptions. Those benefits manifest in a host of forms, AHA says.

"Hospitals strive to help patients without insurance transition to programs that can provide them with coverage for regular preventive and restorative care," AHA says. "In addition, hospitals and health systems offer a range of programs and services that focus on their community's health and wellbeing, including programs that address some of the most persistent drivers of illness and accident. This is on top of funds invested in lifesaving research and medical innovation, training health professionals and subsidizing vital health services such as burn and neonatal units."

AHA said community benefits in 2020 increased from 2019 by almost $20 billion, despite hospitals battling an unprecedented national pandemic.

America’s Essential Hospitals just released its own report that says safety net hospitals provided $9 billion in uncompensated care and $6 billion in charity care in 2021.

Charity care and other uncompensated care left essential hospitals in the red in 2021, with an average operating margin of −8.6% compared with −1.4% for all other hospitals, based on Medicare cost report data, the report adds.

Hospital analysts said in June that, nationally, hospital finances broke even in April amid a continuing trend of high expenses and the unwinding of the Medicaid continuous coverage requirement previously tied to the COVID-19 public health emergency, but the impact of ongoing disenrollments from Medicaid could be starting to show up in hospital data. -- *Bridget Early* (bearly@iwpnews.com)