



## Illinois Supreme Court upholds ruling against Provena in tax-exempt case

By Lorene Yue  
March 18, 2010

(Crain's) – Illinois' highest court on Thursday ruled that state officials were justified in their decision to yank the tax exemption of Downstate Provena Covenant Medical Center for not providing enough charity care, a ruling that could have implications for thousands of hospitals nationally.

“In this decision, the Supreme Court upheld the denial of property-tax exemption for the tax year in question, agreeing with the appellate court that the record was inadequate to demonstrate that Provena was a charitable institution,” the Supreme Court said in a statement.

The decision will be watched closely by hospitals and policymakers nationally, following years of debate over how best to quantify the charity care that non-profit medical providers dole out in exchange for tax exemptions.

It's the most notable case nationally in the past two decades of a hospital losing its tax-exempt status over questions of its charitable commitment, says Elizabeth Mills, an attorney at Proskauer Rose LLP in Chicago who specializes in tax exemptions for health care organizations.

“Everywhere I go in the country, people ask me about the Provena case,” she says.

The case goes back to 2003, when Champaign County tax officials stripped the hospital of its exemption. Officials cited the 210-bed hospital's \$831,724 spent on “charitable activities” a year earlier, saying it fell short of the medical center's \$1.1 million in property taxes. The state's Department of Revenue upheld that decision.

Provena sued to have its property tax exemption restored. A Sangamon County District Court sided with the hospital in 2007, but a state appellate court overturned that decision in 2008.

The hospital, which is owned by Provena Health, a six-hospital system based in south suburban Mokena, has been paying roughly \$1 million a year in property taxes since the Champaign County took away its exemption in 2002.

Illinois law now requires hospitals to provide charity care to poor people to qualify for their tax exemption, but it doesn't specify how much.

Attorney General Lisa Madigan has argued for a quantifiable benchmark that hospitals must clear to earn tax breaks. In 2006, she pushed for legislation that would require them to provide free or discounted medical care equal to 8% of their operating budgets. The bill went nowhere, and subsequent discussions with the industry failed to reach a compromise.

Federal law requires that hospitals meet a so-called “community benefit” standard to qualify for tax exemption. Under the law, adopted in 1969, hospitals cite costs such as training of medical students, research and community outreach, along with free care, as justification for their tax exemption. Critics say the standard provides hospitals too much latitude.