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United States Senate

COMMITTEE ON THE JUDICIARY

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June 9, 2016

VIA ELECTRONIC TRANSMISSION

The Honorable John Koskinen
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Koskinen:

On January 16, 2015, I began an investigation into Mosaic Life-Care, a 501(c)(3) non-profit charitable hospital. Mosaic provides care to low-income persons in Kansas, Missouri, and Nebraska, with the vast majority of its locations in Missouri. I started the investigation because news reports at the time indicated that Mosaic had placed thousands of low-income persons in collection and sued many of them, rather than providing charity care as they are required to do as a charitable hospital.¹ Due to my investigation, Mosaic instituted a debt forgiveness program that resulted in approximately 3,300 low-income patients receiving, in total, \$16.9 million dollars in debt forgiveness. That breaks down to approximately \$5,052 for each patient. I have attached to this letter a short memorandum that I transmitted to my colleagues on the Senate Finance and Judiciary Committees providing more detail with respect to the results of my investigation.

As Commissioner of the Internal Revenue Service (IRS), you should be made aware of problematic activity within the charitable hospital community. Granted, we can both agree that many charitable hospitals perform good work on behalf of the communities that they service. However, some charitable hospitals get as close to the line as possible, while others callously breach it. It is important that Congress, via its oversight role, and the IRS ensure that charitable hospitals are functioning as intended.

¹ Paul Kiel and Chris Arnold, *From the E.R. to the Courtroom: How Nonprofit Hospitals are Seizing Patients' Wages*, PROPUBLICA (Dec. 19, 2014), <http://www.propublica.org/article/how-nonprofit-hospitals-are-seizing-patients-wages>.

Indeed, the Mosaic investigation has already resulted in more changes. Based on the Mosaic results, ProPublica and National Public Radio questioned the collection practices of an Indiana based charitable hospital, Deaconess, which, according to news reports, filed more than 20,000 lawsuits from 2010 through 2015 against its patients.² In response to questions about its financial assistance policy, the hospital reconsidered its policies and released a statement stating “we will enhance our processes to further benefit our patients by offering financial assistance through the life of the account,” which makes a patient eligible for financial assistance even after being sued by the hospital.³ With this change, at any point in the collection process, a patient can apply for financial assistance when their economic circumstances change. In addition, Deaconess said that it would lower the threshold by which patients can qualify for financial assistance by allowing those with incomes at twice the poverty line to receive free care.

These are welcome improvements to the charitable hospital community and others should follow the examples set by Mosaic and Deaconess to better fulfill their charitable mission. As you are aware, I authored nonprofit hospital reforms that were ultimately enacted in 2009. Among these reforms were requirements that nonprofit hospitals establish and make public a financial assistance policy (FAP) and imposing restrictions on certain billing and collection procedures. Given the abuses observed in my investigation of Mosaic, I am interested in learning more about the IRS’ implementation and enforcement of these provisions. To help me better understand the effect of these provisions, please answer the following questions:

- Since the FAP and billing and collection provisions became effective, how many nonprofit hospitals has the IRS found to be out of compliance with these two requirements? Please identify whether the hospital was out of compliance with FAP requirements, billing and collection requirements, or both, as well as whether the noncompliance was determined to be willful and/or egregious or minor and/or inadvertent.
- What, if any, enforcement action has the IRS taken against nonprofit hospitals found to be out of compliance with either the FAP or billing and collection provisions? In responding to this question, please indicate the number of hospitals associated with each type of enforcement action, such as whether they were permitted to take corrective action to rectify the non-compliance, had their tax-exempt status revoked, or any other action that may have been taken.

In addition to the further requirements for nonprofit hospitals, the nonprofit hospital reforms also required the IRS and Department of Health and Human Services to collect information on nonprofit hospitals and provide an annual report to Congress. The first report was issued in January of 2015 and contained information for calendar year 2011. However, at this time, the IRS has yet to issue a 2016 report covering calendar year 2012. Please provide me an update on the status of this year’s report and when Congress can expect to receive it.

² Paul Kiel and Chris Arnold, *Nonprofit Hospital Stops Suing So Many Poor Patients: Will Others Follow?*, PROPUBLICA (June 1, 2016), <https://www.propublica.org/article/nonprofit-hospital-stops-suing-so-many-poor-patients-will-others-follow>

³ *Id.*

The information provided with respect to Mosaic illustrates the value of congressional oversight and sheds light on some of the steps that other charitable hospitals can take to ensure that low-income patients are treated fairly.

I look forward to receiving your response to my questions on IRS' enforcement efforts. Please respond no later than June 23, 2016. In addition, please continue to keep me informed of any efforts by the IRS to ensure that tax-exempt hospitals fulfill their obligations under the tax code.

In response, do not hesitate to contact me or Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Cc:

Senate Finance Committee, Majority and Minority