

United States Senate  
WASHINGTON, DC 20510

August 13, 2024

**VIA ELECTRONIC TRANSMISSION**

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare and Medicaid Services

Dear Administrator Brooks-LaSure:

According to recent reports, Hospital Corporation of America (HCA) Healthcare reported nearly \$1 billion more in charity care to the Centers for Medicare and Medicaid Services (CMS) than it reported on its financial statements.<sup>1</sup> Specifically, at least one HCA hospital reported more charity care to CMS even as they cut charity services, and did this by categorizing more types of uncompensated care as charity, such as normal price adjustments and unpaid bills.<sup>2</sup> However, HCA is not the only hospital system that engages in this behavior. Reporting shows that hospitals and hospital systems regularly report significantly greater amounts of charity care to CMS than reported to the Internal Revenue Service (IRS) and Securities and Exchange Commission (SEC) through financial statements.<sup>3</sup>

Charity care is the “free or discounted health services provided to persons who meet the [hospital]’s eligibility criteria for financial assistance and are unable to pay for all or a portion of the services.”<sup>4</sup> While the policy, sometimes referred to as the hospital’s financial assistance policy (FAP), is created by the hospital, the IRS states the following:

Financial assistance includes free or discounted health services provided to persons who meet the organization's criteria for financial assistance and are unable to pay for all or a portion of the services. Financial assistance doesn't include: bad debt or uncollectible charges that the organization recorded as revenue but wrote off due to a patient's failure to pay, or the cost of providing such care to such patients.<sup>5</sup>

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<sup>1</sup> Tara Bannow, Stat+, *HCA Reports Almost \$1 Billion More in Charity Care to Medicare Than to its Shareholders, Drawing More Taxpayer Money* (Apr. 8, 2024), <https://www.statnews.com/2024/04/08/hca-charity-care-reported-to-medicare-1-billion-higher-than-financials/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Zachary Levinson et. al., KFF, *Hospital Charity Care: How It Works and Why It Matters* (Nov. 3, 2022), [https://www.kff.org/health-costs/issue-brief/hospital-charity-care-how-it-works-and-why-it-matters/#endnote\\_link\\_569639-1](https://www.kff.org/health-costs/issue-brief/hospital-charity-care-how-it-works-and-why-it-matters/#endnote_link_569639-1).

<sup>5</sup> INTERNAL REVENUE SERV., 2023 INSTRUCTIONS FOR SCHEDULE H (FORM 990) (2023), <https://www.irs.gov/pub/irs-pdf/i990sh.pdf>. (The IRS also claims the following are not included as charity care, “the difference between the cost

CMS, on the other hand, requires hospitals to fill out an S-10 worksheet to qualify for Medicare Disproportionate Share Hospital (DSH) payments and, ultimately, Medicare uncompensated care payments.<sup>6</sup> Charity care is reported on the S-10 worksheet and defines it as, “a hospital’s policy to provide all or a portion of services free of charge to patients who meet the hospital’s charity care policy or . . . FAP,” including full or partial discounts.<sup>7</sup> While the S-10 worksheet may be subject to CMS auditing, some costs are not audited but may instead only be reviewed by the agency for “adequacy, completeness, and accuracy and reasonableness of the data.”<sup>8</sup>

According to recent reports, hospital systems like HCA appear to include services that do not qualify as charity care, yet CMS permits organizations to include as charity care when providing DSH payments.<sup>9</sup> CMS allows these companies to include “uninsured discounts,”<sup>10</sup> which may or may not include people qualified for charity care.<sup>11</sup> It is also concerning that groups like HCA may be able to charge higher markups to provide “larger discounts” and inflate the amount of reported charity care.<sup>12</sup> In addition, these hospital systems may also be including “prompt pay discounts,” when a patient pays a smaller amount if they pay with cash in advance, which would not be eligible to be counted by CMS for charity care.<sup>13</sup> While the regulations are clear about prompt pay discounts, in practice hospitals use the ambiguity between the categories to count more types of uncompensated care as charity.<sup>14</sup>

CMS must ensure that proper care is taken to protect the American taxpayer from fraud, waste, and abuse. So that Congress may conduct an independent review, please answer the following questions no later than August 27, 2024:

1. How many S-10 Worksheets has CMS received from hospitals and hospital systems, and how many has CMS reviewed from 2021 to 2024? Provide all records.<sup>15</sup>

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of care provided under Medicaid or other means-tested government programs or under Medicare and the revenue derived therefrom; self-pay or prompt pay discounts; or contractual adjustments with any third-party payers.”)

<sup>6</sup> Cong. Rsch. Serv., *Hospital Charity Care and Related Reporting Requirements Under Medicare and the Internal Revenue Code* (June 28, 2018), <https://crsreports.congress.gov/product/pdf/IF/IF10918/2>. (This is only applicable to hospitals that are paid under the Medicare inpatient prospective payment system (IPPS) and critical access hospitals (CAHs)).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Supra* note 1. (“In 2022, HCA defined uninsured discounts as discounts for patients who don’t qualify for Medicaid and aren’t eligible for charity care. The company’s current policy says these discounts only apply to emergency services and that patients with ‘exhausted insurance benefits’ can also qualify.”)

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*; see also A Celerian Group Company, CMS, *Worksheet S-10: Uncompensated Care Data* (Nov. 9, 2022), [https://www.cgsmedicare.com/pdf/j15/vid\\_transcripts/s10transcript.pdf](https://www.cgsmedicare.com/pdf/j15/vid_transcripts/s10transcript.pdf).

<sup>14</sup> *Supra* note 1.

<sup>15</sup> “Records” include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (emails, email attachments, and any other electronically created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether they resulted in final documents).

2. What is CMS's procedure to verify charity care claims, and how does the agency distinguish an audit from a review for "adequacy, completeness, and accuracy and reasonableness of the data," and how many of each type of review has been conducted from 2021 to 2024? Provide all records.
3. How many S-10's are audited from 2021-2024 and how many have been cited for over-reporting charity care? Provide all records.
4. To what extent does CMS and the IRS coordinate reviews of charity care claims by hospitals? Provide all records.

Thank you for your prompt review and responses. If you have any questions, please contact Tucker Akin on my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley  
Ranking Member  
Committee on the Budget