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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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VIA ELECTRONIC TRANSMISSION

Michael Ugwueke, DHA, FACHE



December 3, 2019

Dear Dr. Ugwueke:

The United States Senate Committee on Finance has exclusive jurisdiction within the United States Senate over matters of federal taxation, and as its chairman I am committed to making sure the United States' tax laws are administered fairly and effectively. As part of that commitment, it is my job to make sure that entities exempt from tax are fulfilling their tax-exempt purposes. In 2015, I investigated reports that the Mosaic Life Care hospital system in Missouri and Kansas was suing low-income patients to force them to pay their hospital bills even when those patients were eligible for financial assistance and discounted treatments.¹ As a result of that investigation, Mosaic Life Care established a three-month debt forgiveness period in which patients could apply or re-apply for financial assistance, forgave the debt of 5,070 patients, and hired more employees to help low-income patients apply for financial assistance.²

As you are surely aware, Methodist Le Bonheur Healthcare is a tax-exempt hospital by way of Section 501(c)(3) of the Internal Revenue Code.³ Section 501(r) of the tax code requires tax-exempt hospitals to (1) meet community health needs assessments requirements, (2) maintain financial assistance policies, (3) limit amounts charged for medically necessary care provided to individuals eligible for financial assistance, and (4) refrain from extraordinary collection actions

¹ See Letter from Sen. Charles E. Grassley to Dr. Mark Laney, President and CEO of Mosaic Life Care (Jan. 16, 2015), available at <https://www.documentcloud.org/documents/1503959-grassley-letter-2015-01-16-ceg-to-mosaic.html>.

² Press Release, Sen. Charles E. Grassley, Grassley Releases Results of Inquiry into Missouri Tax-exempt Hospital; Confirms Debt Forgiveness of \$16.9 Million for 5,070 Patients (May 24, 2016), available at <https://www.grassley.senate.gov/news/news-releases/grassley-releases-results-inquiry-missouri-tax-exempt-hospital-confirms-debt>.

³ See Methodist Le Bonheur Healthcare IRS Form 990 (2017), at <https://www.methodisthealth.org/files/990s/2017%20FORM%20990%20-%20PUBLIC%20-%20MLH.pdf>.

against patients before making reasonable efforts to determine if those patients are eligible for financial assistance.⁴ Unfortunately, I have seen a variety of news reports lately discussing what appear to be relentless debt-collection efforts by various tax-exempt hospitals, including Methodist Le Bonheur Healthcare. These efforts raise questions about how Methodist Le Bonheur Healthcare, and other tax-exempt hospitals, are complying with these requirements.

Specifically, according to a recent *MLK50* article,

From 2014 through 2018, Methodist filed more than 8,300 lawsuits. . .

...

Its handling of poor patients begins with a financial assistance policy that, unlike many of its peers around the country, all but ignores patients with any form of health insurance, no matter their out-of-pocket costs. If they are unable to afford their bills, patients then face what experts say is rare: A licensed collection agency owned by the hospital.

Lawsuits follow. Finally, after the hospital wins a judgment, it repeatedly tries to garnish patients' wages, which it does in a far higher share of cases than other nonprofit hospitals in Memphis.

...

The number of lawsuits Methodist files isn't out of proportion to its size, at least compared to [other hospitals]. But where it does stand out is the share of cases in which it seeks a wage garnishment order, an action that can upend the lives of low-wage defendants.

A court-ordered garnishment requires that the debtor's employer send to the court 25% of a worker's after-tax income, minus basic living expenses and a tiny deduction for children under 15. The court then sends that payment to the creditor.

Methodist secured garnishment orders in 46% of cases filed from 2014 through 2018....⁵

Furthermore, according to this article, Methodist Le Bonheur Healthcare sought to collect from one former patient for more than nine years, following her from job to job.⁶ Methodist Le Bonheur Healthcare reportedly sought wage garnishment at several of the patient's employers despite indications the patient did not make enough to have her wages legally garnished.⁷ On

⁴ 26 U.S.C. § 501(r) (2019).

⁵ Wendi C. Thomas, *The Nonprofit Hospital That Makes Millions, Owns a Collection Agency and Relentlessly Sues the Poor*, *MLK50: JUSTICE THROUGH JOURNALISM*, June 27, 2019, at <https://mlk50.com/mlk50-com-profitingfromthepoor-7deacb56d542>.

⁶ *Id.*

⁷ *Id.*

one successful attempt, Methodist Le Bonheur Healthcare garnished \$3.67 from the patient's paycheck.⁸ The *MLK50* article goes on to state that Methodist Le Bonheur Healthcare is among the least generous in Tennessee when it comes to charity care and does not offer free or highly discounted care.⁹ Additionally, Methodist Le Bonheur Healthcare reportedly only offers zero-percent interest payments for the insured and uninsured before court proceedings commence.¹⁰

According to my own review of the Shelby County General Sessions Court docket, it appears that Methodist Le Bonheur Healthcare filed 1,337 suits against patients for hospital debts in 2017, 1,380 suits against patients for hospital debts in 2018, and 585 suits against patients for hospital debts in 2019 through June 21, at which point some of those lawsuits appear to have been dropped while others continued.¹¹

I have the following questions about some of the facts alleged in this article:

1. Since the beginning of 2014, how much money has Methodist Le Bonheur Healthcare collected from patients (including individuals responsible for making payments on behalf of patients) whose bills were more than 30 days past due? How many of these patients (including individuals responsible for making payments on behalf of patients) were eligible for financial assistance?
2. Since the beginning of 2014, how much charitable care has Methodist Le Bonheur Healthcare provided in each of those years? Please provide a breakdown of charitable care, including the methodology for calculating charitable care and what programs and services are included in that calculation, as well as the amounts allocated for each category.
3. Prior to the publication of the *MLK50* article quoted above, what was Methodist Le Bonheur Healthcare's process for notifying patients about their outstanding balances prior to those balances being transferred to either an in-house debt collector or a third party for debt collection and/or prior to judicial remedies being sought regarding those balances? If there had been a policy for notifying patients about such outstanding balances, please provide a copy of that policy.
4. Does Methodist Le Bonheur Healthcare maintain its own licensed debt-collection agency or office? If so, how much has this collection agency or office collected from low-income patients since the beginning of 2014 in each of those years?
 - a. Since 2014, what techniques has this debt-collection agency or office employed for the purpose of collecting debts owed to Methodist Le Bonheur Healthcare? Please provide a copy of whatever handbook or other literature might describe such techniques, including draft scripts or

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ See Shelby County General Sessions Civil Division, Person/Case Type Search, available at https://gscivildata.shelbycountyttn.gov/pls/gnweb/ck_public_qry_cpty_cp_personcase_setup_idx.

the like, for agents or employees of such debt-collection agency or office to use when attempting to collect debts owed to Methodist Le Bonheur Healthcare.

- b. Since 2014, what financial incentives have individual agents or employees of this debt-collection agency or office been offered for the purpose of securing the payment of debts owed to Methodist Le Bonheur Healthcare? Please provide a copy of whatever handbook or other literature might describe such financial incentives that agents or employees of such debt-collection agency or office might have been offered as incentive to collect debts owed to Methodist Le Bonheur Healthcare.
5. If Methodist Le Bonheur Healthcare does elect to use a third-party debt-collection service, what is Methodist Le Bonheur Healthcare's policy for transferring outstanding balances to a third-party for debt-collection? Please provide a copy of that policy.
6. Prior to the publication of the *MLK50* article quoted above, what was Methodist Le Bonheur Healthcare's policy on seeking judicial remedies to enforce the payment of outstanding balances? In your response, please include a discussion of how Methodist Le Bonheur Healthcare enforced balances that had been reduced to judgment, including but not limited to, how Methodist Le Bonheur Healthcare prioritized lien enforcement, garnishment, and other collection remedies. Please provide a copy of that policy.
7. Prior to the publication of the *MLK50* article quoted above, what was Methodist Le Bonheur Healthcare's financial assistance policy? Please provide a copy of that policy. Since the beginning of 2014, what percentage of patients who received medically necessary care from Methodist Le Bonheur Healthcare and did not have health insurance were eligible for financial assistance?
8. Prior to the publication of the *MLK50* article quoted above, what efforts did Methodist Le Bonheur Healthcare make to determine whether patients had been eligible for financial assistance before taking extraordinary collection actions, as defined by 26 U.S.C. §501(r) and its supporting regulations, against patients (including individuals responsible for making payments on behalf of patients)? If there was a written policy for determining whether patients had been eligible for financial assistance before taking extraordinary collection actions against them, please provide a copy of that policy.
9. Prior to the publication of the *MLK50* article quoted above, what efforts did Methodist Le Bonheur Healthcare make to inform patients (including individuals responsible for making payments on behalf of patients) of the availability of financial assistance before taking extraordinary collection actions? If there was a written policy for informing patients of the availability of financial assistance

before taking extraordinary collection actions against them, please provide a copy of that policy.

10. Since the beginning of 2014, has Methodist Le Bonheur Healthcare ever reevaluated and/or rescinded a patient's financial assistance determination? If so, how many times has Methodist Le Bonheur Healthcare reevaluated or rescinded such a determination, and what were the reasons for such determination(s)?
11. In the wake of the reporting discussed above, Methodist Le Bonheur Healthcare stated that it has raised its threshold for financial assistance from requiring patients be at or below 125 percent of the federal poverty guidelines to being at or below 250 percent of the federal poverty guidelines.¹² What had been the rationale for using a basis of a patient earning 125 percent of federal poverty guidelines or less for determining whether or not to deny financial assistance? What was the rationale for raising that threshold to 250 percent of the federal poverty guidelines?
12. Also in the wake of that reporting, you stated in a press release that Methodist Le Bonheur Healthcare has a new financial-assistance policy that "will better reflect the needs and circumstances of those we serve," and "[r]egardless of insurance status, Methodist will no longer pursue legal action against anyone who is at or below 250% of the federal poverty guidelines."¹³ Please provide a copy of that new policy.
 - a. How will Methodist Le Bonheur Healthcare's new financial-assistance policy better serve low-income patients compared to its old policy beyond including more people in it?
 - b. Does this 250-percent threshold for legal action explain why Methodist Le Bonheur Healthcare appears to have dropped certain collection lawsuits this past summer while others remain pending? What steps did Methodist Le Bonheur Healthcare take to determine whether a defendant may or may not have been below this threshold?
13. Does Methodist Le Bonheur Healthcare plan to refile lawsuits against patients in which it has previously dropped lawsuits against? If so, what are the criteria for determining which lawsuits it will refile?
14. What, if any, procedures are in place to determine that delinquent debts of any amount are accurate prior to Methodist Le Bonheur Healthcare taking any steps to collect those debts?

¹² *Methodist Le Bonheur Healthcare announces new initiatives to help address poverty and uplift their associates, patients, and community*, METHODIST LE BONHEUR HEALTHCARE (July 30, 2019), at <https://www.methodisthealth.org/newsroom/news-article/methodist-le-bonheur-healthcare-announces-two-new-initiatives-to-help-address-poverty-and-uplift-their-associates-patients-and-the-community/>.

¹³ *Id.*

15. The article quoted above reports that Methodist Le Bonheur Healthcare once pursued payment from a low-income patient for more than nine years. The article also reports that Methodist Le Bonheur Healthcare once sought garnishment for \$3.67 of the patient's paycheck.
- a. Are these facts correct as reported?
 - b. What steps did Methodist Le Bonheur Healthcare take to ensure that this patient was not eligible for financial assistance before pursuing payment in this manner?
 - c. Does Methodist Le Bonheur Healthcare have a policy on how long it pursues medical debts? If so, please provide a copy of that policy.
 - d. Does Methodist Le Bonheur Healthcare have a policy on amount thresholds that it pursues when collecting on medical debts? If so, please provide a copy of that policy.
16. Prior to the publication of the original *MLK50* article quoted above, what was Methodist Le Bonheur Healthcare's policy for garnishing wages? Please provide a copy of that policy. How has this policy changed since the release of the *MLK50* article quoted above, if at all? Please provide a copy of that new policy.
17. In another follow-up article in September, *MLK50* reported that Methodist Le Bonheur Healthcare erased the debts owed by more than 6,500 patients it had sued for unpaid hospital bills.¹⁴ Is this accurate? What was the criteria for determining which debts to forgive? When did the hospital forgive the debts?
18. Prior to the publication of the original *MLK50* article quoted above, did Methodist Le Bonheur Healthcare conduct a Community Health Needs Assessment (CHNA)? If so, please provide copies of each CHNA that Methodist Le Bonheur Healthcare has conducted.

In addition to having concerns about Methodist Le Bonheur Healthcare's financial-assistance and debt-collection practices, I am also concerned about how patients' hospital bills get so high in the first place. I have the following additional questions about Methodist Le Bonheur Healthcare's billing practices:

¹⁴ Wendi C. Thomas, *Methodist Le Bonheur erases debts of more than 6,500 patients it sued*, *MLK50: JUSTICE THROUGH JOURNALISM*, Sept. 24, 2019, at <https://mik50.com/we-reported-on-methodist-le-bonheur-suing-patients-it-erased-the-debts-of-more-than-6-500-patients-ade13e8e2e6d>.

19. Methodist Le Bonheur Healthcare appears to list “Hospital Charges” on the internet. However, those prices “do not include any provider fees that may be associated with a hospital visit.”¹⁵
- a. In this context, what is a “provider fee”?
 - b. Prior to receiving services from Methodist Le Bonheur Healthcare, whether medically necessary or otherwise, how do patients know what the final costs of those services are going to be, whether such patients are covered by health insurance or not?
20. Under the Internal Revenue Code, tax-exempt hospitals are prohibited from billing patients without health insurance, and who are otherwise eligible for financial assistance, more than what individuals who have insurance are billed for medically necessary care.¹⁶ How does Methodist Le Bonheur Healthcare ensure that it complies with this requirement? Since the beginning of 2014, what percentage of patients who received medically necessary care from Methodist Le Bonheur Healthcare and did not have health insurance were billed at rates commensurate with this requirement in the tax code?
21. I understand Methodist Le Bonheur Healthcare’s latest Chargemaster (price list) is available on Methodist Le Bonheur Healthcare’s website here: https://www.methodisthealth.org/files/billing/Methodist%20Le%20Bonheur%20Healthcare%20Chargemaster%202019_Addendum1.xlsx. Is this document Methodist Le Bonheur Healthcare’s most up-to-date Chargemaster?
- a. What do the prices on this document represent?
 - b. How are these prices determined?
 - c. How do the prices that Methodist Le Bonheur Healthcare negotiates with insurance companies compare to these prices? If there is a fixed ratio for determining the prices Methodist Le Bonheur Healthcare negotiates with and/or charges insurance companies as compared to these prices in the Chargemaster, what is that ratio? If there is another method for determining the prices Methodist Le Bonheur Healthcare negotiates with and/or charges insurance companies as compared to these prices on the Chargemaster, what is that other method?
 - d. Who pays these prices?

¹⁵ Methodist Le Bonheur Healthcare, Insurance & Billing, at <https://www.methodisthealth.org/patients-guests/billing-department.dot>.

¹⁶ 26 U.S.C. §501(r)(5) (2019).

- i. How do these prices relate to hospital bills that a patient might receive if he or she is covered by health insurance that considers Methodist Le Bonheur Healthcare “out-of-network”?
 - ii. How do these prices relate to hospital bills that a patient might receive if he or she does not have health insurance?
- e. For patients who might incur these costs (or some pre-determined fraction of them), how does Methodist Le Bonheur Healthcare explain to patients seeking care that is not medically necessary that these are the costs they might incur (or some pre-determined fraction of them)?
- f. For patients who might incur these costs (or some pre-determined fraction of them), how does Methodist Le Bonheur Healthcare explain to patients who require medically necessary and immediate care, and might not be in a position to understand costs they would incur as a result of that care, that these are the costs they might incur (or some pre-determined fraction of them)?
- g. The Chargemaster appears to list a cost of \$8,159.00 for “X-RAY AORTA LEG ARTERIES.”
 - i. What is this service/supply?
 - ii. Why does this service/supply cost \$8,159.00?
- h. The Chargemaster appears to list a cost of \$2,605.00 for “VEIN X-RAY ARM/LEG.”
 - i. What is this service/supply?
 - ii. Why does this service/supply cost \$2,605.00?
 - iii. What is the difference between the service/supply listed as “X-RAY AORTA LEG ARTERIES” and the service/supply listed as “VEIN X-RAY ARM/LEG”?
 - iv. Why is there a \$5,554.00 difference between the prices of these two services/supplies?
 - v. What procedures or protocols does Methodist Le Bonheur Healthcare employ to ensure that its employees do not accidentally record a patient having received the “X-RAY AORTA LEG ARTERIES” service/supply when in fact that patient received the “VEIN X-RAY ARM/LEG” service/supply, or ensure that employees do not accidentally make similar billing errors?

- i. The Chargemaster appears to list a cost of \$172.00 for “PLACE NEEDLE IN VEIN.”
 - i. What is this service/supply?
 - ii. Why does this service/supply cost \$172.00?
- j. The Chargemaster appears to list a cost of \$172.00 for “WHEELCHAIR MNGMENT TRAINING.”
 - i. What is this service/supply?
 - ii. Why does this service/supply cost \$172.00?
- k. The Chargemaster appears to list a cost of \$32.00 for “VITAMIN B-12.”
 - i. What is this service/supply?
 - ii. Why does this service/supply cost \$32.00?

Please answer the above questions on a question-by-question basis, indicating which questions you are answering, no later than January 7, 2020. Should you have questions, please contact John Schoenecker or Quinton Brady of my Committee staff at (202) 224-4515. Thank you for your attention to this important mater.

Sincerely,



Charles E. Grassley
Chairman
Senate Committee on Finance