



an informational series for hospital leaders

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Tax-Exempt Provisions of Health Reform

The Patient Protection and Affordable Care Act (PPACA) included several provisions relating to nonprofit hospitals' qualification for federal tax-exemption under Section 501(c)(3) of the Internal Revenue Code that are effective for tax years beginning after March 23, 2010. This is the section that exempts certain nonprofit hospitals from federal income tax. A new Section 501(r) was created that requires hospitals to meet certain additional requirements with respect to community health needs, financial assistance, charge limits and billing and collections. For hospital systems, the new requirements must be met by each individual hospital within the system.

Illinois hospitals should have implemented most of these requirements due to the passage of Illinois laws pertaining to these issues: the Community Benefits Act, the Fair Patient Billing Act and the Hospital Uninsured Patient Discount Act. Further information on these Acts can be found on [IHA's web site](#).

However, tax-exempt hospitals should review their policies and procedures before the start of their next tax year to ensure they are compliant. It is likely that the additional reporting will be conducted through the IRS Form 990 and further guidance from the IRS should be forthcoming.

New Requirements

1. **Community Health Needs Assessment.** Hospitals must conduct a health needs assessment every three years and develop an implementation strategy to meet the identified needs. Such assessment shall include input from the community. A \$50,000 penalty is applied if this assessment is not done.

To start the process, hospitals will need to conduct a new needs assessment sometime during the period between the start of its tax year that begins after March 23, 2010 and the end of its tax year that begins after March 23, 2012. For example, a calendar taxpayer would need to conduct the initial assessment sometime in 2011, 2012, or 2013.

2. **Financial Assistance Policy.** Hospitals must have a written financial assistance policy outlining eligibility criteria, how to apply, whether it includes free or discounted care, the basis for calculating amounts charged

to patients, billing and collections procedures if not in separate policy, and measures to publicize the policy.

Hospitals must also have a written policy requiring the provision of emergency care without respect to the patient's ability to pay as required under the Emergency Medical Treatment & Labor Act (EMTALA), Section 1867 of the Social Security Act.

3. **Limit on Charges.** Hospitals must limit amounts charged to patients eligible under the hospital's financial assistance policy "to not more than the amounts generally billed to individuals who have insurance covering such care" and prohibits the use of gross charges (presumably for billing those eligible for financial assistance).

Illinois hospitals will already have applied the Hospital Uninsured Patient Discount Act and will need to examine their insurance contracts to see if further discounts are needed. It is anticipated that there will be further guidance from the IRS in this area and hospitals should seek advice from their legal and tax consultants in the interim.

4. **Billing and Collections.** Hospitals cannot engage in extraordinary collection actions before it has made reasonable efforts to determine if the patient is eligible for financial assistance.

The Secretary of the Treasury will issue regulations necessary to implement these provisions; including the definition of "reasonable efforts" with respect to determining if a patient is eligible for financial assistance prior to extraordinary collection actions.

Additional Review and Submission of Data

In addition, the legislation requires a review by the IRS of hospitals' community benefit activities at least once every three years.

Hospitals will need to annually submit a description of how the hospital is addressing its community's needs and the reasons any identified needs are not being addressed. Audited financial statements must also be submitted annually.

Future Reports

The Secretary of the Treasury must report annually to several Congressional committees on charity, bad debt, unreimbursed costs of government programs including Medicaid and Medicare and community benefit activities of hospitals. Within five years, a report on the trends of these study areas is required.

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