



July 22, 2010

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Submitted via U.S. Mail and electronically to notice.comments@irsconsult.treas.gov

Commissioner of Internal Revenue
Attn: CC:PA:LPD:PR (Notice 2010-39)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

**RE: Notice 2010-30
Request for Comments Regarding Additional Requirements for Tax-Exempt
Hospitals**

The Illinois Hospital Association (IHA), on behalf of its nearly 200 members, welcomes this opportunity to submit comments in response to the Notice issued by the Internal Revenue Service on May 27, 2010. These comments regard the new requirements imposed by new section 501 (r), added to the Internal Revenue Code by section 9007(a) of the Patient Protection and Affordable Care Act (the Act).

Limitation on Charges

Section 501(r) limits the amounts a hospital may *charge* for emergency or medically necessary care, provided to patients who are eligible for assistance under the hospital's financial assistance policy, to no more than the *amounts generally billed* to individuals who have insurance coverage. Several states, including Illinois, have mandated certain discounts for hospital patients with financial need and these requirements should be recognized as the "amounts generally billed." The Illinois Hospital Uninsured Patient Discount Act, passed in 2008, mandates that Illinois hospitals provide certain discounts from charges to eligible uninsured Illinois residents. The underlying intent of providing discounts to those qualifying for financial assistance similar to that available to patients with third-party coverage is met through compliance of state laws mandating such discounts.

Section 501(r) also prohibits the use of *gross charges* in billing. It is important to recognize that gross charges are the starting point for all services provided to patients and is also used to ensure the Medicare requirement that hospitals have an established charge structure that is applied uniformly to each patient. In arriving at the amount a patient is

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expected to pay, reductions are made from the gross charges based on negotiated contracts with insurance companies or requirements mandated by Medicare and Medicaid.

The intent of this section is that patients eligible under a hospital's financial assistance policy will not be expected to pay more than the amounts insured patients are expected to pay. Therefore, it should be clear that the prohibition on the use of gross charges only applies when billing patients who are known to qualify under the hospital's financial assistance policy. If a hospital is not aware that a patient qualifies for assistance, or for individuals who do not qualify for financial assistance, the usual billing process would apply. It should also be clear that the prohibition does not apply to the use of gross charges as the starting point for calculating the amount a patient eligible for financial assistance is expected to pay. That is the general practice across all hospitals, all patients and all payers, and should not be affected by Section 501(r), as long as an appropriate reduction in gross charges is made based on the amount generally billed to those who have insurance coverage.

Community Health Needs Assessment

Hospitals are required to conduct a community health needs assessment every three years and adopt an implementation strategy to meet the needs identified in the process. It is recommended that such needs assessment should include information on the input provided by persons who represent the broad interests of the community served and a description the health needs identified.

The new requirement that hospitals describe how they are meeting or not meeting the needs identified in the assessment process is best implemented by allowing hospitals to describe the needs they are able to address and how. Many needs may be identified during the assessment process that are not within the hospital's mission, expertise, or focus and the hospital may concentrate on those needs that fall within its mission and are not already being adequately addressed by other organizations.

To make the assessment "widely available" as required, it is recommended that using the same posting and notification already required of the Form 990 would be the most consistent and useful.

Billing and Collection

The statute prohibits a hospital from extraordinary collection efforts until it has made reasonable efforts to determine if a patient is eligible for financial assistance. Such "extraordinary collection efforts", as outlined in the Joint Committee on Taxation Technical Explanation, include lawsuits, liens on residences, arrests, body attachments, or

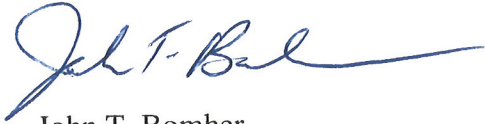
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other similar collection processes. It is recommended that this definition be utilized but “other similar collection processes” be deleted so as not to cause uncertainty.

It is recommended that “reasonable efforts” would include public notification of the availability of financial assistance through posting of signs, brochures, and statements in bills and on the hospital website if it has a website.

Thank you for the opportunity to provide comments,

Sincerely,

A handwritten signature in blue ink, appearing to read "John T. Bomher", with a long horizontal flourish extending to the right.

John T. Bomher
Senior Vice President
Illinois Hospital Association