

# IHA Policy Brief

## Tax-Exempt Hospital Requirements Under Health Care Reform: The law applies several additional requirements to qualify as a 501 (c)(3) hospital.

Background: Section 9007 of the Patient Protection and Affordable Care Act provides for several new requirements to organizations that are tax exempt under section 501(c)(3) and that operate a facility which is required by the state to be “licensed, registered or similarly recognized as a hospital.” In addition, the requirements are applicable to any other organization that, as determined by the Secretary of the Treasury, has the principle function of providing hospital care as the basis for its tax-exempt status. If an organization operates more than one hospital facility, each separate hospital must comply with the requirements.

### Issues:

#### Community Health Needs Assessment:

- Each hospital must conduct a community health needs assessment once every three years and adopt an implementation strategy to meet the community health needs identified through the assessment. The assessment must include input from individuals who represent the broad interests of the community served by the hospital, including those with special knowledge of or expertise in public health. An action plan must be developed by the hospital that identifies how the assessment findings are being implemented in a strategic plan. If the findings are not being utilized in a strategic plan, documentation must be included as to why they are not being addressed at this time. The assessment must be made widely available to the public.
- The assessment requirements apply to tax years that start after March 23, 2012. A hospital can meet the requirement by conducting an assessment and adopting an implementation strategy in that tax year, or in either of the two immediately preceding tax years. So, for a hospital that is a calendar year taxpayer, the assessment could be conducted in 2011, 2012, or 2013.
- A \$50,000 penalty will be imposed on any hospital that does not meet the community needs assessment requirement in the initial three year period, or any subsequent period.

### **Financial Assistance Policy:**

- A hospital organization must establish a financial assistance policy and a policy relating to emergency medical care. The financial assistance policy shall include:
  - Eligibility criteria for financial assistance, and whether such assistance includes free or discounted care;
  - The basis for calculating amounts charged to patients;
  - The method for applying financial assistance;
  - In the case of an organization that does not have a separate billing and collections policy, the actions the organization may take in the event of nonpayment, including collections actions and reporting to credit agencies; and
  - Measures to widely publicize the policy within the community to be served by the organization.
- A hospital organization must have a written policy requiring the organization to provide, without discrimination, care for emergency medical conditions to individuals regardless of their eligibility under the financial assistance policy.

### **Debt Collection:**

- A hospital facility may not undertake extraordinary collection actions against a patient without first making “reasonable efforts” to determine whether the individual is eligible for the hospital’s financial assistance policy. The Joint Committee on Taxation’s Technical Explanation of the Affordable Care Act states that “‘reasonable efforts’ includes notification by the hospital of its financial assistance policy upon admission and in written and oral communications with the patient regarding the patient’s bill, including invoices and telephone calls, before collection action or reporting to credit agencies is initiated.”

### **Reporting and Disclosure:**

- Hospitals are required to report annually to the IRS how they are meeting identified community needs, including a description of any cases not being addressed and the reasons why they are not, and provide audited financial statements. Hospitals also need to report any penalties to be paid for failure to meet the new community health needs assessment requirement. The Secretary is required to review information about a hospital’s community benefit activities (currently reported on Form 990, Schedule H) at least once every three years. The provision also requires each organization to which the provision applies to file with its annual information return (i.e., Form 990) a copy of its audited financial statements (or, if the organizations is included in a consolidated financial statement, that consolidated financial statement).
- The IRS amended Part V of Schedule H to incorporate into Form 990 the requirements of these new standards. On February 23, 2011, the IRS released a revised Schedule H with instruction and announced a mandatory three month extension for filing IRS Form 990

for certain filers. All filers with hospital organizations that have filing due dates before August 15, 2011 are directed not to file before July 1.

The new schedule H and the filing deadlines are controversial as they expand the paperwork required of hospitals beyond what is called for in the statute. The questions regarding community needs assessments are optional for the 2010 filing, and the instructions explain the community health needs assessment requirements do not begin until tax years beginning after March 23, 2012. However, the rest of Part V is not marked optional even though the questions are not applicable to hospitals whose fiscal year began before March 23, 2010, the effective date of the legislation. **Therefore, the entire Part V.B. is entirely optional for calendar year filers whose fiscal years began January 1 through March 23, 2010.**

- The Secretary, in consultation with the Secretary of HHS, is required to submit annually a report to Congress with information regarding the levels of charity care, bad debt expenses, unreimbursed costs of means-tested government programs, and unreimbursed costs of non-means tested government programs incurred by private tax-exempt, taxable, and governmental hospitals, as well as the costs incurred by private tax-exempt hospitals for community benefit activities. In addition, the Secretary, in consultation with the Secretary of HHS, must conduct a study of the trends in these amounts, and submit a report on such study to Congress not later than March 23, 2015.