Complying with IRS Requirements: Community Health Needs Assessments

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September 17, 2012
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Overview of Today’s Session

- Review of IRS Guidelines on community health needs assessments (CHNA)
- Status of IRS CHNA Guidelines
- Disconnect between IRS Guidelines and Community Benefit Reporting Requirements
- Discussion of key compliance strategies
- Growing interest in collaborative assessments
- Connecting CHNA to community benefit reporting requirements
ACA Additions to IRS Tax Code for Tax Exempt Hospitals

- **Sections 501(r)(3)**
  - Community health needs assessments every 3 years
  - Effective for tax years beginning after March 2012

- **Sections 501(r)(4-6)**
  - Financial assistance and emergency care policies; limitations on patient charges; limits on billing and collection practices
  - Effective for tax years beginning after March 2011

- **Must be viewed within the context of changes to Form 990 community benefit reporting requirements (Schedule H)**
Community Health Needs Assessment (CHNA)

• CHNA must:
  – Be conducted not less than every three years
  – Adopt strategy to address needs identified through CHNA
  – Incorporate input from persons representing the broad interests of the community, including those with interest/expertise in public health
  – Be made widely available to the public

• As part of its Form 990 filing, hospital must describe:
  – Its CHNA process
  – How it is meeting identified needs through CHNA
  – Any needs that are not being addressed and why
CHNA Is Part of a Larger Process

- CHNA
- Community Benefit Framework
- Evaluation
- Implementation
- Strategy
Process

• Must describe the process and methods used for CHNA, including identities and qualifications of 3rd party collaborators
• Must identify information gaps that impact ability to assess the health needs of the community served by the hospital facility
• Must identify/assess health needs of community served
• Must incorporate input from persons who represent the broad interests of the community served
• May collaborate with other organizations and use information collected by other organizations (e.g., public health agency)
Oversight and Reporting Requirements

- Secretary of the Treasury shall:
  - Review the community benefit activities of reporting hospitals at least once every 3 years
  - Report to Congress on levels of charity care, bad debt, and unreimbursed costs for services for means- and non-means tested government programs incurred by all hospitals; and information on the community benefit activities of private tax-exempt hospitals
  - Report to Congress on trends in the above not later than 5 years after the enactment of the ACA
Penalties for Failure to Comply

- For provisions related to CHNAs, IRS will impose a $50,000 excise tax for any (and all) taxable year that a hospital fails to comply with these provisions
- Potential challenges to tax exempt status
Reasons for Concern

- CHNA requirements developed within ongoing policy debate about hospital tax exemptions and community benefit
- Community benefit activities are “expected” to address identified community needs
- Hospitals must adopt strategies to address needs identified through CHNA and, as applicable, explain why it has chosen not address needs identified
- Linking CHNAs and community benefit is intended to bring accountability and transparency to the process
- IRS to examine community benefits and report to Congress
More Reasons to Worry….

- In today’s political/economic environment, nonprofits must be accountable for their tax exemptions
  - *Do No Harm* profiled two whistle blowers who exposed “aggressive” business practices at Phoebe Putney Memorial Hospital in Albany, GA
  - Illinois Supreme Court ruled against reinstating tax exempt status of Provena Covenant for providing insufficient charity care
  - The battle still rages in Illinois: Department of Revenue denied property tax exemptions for three nonprofit hospitals. Gov. Quinn is developing legislation to clarify what is an “adequate level of charity care”
  - New Hampshire Governor raised the possibility of a challenge to LRHHealthcare’s tax exempt status following its decision to close 12 primary care practices to current/new Medicaid patients in Nov. 2011
Status of IRS Guidelines

- Notice 2011-52 details provisions that the IRS anticipates will be in proposed regulations
- Can rely on terms of Notice 2011-52 with respect to CHNAs for 6 months following issuance of replacement guidance
- Applies to all 501(c)(3) hospitals
  - Includes government hospitals with dual status even though they do not currently file Form 990
- Current Form 990, Schedule H incorporates ACA changes for financial/billing policies and CHNAs
Key Issues Covered in 2011-52

• Hospital organizations affected – multi-hospital facilities
• CHNA documentation – When/how to conduct CHNA
• Definition of community served
• Community input into process and plan
• Widely available to the public (CHNA is “completed” when written report is made widely available to the public)
• Implementation strategy - how/when to adopt strategy
• Excise taxes
• CHNA reporting requirements
• Effective date
CHNA Reporting Requirements

- A written report must be prepared describing:
  - The community served and how it was determined
  - Process and methods used to conduct CHNA
  - All collaborating organizations (if any)
  - How input on the broad interests of the community served was obtained (who was consulted as well as how and when they were consulted)
  - All needs identified through CHNA, their prioritization, and the process/criteria used in prioritizing identified needs
  - Existing healthcare facilities and other resources in the community available to meet need identified in CHNA (resource inventory)

- Hospitals must respond to Form 990, Schedule H questions on CHNA Process
Defining the Community Served

- Hospital must describe the community it serves and how it was determined. Options:
  - Geographic location (i.e., city, county, or metropolitan region)
  - Target populations served (i.e., children, women, or the aged)
  - Principal functions (i.e., specialty area or targeted disease)
- May not be defined in a manner to exclude:
  - Medically underserved populations, low-income persons, minority groups, or chronic disease needs
- Can use billing/patient records to identify areas where the majority of the hospital’s patients come from
- Key is to be reasonable in defining service area
Community Input

• Must incorporate input from persons who represent the broad interests of the community served
  – Special knowledge of or expertise in public health
  – Federal, tribal, regional, state, or other local health departments
  – Leaders, representatives or members of medically underserved, low income, minority or chronic disease populations

• May incorporate input from other community representatives
  – Health care consumer advocates, non-profit organizations, community organizations/Agencies, academic experts, local government and school officials, health care providers, low-income persons, minority groups, individuals with chronic needs, businesses/Chamber of Commerce, health insurers/managed care organizations
Documenting Community Input

- Document how the hospital took into account input from persons representing the broad interests of the community
- Document when/how these individuals/groups were consulted
  - Meetings, focus groups, interviews, survey, written correspondence, etc.
- Identify names, titles, and affiliations of individuals consulted
- For individuals with special knowledge/expertise in public health, briefly describe their expertise/knowledge
- For individuals representing vulnerable populations, briefly describe their leadership/representative role
Other Reporting Requirements

• Prioritization of community health needs
  – Describe all community health needs identified by CHNA, their prioritization, and the process/criteria used in prioritizing such needs

• Resource inventory
  • Describe existing health care facilities and resources within the community available to meet community health needs identified through CHNA

• One assessment must be conducted every 3 years and considered conducted in the taxable year that the written report is made widely available to the public.
Dissemination of CHNA Results

• Must be made widely available to the public and remain available until a subsequent CHNA is made widely available

• Must be posted on hospital’s/organization’s website or, for those without a website, on another entity’s website as long as either:
  – A link is provided with instructions for accessing the report; or
  – A direct access website address/URL is provided to anyone requesting it

• Considered “widely available” if:
  – Website provided clear instructions for downloading the report;
  – Document available must be an exact version;
  – Access is free and does not require special hardware/software; and
  – Direct access website address/URL is provided to anyone requesting it
Coordinate CHNA Efforts

• Federal grantees, state/local public health departments, FQHCs, etc have needs/mandates to conduct CHNAs
  – National voluntary accreditation program for PH departments requires a CHNA and a community health improvement plan
  – MAPP process for local health departments
• Coordinate efforts to maximize information and minimize cost
• Requires a broader focus; may be more time consuming and labor intensive; collaboration can be messy
• Benefits: greater involvement and acceptance by community, participants can share costs
After the CHNA: Next Steps

• Develop an implementation strategy
  – Use evidence based strategies to address priorities (Sources: CDC, Catholic Health Association, Public Health Institute)
  – Critically evaluate existing “legacy” activities
  – Focus on charity/discounted care policies to expand access
  – Analyze bad debt activity to understand access issues
  – An inclusive process to prioritize community needs can support/defend decisions on which needs hospital will or will not address

• Develop ways to measure and communicate progress
  – Develop performance indicators tied to community priorities
  – Share information with community – A crucial step in building trust
Implementation Strategy

- Hospital is expected to develop a written implementation strategy describing how it plans to meet each of the health needs identified through the CHNA.
- A copy of the most recently adopted implementation strategy must be attached to the annual Form 990.
- For multi-hospital organizations, each hospital must meet this requirement separately.
- Plan must identify needs that the hospital does not intend to meet and explain why.
- An valid and inclusive priority setting process can support the hospital’s decisions regarding the needs it will address.
Implementation Strategy Requirements

• Describe how the hospital plans to meet each health need that it intends to address
  – Identify programs and resources used to meet the health need
  – Describe anticipated impact of the commitment of programs/resources
  – Describe any planned collaboration with other organizations (related organizations, other hospitals, nonprofit organizations, state and local agencies, etc.) – All organizations must be specifically identified

• Each hospital must adopt its implementation strategy by the last day of the first tax year beginning after March 23, 2012
  • Must be adopted in same tax year as the CHNA was conducted
  • Considered “adopted” when approved by hospital’s governing body
Recommendations

• Focus implementation plan on priority needs identified through CHNAs
• Review IRS and Catholic Health Association community benefit reporting guidelines
• Align strategies with key community benefit activities
• Ensure that the two reports are in sync
• Form 990 includes community benefit activities not likely to appear in a CHNA
• Capture and report full range of allowable community benefit activities
Linking CHNA and Form 990: Implementation Strategy

• IRS guidance doesn’t explicitly link CHNAs to Form 990 community benefit reporting requirement

• How does it all fit together?
  – **CHNA** – Posted on hospital website/internet and made widely available
  – **Implementation Strategy** – Submitted each year as part of each hospital’s Form 990 filing
  – **IRS Form 990, Schedule H** – Hospital community benefit activity reported on Schedule H

• How might the IRS use this information?
  – Compare community benefits reported in Schedule H to the needs identified in CHNA and those addressed in the implementation strategy
Form 990 Questions on CHNA

What does the CHNA describe? (check all that apply)

- Definition of the community served by hospital
- Demographics of community
- Existing community facilities/resources available to respond to needs
- How data was obtained
- Health needs of community
- Primary/chronic disease needs and health issues of uninsured persons, low-income persons, and minority groups
- Process for identifying and prioritizing health needs and services needed
- Process for consulting with persons representing community’s interests
- Information gaps limiting hospital’s ability to assess all of community’s health needs
Form 990 Questions on CHNA

• Did the hospital solicit input from persons who represent the community served by it? If yes:
  – Describe the process used
  – Identify persons consulted

• How did the hospital make its CHNA available to public?
  – Hospital website
  – Upon request from hospital
  – Other (describe)
Form 990 Questions on CHNA

• If hospital addressed needs identified in CHNA, indicate how:
  – Adoption of implementation strategy to address community needs
  – Execution of implementation strategy
  – Participation in development of community-wide community benefit plan
  – Participation in execution of community-wide community benefit plan
  – Inclusion of community benefit section in operational plans
  – Adoption of budget for provisions of services identified in CHNA
  – Prioritization of health needs in community
  – Prioritization of services identified in CHNA that hospital will undertake

• Did hospital address all needs identified in CHNA?
  • If no, explain which needs were not met and why
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Focus on Addressing Unmet Community Needs

• For purposes of the IRS, CHNA in an integral part of a tax-exempt hospital’s community benefit obligations

• Coming “full circle” to reconnect hospitals to their communities and re-emphasize their charitable mission

• Goal: move focus away from “random acts of kindness” to:
  – Community engagement
  – Collaboration between providers, public health, and other organizations
  – Accountability to identified local needs
  – Focus on accessibility of services and prevention
  – Focus on population health issues