Complying with IRS Requirements: Community Health Needs Assessments

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A Performance Monitoring Resource for
Critical Access Hospitals, States, and Communities

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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

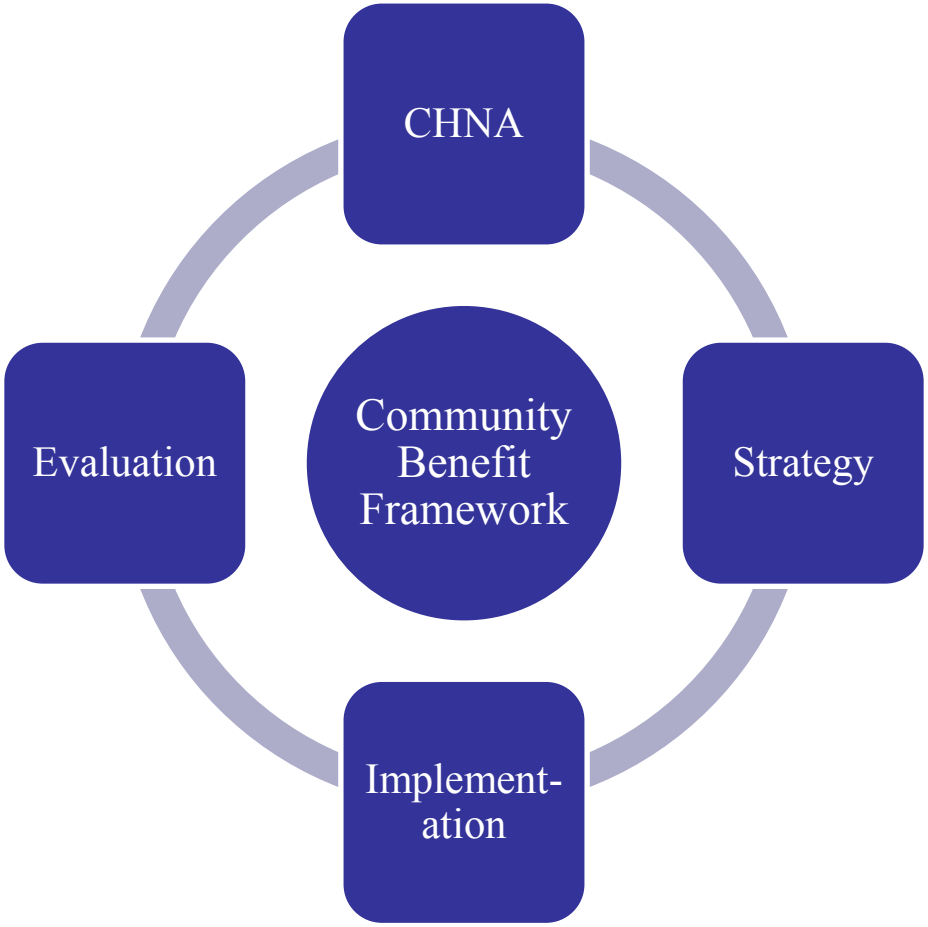
ACA Additions to IRS Tax Code for Tax Exempt Hospitals

- 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



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 manor 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 pubic 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