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IRS Proposes Requiring a Community Health Needs Assessment for Tax-Exempt Hospitals

On July 7, 2011, the Internal Revenue Service (IRS) published Notice 2011-52, which describes anticipated regulatory provisions for the community health needs assessment (CHNA) required for tax-exempt hospitals pursuant to the Patient Protection and Affordable Care Act of 2010 (PPACA). [Click here](#) for a copy of the Notice. The IRS requests comments on these provisions and expects them to be included in the proposed regulations under IRC §501(r).

Background

By adding §501(r) to the Internal Revenue Code (IRC), the PPACA set forth new requirements that tax-exempt hospitals must follow in order to maintain their tax-exempt status under §501(c)(3). Among other new requirements, §501(r) requires hospitals to: (1) conduct a CHNA once every three years, (2) adopt an implementation strategy to meet the health needs identified in the CHNA, (3) include input from individuals who represent broad interests of the community served by the hospitals, and (4) make the CHNA widely available to the public. Tax-exempt hospitals are required to complete a CHNA by the last day of their first tax year beginning after March 23, 2012.

Additionally, on its Form 990, each hospital must include a report describing how the hospital is addressing the needs identified in the CHNA, along with a summary of the needs that are not being addressed and an explanation as to that failure. Failure to meet the CHNA requirements may result in a \$50,000 excise tax.

Proposed Community Health Needs Assessment Rules

- *Document a CHNA*

The IRS provides that CHNA documentation shall be in the form of a written report, which must include the following:

1. A description of the community served by the hospital and how the description was determined.
2. A description of the process and methods used to conduct the assessment, including a description of the sources and dates of the data and other information used in the assessment, and the analytical methods applied to identify community health needs.

3. A description of how the hospital took into account input from persons who represent broad interests of the community served by the hospital, including a description of when and how the hospital consulted with these persons. The report should also identify any organizations from which the hospital received input.
4. A prioritized description of all the community health needs identified through the CHNA, as well as a description of the process and criteria used in prioritizing such health needs.
5. A description of the existing health care facilities and other resources within the community available to meet the health needs identified in the CHNA.

- *How and When a CHNA is Conducted*

The IRS provides that a CHNA is “conducted” in the tax year that the written report is made widely available to the public. The IRS also provides that a hospital satisfies the requirements only if a CHNA identifies and assesses the health needs of, and takes into account, input from persons who represent the broad interests of the community served by the hospital. To satisfy these requirements, the IRS will allow a hospital to base a CHNA on information collected by other organizations, such as a public health agency.

- *Community Served By a Hospital*

The IRS provides that a hospital may take into account all relevant facts and circumstances in defining the community it serves; however, the IRS expects that such definition will include a geographic location. The IRS also provides that the hospital’s community may not be defined in a manner that circumvents the requirement to assess the health needs of the community served by the hospital.

- *Persons Representing the Broad Interests of the Community*

A CHNA must, at a minimum, take into account input and information from: (1) persons with special knowledge of, or expertise in, public health, (2) federal, tribal, regional, state or local health agencies, and (3) leaders, representatives or members of medically underserved low-income and minority populations and populations with chronic disease needs in the community served by the hospital. Additionally, a hospital may also consult with other persons located in or serving the community, such as a healthcare consumer advocate, nonprofit organization or academic expert.

- *Make the CHNA Widely Available to the Public*

A CHNA can be made “widely available to the public” when the written report is posted on the hospital’s website (or when posted on the website of the organization that owns the hospital). However, in order to comply with this requirement: (1) the website must clearly inform readers that the CHNA is available online and provide instructions for downloading the CHNA document, (2) the CHNA document is posted in a format that, when accessed, downloaded, viewed and

printed in hard copy, will produce the exact image of the hospital's written report, (3) any individual with access to the Internet can download, view and print the CHNA document without the use of special hardware or software and without paying a fee to the hospital, and (4) the hospital provides any individual requesting a copy of the written report with the direct website address where the CHNA document can be accessed.

- *Demonstrate an Implementation Strategy*

The IRS defines a hospital's "implementation strategy" as a written plan that addresses each of the community health needs identified through the CHNA. Compliance with this requirement is accomplished by either: (1) describing how the hospital plans to meet the health need, or (2) identifying such need as one that the hospital does not intend to meet, and explaining why the hospital does not intend to or cannot meet the need. The IRS will consider the CHNA implementation strategy as "being adopted" when such strategy is approved by the hospital's authorized governing body.

- *Reporting Requirements*

On Schedule H of the Form 990, a hospital must provide: (1) a description of how it is addressing the needs identified in the CHNA, and (2) a description of any needs not being addressed along with an explanation why such needs are not being addressed. The hospital must also attach the CHNA implementation strategy to its Form 990. If the hospital only conducts one CHNA and adopts one implementation strategy in a given three-year period, the IRS will allow the hospital to attach the same implementation strategy to the Form 990 for each of those three years.

Action Steps

Although CHNAs are not required to be completed until the first tax year beginning after March 23, 2012, tax-exempt hospitals should begin laying the groundwork for this important project. Hospitals that conduct CHNAs and adopt implementation strategies prior to the effective date of the CHNA requirements may rely on guidance provided under Notice 2011-52 until six months after further guidance is issued. The IRS is accepting public comments on Notice 2011-52 until September 23, 2011.

If you have questions concerning the CHNA requirements or any other requirements affecting tax-exempt hospitals under the PPACA, please contact any member of the Honigman Health Care Department.