

CHA Summary of IRS Notice of Proposed Rulemaking: Community Health Needs Assessments and Implementation Strategies (April 2013)

Background

Provisions in the Affordable Care Act (ACA) require charitable hospitals to conduct community health needs assessments and adopt implementation strategies to meet needs identified through the community health needs assessment (CHNA). In July of 2011 the IRS published *Notice 2011-52: Notice and Request for Comments Regarding the Community Health Needs Assessment Requirements for Tax-exempt Hospitals*, (link to <http://www.irs.gov/pub/irs-drop/n-11-52.pdf>) which provided anticipatory guidance on these new federal requirements.

The proposed rule on the CHNA requirements in the ACA (link to http://www.ofr.gov/OFRUpload/OFRData/2013-07959_PI.pdf) released on April 5 (summarized here) is mostly consistent with the guidance in Notice 2011-52. Additional or substantially-reworded sections compared with Notice 2011-52 appear in red text below. Deleted material appears in blue text.

Community Health Needs Assessment – Proposed IRS Requirements

When must a community health needs assessment (CHNA) be conducted?

- During the current tax year or in either of the two immediately preceding taxable years, beginning March, 2012.
- Considered “conducted” in the taxable year that the **final** written assessment report is made publicly available. **If a version of the report that is marked as a draft is publicly released for the purposes of obtaining public comment, the report is not considered to be made publicly available and “conducted.”**

How is a community health needs assessment conducted?

- A hospital must define the community it serves and assess the health needs of that community.
- Hospitals must take into account input from persons who represent the broad interests of the community served by the hospital, including those with special knowledge of or expertise in public health.
- **Hospitals must document the CHNA in a written report that is adopted by an authorized body of the facility.**
- **Hospitals must make the CHNA report widely available to the public. See page 4 for proposed modifications.**

Whose input must hospitals take into account when conducting the assessment?

Hospitals must take into account input from persons who represent the broad interests of the community served by the hospital, including those with special knowledge of or expertise in public health. At a minimum, hospitals need to take into account input from:

- At least one state, local, tribal, or regional government public health department (or equivalent department or agency) with knowledge, information, or expertise relevant to the health needs of that community;
- Members of medically underserved, low-income and minority populations in the community served by the hospital facility, or individuals or organizations serving or representing the interest of such populations; (reworded)
 - Members of medically underserved include populations experiencing health disparities or at risk of not receiving adequate medical care as a result of being uninsured or underinsured or due to geographic, language, financial or other barriers.
- Written comments received in the hospital facility’s most recently conducted CHNA report and most recently adopted implementation strategy.

Input from persons representing the broad interest of the community includes:

- Input on any financial or other barriers to access care in the community.
- Input from a broad range of persons located in or serving its community, including health care consumers and consumer advocates, nonprofit and community-based organizations, academic experts, local government officials, local school districts, health care providers and community health centers, health insurance and managed care organizations, private businesses, and labor and workforce representatives.

How is community defined?

- Hospitals should define community taking into account “all of the relevant facts and circumstances” concerning the community a hospital serves, including geographic area served, target populations served, and principal functions.
- Hospital may define its community to include populations in addition to its patient populations and geographic areas outside of those in which its patient populations reside. For example, a hospital collaborating with other hospitals in its Metropolitan Statistical Area (MSA) in conducting a CHNA may define its community as the entire MSA in which all of the collaborating hospitals are located, even if the hospital itself only generally serves and draws its patients from a portion of that MSA.
- Community may not be defined in a way that excludes medically underserved, low-income, or minority populations who are part of a hospital’s patient populations, live in geographic areas in which its patient populations reside (unless they are not part of the facility’s target populations) or otherwise should be included. **Medically underserved populations include populations experiencing health disparities or at risk of not receiving adequate medical care as a result of being uninsured or underinsured or due to geographic, language, financial, or other barriers.**
- In defining patient population, must include all who receive care without regard to insurance coverage or eligibility for assistance.

How are community health needs assessed?

- Hospitals must identify significant health needs of the community.
- Health needs include requisites for the improvement or maintenance of health status in both the community at large and in particular parts of the community (such as neighborhoods or populations experiencing health disparities).
- Needs must be prioritized.

How are need prioritized?

- Hospitals may determine whether a need is significant based on all of the facts and circumstances present in the community it serves.
- Hospital may use any criteria it deems appropriate to prioritize significant health needs including, but not limited to, the burden, scope, severity, or urgency of the health need; the estimated feasibility and effectiveness of possible interventions; the health disparities association with the need; and/or the importance the community places on addressing the need.

How is community health needs assessment documented?

Written report of the CHNA must include:

- Definition of the community served by the hospital and a description of how the community was determined.
- Description of the process and methods used to conduct the assessment:
 - The data and other information used in the assessment.
 - Methods of collecting and analyzing this data and information.
 - Any parties with whom the hospital collaborated or contracted for assistance.
- Description of how the hospital took into account input from persons who represent the broad interests of the community it serves. More specifically, the CHNA report should:
 - Summarize the input of these persons and how and over what time period such input was provided.
 - Provide the names of organizations providing input and summarize the nature and extent of the organization's input.
 - Describe the medically underserved, low-income, or minority populations being represented by organizations or individuals providing input.
 - The report does not need to name persons participating in forums or other groups.
- A prioritized description of the significant community health needs identified through the CHNA, including a description of the process and criteria used in identifying certain health needs as significant and prioritizing such significant health needs.
- A description of the potential measures and resources identified through the CHNA to address the significant health needs.

- Description of information gaps that impact the hospital's ability to assess the health needs of the community served by the hospital. (Deleted)
- A description of existing health care facilities and other resources within the community available to meet the community health needs identified through the assessment. (Deleted)

Can CHNAs be collaborative?

- When CHNA conducted in collaboration with other organizations, every hospital must document its CHNA in a separate report.
- All or part of the report may be identical to reports of collaborating hospitals or other organizations.
- If certain conditions are met, a joint CHNA report may be issued:
 - Joint report adopted by the authorized body of each collaborating hospital.
 - Collaborating hospitals define their community to be the same and conduct the CHNA process jointly.
 - Joint report identifies each hospital to which it applies.

How is community health needs assessment made public?

- Complete version of CHNA report is conspicuously posted on the hospital's website or on another website (see Notice 2011-52 for "other").
- Paper copy is available for public inspection without charge.
- Hospitals provide individuals who ask how to access a copy of the document online with the direct website address or URL of the web page on which document is posted.
- Website clearly informs reader how to download the report. An individual must not be required to create an account or otherwise be required to provide personally identifiable information in order to access the CHNA report on the website.
- Download may not require special equipment or fee.
- Report available until two subsequent assessment reports are made available (online and hardcopy).

Implementation Strategy – Proposed IRS Requirements

What is an implementation strategy?

A written plan that addresses significant community health needs identified through a CHNA for the hospital. Regulations do not limit an implementation strategy to addressing only those health needs identified through the CHNA and it may describe activities to address health needs that the hospital identifies in other ways.

How does the implementation strategy describe how the hospital plans to meet significant health needs?

- The implementation strategy describes either:
 - How the hospital plans to meet the health need:
 - The actions the hospital facility intends to take to address the health need.
 - The anticipated impact of these actions.
 - A plan to evaluate the impact.
 - The programs and resources the hospital plans to commit to address the health need.
 - Any planned collaboration between the hospital facility and other facilities or organizations in addressing the health need.
 - OR**
 - The **significant** health need as one the hospital does not intend to meet, explaining why the hospital does not intend to meet the health need.
 - Provide a brief explanation of the reason, including, but not limited to, resource constraints, other facilities or organizations addressing the need, lack of experience or competency to effectively address the need, need is relatively low priority for community or lack of identified effective interventions.

Can implementation strategies be collaborative?

- The implementation strategy could describe any planned collaboration with governmental, nonprofit, or health organizations for meeting health needs.
- Implementation strategies for hospitals can be developed in collaboration with other hospitals, agencies or health departments.
- Each hospital must document its implementation in a separate written plan tailored to the particular hospital, taking into account its specific programs and resources.
- A hospital that develops a joint CHNA may also adopt a joint implementation strategy that either:
 - Describes how the collaborating hospital facilities plan to address the need.
 - Identifies the health need as one the hospital facilities do not intend to address and explains why.
- A joint implementation strategy adopted by a hospital must:
 - Be clearly identified as applying to the hospital facility,
 - Clearly identify the hospital facility's particular role and responsibilities in taking the actions described in the implementation strategy and programs and resources the hospital plans to commit, and
 - Include a summary or other tool that helps the reader easily locate those portions of the joint implementation strategy that relates to the hospital facility.

How and when is implementation strategy adopted?

- The implementation strategy is “adopted” on the date it is approved by and authorized by the governing body of the hospital (the governing body, a committee of the governing body, or others authorized).
- Implementation strategy must be adopted by the end of the same taxable year in which the hospital conducts the CHNA.
- Transition relief to complete implementation strategies. For CHNAs conducted in the first taxable year beginning after March 23, 2010, 2011 or 2012, the implementation strategy must be adopted on or before the 15th day of the fifth calendar month following the close of the first taxable year beginning after March 23, 2012.

How is the implementation strategy reported?

- Tax exempt hospital organizations must attach to its annual Form 990 the most recently adopted implementation strategy for each of its hospital facilities or provide on the Form 990 the URL(s) of the web page(s) on which it has made each implementation strategy widely available on a Web site.
- A hospital organization must provide annually on the Form 990 a description of the actions taken during the taxable year to address the significant health needs identified through its most recent CHNA for each hospital facility it operates or, if no actions were taken which respect to one or more of these health needs, the reason or reasons why no actions were taken.
- If a hospital adopts only one implementation strategy for a three-year period, the same attachment can be used for each year.

What is consequence for failure to meet requirements?

- IRS can revoke the tax exemption of the hospital organization depending on “relevant facts and circumstance” including organization’s history of compliance, scope of the failure to comply, and whether policies and safeguards were in place.
- Minor and inadvertent omissions and errors will not be considered failure to meet requirements if the hospital facility corrects after discovery.
- “Willful or egregious” failure to meet requirements will not be excused, even if hospital makes disclosure and correction.
- Income from hospital facility that is out of compliance could be considered taxable income to hospital organization.

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