

IMPLEMENTATION STRATEGIES TO ADDRESS COMMUNITY HEALTH NEEDS

BY INDU SPUGNARDI

Over the last three years, tax-exempt hospitals have been working to comply with a new provision of the Affordable Care Act (ACA) that requires 501(c)(3), tax-exempt hospitals to conduct community health needs assessments (CHNA) every three tax years and adopt an implementation strategy to meet identified needs.

While Catholic and other not-for-profit hospitals have been assessing their community's health needs for years as part of their community benefit efforts, the new provision includes specific requirements such as taking into account input from persons who represent the broad interests of the community served by the hospital, including those with a special knowledge of or expertise in public health, and making the assessment widely available to the public. The ACA provision requires tax-exempt hospitals to adopt an implementation strategy to meet the needs identified in the assessment by the end of the same tax year in which the CHNA is conducted.

As hospitals begin to focus on developing and adopting implementation strategies, they are contacting us at CHA with such logistical questions as when the strategy needs to be completed and what it should contain.

In July 2011, the Internal Revenue Service (IRS) published anticipatory guidance in IRS Notice 2011-52, *Notice and Request for Comments Regarding the Community Health Needs Assessment Requirements for Tax-Exempt Hospitals*. You can download a copy of the 28-page document at www.irs.gov/pub/irs-drop/n-11-52.pdf. In April 2013, the IRS released proposed rules on the CHNA requirements. These rules mostly follow the guidance in Notice 2011-52 but include some important modifications (see page 81).

Below are some of the questions we have received about implementation strategies, along with responses based on information in the no-

tice. Please note that we provide these responses for informational purposes only; they do not constitute tax or legal advice. It is important for hospitals to consult with legal counsel regarding their particular circumstances, keeping in mind that the law's intent is to ensure that tax-exempt hospitals' community benefit activities are focused on identified community health needs and to promote transparency and accountability.

What is the due date of the implementation strategy? Are the CHNA report and implementation strategy due at separate times?

The IRS notice says, "Treasury and the IRS intend to provide that a hospital organization must adopt an implementation strategy to meet the community health needs identified in a CHNA by the end of the same taxable year in which it conducts that CHNA."

The notice also states that "Treasury and the IRS intend to consider a CHNA as being 'conducted' in the taxable year that the written report of its findings (containing all of the information described in section 3.03 of this notice) is made widely available to the public (as defined in section 3.07 of this notice)."

I understand the CHNA report must be made "widely available" through the hospital's website. Does the implementation strategy have the same requirements, or is the implementation strategy supposed to be attached only to the IRS Form 990?

According to the IRS notice, the implementation strategy should be attached to Form 990, which is a publicly available document. However, the instructions for the Form 990, Schedule H for tax year 2012 do not state that the implementation strategy should be attached to the Form 990. We feel that it is good practice to make the implementation strategy widely available through the hospital's website.

Are separate implementation strategies required by Employer Identification Number (EIN) number or by individual facilities? Our health system has several facilities, but all report under one EIN.

The IRS notice states that "...to ensure that the hospital organization meets the CHNA requirements separately with respect to each hospital facility and that the implementation strategy for each hospital facility is clearly presented and easily accessible, Treasury and the IRS intend to require a hospital organization to document separately the implementation strategy for each of its hospital facilities."

If a hospital organization operates more than one hospital facility, it needs to meet all 501(r) requirements separately with respect to each hospital facility, according to the notice.

What if three hospitals are within one health system? Do we need to submit three implementation strategies even though the three hospitals will collaborate on all initiatives?

The notice states "Accordingly, Treasury and the IRS intend to require a hospital organization to conduct a CHNA and adopt an implementation strategy for each hospital facility it operates. Moreover, as described further in sections 3.04 and 3.08 of this notice, although hospital organizations will be able to collaborate with other organizations when conducting CHNAs and developing implementation strategies, Treasury and the IRS intend to require a hospital organization operating multiple hospital facilities to document separately the CHNA and the implementation strategy for each of its hospital facilities."

In the case where several hospitals are collaborating, it is acceptable and expected that their implementation strategies will be very similar. However, each hospital still needs to customize the shared implementation approach to produce an implementation strategy report with its name, its specific programs and resources, and priorities. This is in keeping with the law's intent to ensure transparency and accountability for all

not-for-profit hospitals. (See page 81 for an exception to the general requirement of separate CHNA reports and implementation strategies.)

Our timeline to submit our implementation strategy and IRS Form 990 is June 30. However, our communities will not finalize their community health improvement strategies until later in the summer (after our deadline). Will it be acceptable to submit an implementation strategy that states our hospital is working with the community to develop strategies even if we do not have specific evidence-based interventions yet?

The notice says that the implementation strategy must describe how the hospital facility plans to meet a health need identified through the CHNA or identify a health need as one the hospital facility does not intend to meet and reasons why. The notice says that when describing how it plans to meet needs, the hospital should "tailor the description to the particular hospital facility, taking into account its specific programs, resources, and priorities." The notice also states the implementation strategy should describe any planned collaborations. The notice is not prescriptive on whether the implementation strategy must include evidence-based strategies or describe the planning process that will lead to a work plan with defined strategies.

It seems that your organization could describe your planned community collaboration at a high level and describe the process for developing a detailed plan.

How detailed should we get for submission to the IRS? What do you expect the average length of a written implementation strategy will be? Do you think the IRS would prefer brevity or depth?

The implementation strategy should be thought of as an action guide to addressing pressing health needs in your community, not as simply an IRS requirement. Therefore each hospital's strategy will be customized to state what health needs the hospital plans to meet; what needs the hospital will not address and the reasons why; a description of the resources the hospital plans to commit; and planned collaborations. This information should be described in enough detail so that community members can clearly understand what the hospital plans to do.

Hospitals should consult with legal counsel to review what is stated in recent guidance regarding what should be included in the implementation strategy, keeping in mind that the IRS wants hospitals to be transparent and accountable.

How often does a hospital have to report on outcomes from the implementation strategy?

The proposed rules require a hospital to provide annual updates on the Form 990 that describe the actions taken during the tax year to address the significant health needs identified in the CHNA (see page 81). Also, IRS Form 990, Schedule H, requires a hospital to report certain community benefit program information (including whether the hospital has prepared and made public a community benefit report). Since the hospital's CHNA report, implementation strategy and Schedule H are publicly available, policymakers, researchers, the media and community groups can view how the hospital's program accomplishments align with prioritized needs.

What resources are available to help my hospital develop an implementation strategy?

CHA has developed a number of resources to help tax-exempt hospitals develop effective implementation strategies. *Assessing and Addressing Community Health Needs* contains a section on developing implementation strategies that comply with the guidance in IRS Notice 2011-52. This guide is being updated to be consistent with

proposed rules. CHA also has developed a model community health needs assessment and implementation strategy to demonstrate how hospitals can report to community members and others what it has identified as community health needs and how it intends to address those needs. Both these resources are available on the community benefit section of the CHA website at www.chausa.org/communitybenefit.

The Learning Center on CHA's website offers the following presentations on implementation strategies from community benefit experts:

"Developing Effective Implementation Strategies" — Jan. 15, 2013 webinar featuring Michael Bilton, vice president at Verite Healthcare Consulting and former executive director of the Association for Community Health Improvement.

"Implementation Strategies: Moving from Data to Action" — presentation by Keith Hearle, president of Verite Healthcare Consulting, from CHA's July 2012 *Assessing and Addressing Community Health Needs* conference.

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IRS RELEASES PROPOSED RULE ON CHNA REQUIREMENTS

The proposed rule, released April 5, 2013, is mostly consistent with the guidance in Notice 2011-52. Below are some highlights; to read the text of the proposed rule and a summary prepared by CHA, visit www.chausa.org/communitybenefit. Comments are due to the IRS by July 5.

■ **Joint CHNA and joint implementation strategy.** Hospitals may share joint CHNA reports and implementation strategies under certain conditions. A joint implementation strategy must include a summary or other tool that helps the reader easily locate those portions of the joint implementation strategy that relate to each hospital facility. The joint strategy must clearly identify each hospital's particular role and responsibilities in taking the actions described in the strategy and the programs and resources each hospital plans to commit.

■ **Documentation.** In addition to describing actions to address significant health needs, the strategy should include the anticipated impact of these

actions and a plan to evaluate such impact. While the strategy must address needs identified through the hospital's CHNA, it may also describe activities to address health needs identified in other ways.

■ **Reporting on the Form 990.** Hospital organizations must attach the strategy for each of its hospital facilities to the Form 990 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 website. Hospitals must include annual updates on the Form 990 describing the actions taken during the taxable year to address the significant health needs identified in the CHNA or, if no actions were taken with respect to one or more of these health needs, the reason(s) why no actions were taken.

■ **Timing for adoption of strategy.** The proposed rule creates transition relief allowing for later adoption of the strategy in connection with when a hospital facility conducts its first CHNA.

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