

# FORM 990 IS GOING PUBLIC

*New IRS Regulations Will Make Information about Nonprofit Healthcare Providers Widely Available*

Soon not-for-profit hospitals and healthcare organizations will be subject to new public-disclosure requirements affecting IRS Form 990, "Annual Information Return." The changes reflect Congress's mandate that all tax-exempt organizations make public detailed information about their operations, activities, and finances. Under new regulations, expected shortly,<sup>1</sup> copies of Form 990 and tax-exemption applications must either be made widely available electronically or furnished to anyone who requests them. In addition, the IRS will soon release, in electronic format, recent Forms 990 in its files.

These changes will dramatically expand the availability of information about nonprofit healthcare providers. Accordingly, Catholic healthcare providers—indeed, all nonprofit healthcare providers—should take steps now to ensure that their Form 990 accurately reflects the community benefits they provide.

Gene Steuerle, an economist familiar with the tax-exempt sector, calls these developments "The Coming Revolution in the Nonprofit Sector," explaining that:

[T]his revolution will soon lead to a markedly higher level of accountability by charities and other nonprofits, a vast expansion of public knowledge of their activities, a reorientation of IRS resources devoted to exempt organizations, and changes, which cannot yet be fully anticipated, in the performance of nonprofits and the extent of public support they receive. . . . Soon it will be easier to gauge the impacts on society of the nonprofit sector and its many subsectors, and to assess its role relative to the government and profit-making sectors.<sup>2</sup>

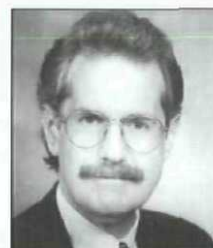
Driving these changes is the fact that the IRS is about to issue final regulations under Internal Revenue Code Section 6104(e), governing the circumstances under which tax-exempt organizations must disclose their IRS Form 990 and applications for exemption to the public. Congress amended Section 6104(e) in 1996 as part of the Taxpayer Bill of Rights 2,<sup>3</sup> the same law that gave the IRS authority to impose intermediate sanctions. Since 1987, Section 6104(e) has required tax-exempt organizations to show their applications and returns to those who asked in person to see them. Now an organization will be required to provide a copy of its application and Form 990 to anyone who requests it. However, the new requirements will not be effective until 60 days after the IRS issues final implementing regulations. Proposed regulations were issued September 25, 1997.<sup>4</sup>

## **MORE THAN AN IRS REPORT**

The new disclosure requirements cover Form 990 and all supporting documents for three years after filing, an organization's initial application for exemption, and all support materials. The portion of Form 990, Schedule A, that includes compensation information must be disclosed. However, the names and addresses of substantial contributors and Form 990T ("Unrelated Business Income Tax Return") are excluded from the rules.

Slowly but steadily, Form 990 is becoming much more than a report to the IRS. About 35 state tax authorities rely on Form 990 to gather information about tax-exempt organizations in their states. Although information returns technically have been available to the public from the IRS for years, insufficient resources and diffuse responsibilities have made it difficult for the IRS to locate returns after they were filed, even for

BY T. J. SULLIVAN, JD



*Mr. Sullivan is a partner with Gardner, Carton & Douglas, Washington, DC, and general counsel, the Coalition for Nonprofit Health Care. This article was prepared under the auspices of the coalition, of which the Catholic Health Association is a member.*

official IRS purposes. Thus, in 1987, Congress enacted Section 6104(e), requiring exempt organizations themselves to make their applications for exemption and Forms 990 available for public inspection. That move slowly expanded public access to details of exempt organizations' operations, principally through analysis by the press. Nevertheless, Congress remained troubled by complaints that accessing Form 990 information

was time-consuming and expensive and, armed with reports of spotty compliance with the initial rules, enacted the new requirements in 1996. The improved public access means exempt organizations now will do well to view their Forms 990 primarily as public, rather than IRS, reports.

#### **MAKING FORMS 990 "WIDELY AVAILABLE"**

The tax code and proposed regulations provide incentives for organizations to post Form 990 on the Internet. Under Section 6104(e)(3), exempt organizations will not be required to furnish or mail copies of Form 990 or their exemption applications if, in accordance with treasury regulations, they have made the documents "widely available." (Organizations still will have to make these materials available for on-site inspection.) The proposed regulations establish procedures under which an exempt organization can make these documents widely available by posting them on its website or on another organization's website as part of a database of similar materials. In fact, according to a senior IRS official, a clear intent of the recent changes to the disclosure requirements was to encourage dissemination of the returns via the Internet.<sup>5</sup> Bear in mind that, even if your organization chooses not to post its Form 990 on its website, nothing prevents others from posting it elsewhere on the Internet.<sup>6</sup>

The new disclosure requirements will greatly increase the distribution and visibility of Form 990 information, presenting a unique opportunity for nonprofit healthcare organizations to distinguish themselves. Gene Steuerle forecasts the effect of this change as follows: "[I]ndividual monitoring of particular charities is just the beginning. With newly available data files on

## **E**xempt organizations will do well to view Form 990 as a public report.

charities, it is now possible to undertake research on the sector itself in ways never before possible."<sup>7</sup>

#### **AN IMPORTANT OPPORTUNITY**

Although the increased distribution and visibility of Form 990 information may not be popular in some tax-exempt circles, these developments present an opportunity too impor-

tant to pass up. Healthcare organizations should begin treating Form 990 as an important community-benefit communication tool, much like the plans or annual reports they may currently provide to the community. Whether organizations post Form 990 on the Internet or not, there are important steps they can take now to improve the distribution of information about the good works they do.

To ensure that the new, wider audience obtains a complete and accurate picture from Form 990, the form itself must present a thorough description of community benefits. If copies of Form 990 are mailed out, one easy way to ensure that the complete community-benefit picture is available to recipients is to include a copy of the relevant community-benefit report in all replies to requests for the return. However, although Section 6104(e) and the proposed regulations would allow a tax-exempt organization to charge copying and mailing costs for copies of Form 990 and related documents, if it voluntarily provides a separate community-benefit report, it may not charge copying or postage costs. Even if an organization follows this approach, it would be better to build community-benefit information into the Form 990 itself.

The Coalition for Nonprofit Health Care, a national research, education, and advocacy organization representing nonprofit providers, issued a one-page alert last summer recommending that all nonprofit healthcare organizations voluntarily report on Form 990 detailed quantitative and narrative information on the community-benefit they provide (even if this information is already published in other formats). This information is

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## MEDICAID COVERAGE FOR CHILDREN

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### Both St. Mary's and St. Joseph's have mobile clinics traveling to rural communities.

When questions of eligibility and coverage arise, the caseworker helps obtain a quick answer. "It provides greater dignity" for people to be able to enroll at St. Mary's rather than having to go to the welfare office, states Emge.

St. Mary's commitment to the poor and underserved has also led it to survey local Medicaid providers, asking what is currently good about the program and how it could be improved. The results of the survey were prepared for distribution to Indiana state legislators and governor's appointees, who this year will be deciding how to permanently fund children's health insurance in the state.

#### A MEDICAID WORKER ON STAFF

A thousand miles away, in New York, St. Joseph's Hospital is also working with the county social services department to increase Medicaid enrollment. Part of the Carondelet Health System, St. Joseph's is a community hospital with 255 beds and a primary service area of approximately 90,000.

In 1997 the hospital worked out an arrangement with the county to place a full-time Medicaid worker at St. Joseph's. This worker, Marcia Sassano, comes from the local county office of the social services department, but St. Joseph's pays half her salary and the state pays the other half.


Sassano works both inside and outside the hospital to enroll eligible individuals. At the hospital, she enrolls inpatients and outpatients who use the hospital's many clinics or programs. "Everybody reinforces the program—registration staff, patient representatives, collectors—and there is information

available everywhere," says Hank Heilmann, St. Joseph's credit and collections manager. Everyone who is admitted to the hospital receives a sheet with enrollment information and the business office's hours and telephone number.

St. Joseph's, like St. Mary's, has a mobile clinic that travels to rural communities, and the van's nurse practitioner promotes the enrollment program and takes names to refer to Sassano, who then follows up by telephone or makes home visits to prescreen applicants and determine eligibility.

Between March 1997 and November 1998, St. Joseph's enrolled a total of 284 children and adults in Medicaid. "This has worked out well for us and for the county," reports Heilmann. He echoes Emge's opinion that people prefer to enroll through the medical facility instead of the Medicaid offices. "The offices are so busy, they can't help but treat people like numbers. Here, an applicant can get an interview on the same day; at the social services office, it takes 5 days to get an interview and 45 days to get a determination."

St. Joseph's work to extend medical coverage to children also includes distributing information on New York's Child Health Plus insurance program, which offers low-cost insurance for children of families that may not be eligible for Medicaid but cannot afford regularly priced insurance. —Ann Stockbo

 For more information, contact Susanne Emge, St. Mary's Medical Center, 812-485-4423; or Denis Sweeney, St. Joseph's Hospital, 607-733-6541.

## FORM 990

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best reported on an attachment to Part III of Form 990, "Statement of Program Service Accomplishments." The Coalition is working with its members, major public accounting firms, and other nonprofit advocacy organizations to bring this development—and the need for immediate action—to the attention of all nonprofit healthcare organizations.

Nonprofit chief executive officers, chief financial officers, community benefit coordinators, government relations officials, and communications directors need to work together early in 1999, possibly with assistance from outside accountants or tax advisors, to gather and report the information outlined above on upcoming Forms 990. Returns for most calendar-year organizations are due on May 15. By taking these steps, not-for-profit healthcare organizations can help ensure that, in the future, community benefit and the reasons nonprofit healthcare is unique will be better understood. □

#### NOTES

1. When the IRS will issue the final regulations is somewhat uncertain. In 1998 Congress extended the rules to private foundations, and the IRS is deciding whether to amend the current proposed regulations to reflect that change before or after finalizing them.
2. Gene Steuerle, "The Coming Revolution in the Nonprofit Sector," *Exempt Organization Tax Review*, September 1998, p. 313.
3. Pub L. No. 104-168.
4. 62 Fed. Reg. 50533.
5. Tom Gilroy, "Exempt Organizations' Tax Returns Due for Broad Exposure, IRS Official Says," *BNA Daily Tax Report*, November 6, 1998, p. G-1.
6. At least one organization already is building an electronic database of information drawn from charitable organizations' Forms 990. The website address is [www.guidestar.org](http://www.guidestar.org).
7. Steuerle, note 2, p. 314.

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