

Is your Hospital's 501(c)(3) Tax-Exempt Status at Risk?

In 1969, the Internal Revenue Service (IRS) expanded the scope of activities and the kinds of community outreach programs that could support a hospital's tax-exempt status by establishing "community benefit" as the formal legal standard for hospital tax exemption. Historically, nonprofit hospitals had always been recognized by the IRS as charitable organizations that qualified for tax exemption because of their provision of charity care to those unable to pay.

The Patient Protection and Affordable Care Act (ACA), enacted March 23, 2010, added new requirements codified under IRS Section 501(r) for tax-exempt organizations that operate one or more hospitals. The IRS conducted a long implementation process for the ACA community benefit requirements, with guidance, notices, and proposed rules issued over a five-year period following enactment of the ACA. Final IRS regulations, consolidating these actions, were issued December 31, 2014.

Specifically, the ACA imposes four new requirements that hospitals must meet to qualify as a tax-exempt facility¹, they are as follows:

- i. Conducting a community health needs assessment with an accompanying implementation strategy;
- ii. Establishing a written financial assistance policy for medically necessary and emergency care;
- iii. Complying with specified limitations on hospital charges for those eligible for financial assistance; and
- iv. Complying with specified billing and collections requirements.

This paper will focus on item (ii.), development of written a financial assistance policy as required under IRS 501(r)(4).²

Best Practices Framework for a Successful Financial Assistance Policy

Meeting the requirements of 501(r)(4) can be a formidable challenge for hospital executives. It requires the hospital to "establish a widely publicized financial assistance policy (FAP) that identifies eligibility criteria for financial assistance and a policy for providing emergency treatment, regardless of an individual's eligibility for financial assistance."² It is not enough to merely develop a comprehensive written FAP. Administration, promotion, publication, ease-of-access, awareness across all channels of the organization and consistent application are at the core of any successful financial assistance program. Furthermore, hospitals need to implement methods that accurately and efficiently measure the status of patients' financial health.

While not intended to be a complete list, below are some compliance objectives to assist with the assessment of a hospital's financial assistance program and FAP.

- Ensure the FAP covers all the requirements prescribed by 501(r)(4) and that the necessary actions consistently occur;

- Notify patients of their financial assistance options in a plain, easily understood communication available in all languages commonly spoken by patients;
- Ensure the FAP is widely distributed and clearly describes the method for applying for financial assistance;
- Establish ease of access to financial assistance online navigators within two clicks on hospital's patient portal;
- Direct low-income patients to financial assistance navigators early in the billing cycle and at discharge;
- Document charity care determinations, dates, correspondences and all actions relating to the FAP in a place that is easily available for internal and external review;
- Before pursuing third-party collection actions, ensure that "reasonable efforts" to determine a patient's eligibility for financial assistance have been exhausted;
- Ensure the FAP specifies the eligibility criteria that an individual must satisfy to receive each discount, free care, or other level of assistance available under the FAP.
- Continually review and reassess the FAP, especially for hospitals that have a higher population of underinsured and uninsured patients;
- Ensure revenue cycle staff have thorough knowledge of the FAP and implement monitoring processes to ensure compliance to the FAP.

The IRS Means Business

Tax-exempt status is invaluable to nonprofit hospitals. The Congressional Budget Office estimated that the value of federal, state, and local tax exemptions, tax-deductibility of charitable contributions, and tax-exempt bond financing, was \$12.6 billion in 2002. This figure was recently updated to \$24.6 billion in 2011, in a study published in *Health Affairs* by Sara Rosenbaum and colleagues at the George Washington University.³

The ACA requires the IRS to review, at least once every three years, the community benefits activities of the approximate 3,000 charitable hospitals nationwide. The IRS is also required to prepare a Report to Congress on private Tax-Exempt, Taxable, and Government-Owned Hospitals annually, detailing its 501(r) compliance reviews and all manner of health related statistics and metrics, including trends in charity care expenses.

Most hospitals believe their organizations are already well prepared to provide excellent charity care to those in need. However, the IRS has observed a declining trend in the percentage of charity care expense. The following represent a few "red flags" frequently observed during its annual reviews, which hospitals should consider when evaluating the efficacy of their FAP:

1. Outdated Financial Assistance Policy;
2. Large Charity determinations without documentation, especially within the Electronic Health Records (EHR);
3. Charity policy not aligned with the policies of employed referring physicians or contracted collection agencies;
4. Lack of Plain Language Summary;
5. Charity policy and method of application not widely distributed; ***(should be accessible with two clicks on the website).***

According to the IRS, of 2,482 compliance reviews of tax-exempt hospitals completed between 2014 and 2016, the IRS cited 163 (nearly 7%) as potentially non-compliant and under further examination.⁴ More recently, in a letter from IRS Commissioner, Charles P. Rettig, dated April 11, 2019, in response to a written inquiry concerning the “health” of hospital’s charity care programs issued by Charles E. Grassley, Chairman of the Senate Finance Committee, the Commissioner reported that the IRS completed reviews of 832 tax-exempt hospitals between February 24, 2018 and February 22, 2019.⁵

The findings were reported as follows:

Completed reviews	-	832
Referred for compliance check	-	129 (16%)
Referred for examination	-	78 (9%)
Audits still open (of the 78)	-	57

Of the 129 hospitals referred for compliance checks, 125 resulted in referrals for indications of “Healthcare-Financial Assistance Policy issues.”

Caritas360 – Mitigating Compliance Risk While Helping Patients

Clearly, the IRS is serious about 501(r) enforcement. But hospitals shouldn’t wait for an audit to discover that some patients did not receive the financial assistance they needed. Driven by hospital demands and a desire to bring to market a fully-integrated solution that appeals to the needs of both patient and provider, USCB America set out to develop **Caritas360**, an online Charity Care Administration solution, with two distinct and fully-integrated components; **eMFA** and **vCCA**.

On the one hand, **eMFA** (electronic Medical Financial Assistance) is a user friendly web-based application submission platform that allows Patients to easily apply for and submit a medical financial assistance (MFA) application electronically. Features include:

- Two-factor authentication access control for returning to **eMFA**;
- ‘Save and Return’ capabilities for patient to save work and complete form at a later date;
- 100% OS and browser agnostic, PC and mobile devices compatibility;
- Applicant will have the ability to upload documents in support of application, in real-time;
- Intuitive and user friendly form-completion flow with easy to understand instructions;
- **eMFA** accommodates a many-to-one submission, enabling a guarantor applicant to submit for MFA on up to ten individual patient medical bills in a single application.

The second component, **vCCA** (virtual Charity Care Administration) is a secured cloud-based application that systematically receives all **eMFA**’s and allows for the manual entry of MFA applications taken by the hospital’s Patient Financial Access (PFA) team over the phone or those received by mail. Features include:

- Two-factor authentication access to **vCCA** for maximum ePHI security and confidentiality protection;
- Role-based access and restricted usage;
- Session time-outs;

- Seamless integration between **eMFA** and **vCCA**;
- Verification-based integrated workflow;
- Intuitive, web-based interface;
- Flexible and robust reporting, including batch files to provide documentation support to assist with 990 Schedule H tax filing;
- Streamlined charity care eligibility determinative processing improving 501(r)(4) compliance;
- Dynamic dashboards with real-time “in queue” statistics and adjudication metrics.

Benefits of Caritas360 Include:

Improved Work Flow Efficiency

by increasing productivity by 40%, or more, over current levels.

Increased Profitability

by reducing number of employees/operational costs associated with the MFA process.

Improved Patient Experience

by processing MFA applications timely, minimizing delayed decisions.

Reduced Compliance Risk

by eliminating paperwork and processing MFA applications consistently, according to the FAP.

The team at USCB America has a proven track record of delivering innovative RCM solutions to the Healthcare industry for decades that exponentially reduce costs, optimize work flow efficiency, improve patient experience and decrease compliance risk, and ultimately – increase profitability.

Schedule a free demo today: <http://www.caritas360mfa.com>

Toll-Free: +1 (866) 4-MFA-360 (463-2360)

Email: sales@caritas360mfa.com

Works Cited

1 “New Requirements for 501(c)(3) Hospitals Under the Affordable Care Act – Section 501(r).” (August 27, 2017)

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2 “Financial Assistance Policy and Emergency Medical Care Policy – Section 501(r)(4).” (August 27, 2017)

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3 Rosenbaum, S, Kindig, DA, Bao, J, Byrnes, MK, O’Laughlin, C. “The Value of the Non-Profit Hospital Tax Exemption was \$24.6 billion in 2011.” Health Affairs. (July 2015)

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4 Schencker, Lisa. “New Jersey Hospital’s Loss of Tax Exemption Sends Warning.” Modern Healthcare. (July 11, 2015)

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5 “Letter from IRS Commissioner Charles P. Rettig, addressed to Charles E. Grassley, Chairman, Committee on Finance” (April 11, 2019)

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