



New Requirements for Charitable Hospitals Under the Affordable Care Act

Jim Dietz

jdietz@dbllaw.com

Among the changes the Affordable Care Act (ACA) will bring to providers of health care are new requirements for hospitals to retain or to be granted status as a 501(c)(3) organization.

The provisions – § 501(r)(3) through (6) – require hospitals to jump through a few more hoops in order to retain their tax exempt status, including conducting a Community Health Needs Assessment (CHNA) and establishing a Financial Assistance Policy (FAP) and an Emergency Medical Care Policy.

The IRS [recently issued proposed rules](#) to provide guidance for these requirements.

The new 501(c)(3) rules apply to hospital facilities that are required by a state to be licensed or recognized as a hospital and hospital organizations, which is any 501(c)(3) organization that operates one or more hospital facilities.

In order to retain their status as tax exempt, these organizations must conduct a CHNA and implement a strategy to meet those community needs. Hospitals must also develop a FAP, which outlines the provider's basis for calculating amounts charged to patients, the method for applying financial assistance, and the actions the organization may take in the event of nonpayment.

The regulations also call for a written policy requiring charitable hospitals to provide care for emergency medical conditions to individuals, regardless of whether they are FAP-eligible. The new rules establish a ceiling for what a hospital organization can charge an FAP-eligible person.

The final section of 501(r) states that a hospital cannot use an Extraordinary Collection Action (ECA) until it makes reasonable efforts to determine whether the individual is FAP-eligible. ECAs are those actions to obtain payment under the hospital's FAP that require a legal or judicial process.