



Selected Federal Laws and Regulations Governing Hospital Community Benefit and Community Building Investments

COMMUNITY HEALTH NEEDS ASSESSMENTS (CHNA)

Note: No sub-regulatory guidance identified for CHNAs

	ACA Changes to IRS Code	IRS Final Rule (Dec. 31, 2014)	Form 990 Instructions
General requirements	<p>Tax-exempt hospital organizations must conduct a CHNA at least once every 3 years.</p> <p>Separate CHNA reports: “If a hospital organization operates more than 1 hospital facility... the organization shall meet the requirements of this subsection separately with respect to each such facility...” –Sec. 9007(a) (Pub. L. No. 111-148)</p>	<p>Tax-exempt hospital organizations must conduct a CHNA once every 3 years. §1.501(r)-3(a)(1).</p> <p>To conduct a CHNA, a hospital facility must:</p> <p>“(i) Define the community it serves. (ii) Assess the health needs of that community. (iii) In assessing the health needs of the community, solicit and take into account input received from persons who represent the broad interests of that community, including those with special knowledge of or expertise in public health. (iv) Document the CHNA in a written report (CHNA report) that is adopted for the hospital facility by an authorized body of the hospital facility. (v) Make the CHNA report widely available to the public.” § 1.501(r)-3 (2)(b)</p> <p>“Separate CHNA reports. While a hospital facility may conduct its CHNA in collaboration with other organizations and facilities ... every hospital facility must document the information described in this paragraph (b)(6) in a separate CHNA report....” § 1.501(r)-3 (b)(6)(iv)</p>	<p>“A community health needs assessment (“CHNA”) is an assessment of the significant health needs of the community.” - Lines 3 through 12c.</p>
Defining community served		<p>“In defining the community it serves... a hospital facility may take into account all of the relevant facts and circumstances, including the geographic area served by the hospital facility, target population(s) served (for example, children, women, or the aged), and principal functions (for example, focus on a particular specialty area or targeted disease).</p> <p>However, a hospital facility may not define its community to exclude medically underserved, low income, or minority populations who live in the geographic areas from which the hospital facility draws its patients...</p> <p>In addition ... a hospital facility must take into account all patients without regard to whether (or how much) they or their insurers pay for the care received or whether they are eligible for assistance under the hospital facility’s financial assistance policy.</p> <p>In the case of a hospital facility consisting of multiple buildings that operate under a single state license ... the community served by the hospital facility is the aggregate of such areas or populations.” (§ 1.501(r)-3(b)(3))</p>	
Assessing community health needs		<p>To assess the health needs of the community it serves ... a hospital facility must:</p> <ul style="list-style-type: none"> - “Identify significant health needs of the community - Prioritize those health needs, and - Identify resources (such as organizations, facilities, and programs in the community, including those of the hospital facility) potentially available to address those health needs.” <p>Community health needs include “[R]equisites for the improvement or maintenance of health status both in the community at large and in particular parts of the community (such as particular neighborhoods or populations experiencing health disparities). These needs may include, for example, the need to address financial and other barriers to accessing care, to prevent illness, to ensure adequate nutrition, or to address social, behavioral, and environmental factors that influence health in the community.</p> <p>A hospital facility may determine whether a health need is significant based on all of the facts and circumstances present in the community it serves. In addition, a hospital facility may use any criteria to prioritize the significant health needs it identifies....” (§ 1.501(r)-(b)(4))</p>	
Persons representing the broad interests of the community	<p>A CHNA meets requirements if it: “(i) takes into account input from persons who represent the broad interests of the community served by the hospital facility, including those with special knowledge of or expertise in public health....” –Sec. 9007(a) (Pub. L. No. 111-148)</p>	<p>Required input:</p> <p>... “a hospital facility must solicit and take into account input received from all of the following sources in identifying and prioritizing significant health needs and in identifying resources potentially available to address those health needs:</p> <p>(A) At least one state, local, tribal, or regional governmental public health department ... or a State Office of Rural Health</p> <p>(B) Members of medically underserved, low-income, and minority populations in the community ..., or individuals or organizations serving or representing the interests of such populations</p> <p>(C) Written comments received on the hospital ... CHNA and ... implementation strategy....”</p> <p>Optional input:</p> <p>Hospitals may take into account additional sources of input from groups 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.” (§ 1.501(r)-(b)(5))</p>	<p>Line 5: If the organization checked “Yes,” summarize, in general terms, how and over what time period such input was provided (for example, whether through meetings, focus groups, interviews, surveys, or written comments, and between what dates); the names of any organizations providing input; and describe the medically underserved, low-income, or minority populations being represented by organizations or individuals that provided input.</p>
Documentation of a CHNA	<p>A CHNA meets requirements if it “(ii) is made widely available to the public.” –Sec. 9007(a) (Pub. L. No. 111-148)</p> <p>Hospitals must also describe “how the organization is addressing the needs identified in each community health needs assessment,” and “any such needs that are not being addressed, together with the reasons why such needs are not being addressed” – Sec. 9007(a), Changes to IRS Code Section 6033(b)(15)(A), (Pub. L. No. 111-148)</p>	<p>“...[T]he CHNA report ... must include—</p> <p>(A) A definition of the community served by the hospital facility and a description of how the community was determined;</p> <p>(B) A description of the process and methods used to conduct the CHNA;</p> <p>(C) A description of how the hospital facility solicited and took into account input received from persons who represent the broad interests of the community it serves;</p> <p>(D) A prioritized description of the significant health needs of the community identified through the CHNA, along with a description of the process and criteria used in identifying certain health needs as significant and prioritizing those significant health needs;</p> <p>(E) A description of the resources potentially available to address the significant health needs identified through the CHNA; and</p> <p>(F) An evaluation of the impact of any actions that were taken, since the hospital facility finished conducting its immediately preceding CHNA, to address the significant health needs identified in the hospital facility’s prior CHNA(s).</p> <p>.... A hospital facility’s CHNA report will be considered to describe how the hospital facility took into account input received from persons who represent the broad interests of the community it serves ... if the CHNA report summarizes, in general terms, any input provided by such persons and how and over what time period such input was provided ...</p> <p>(7) Making the CHNA report widely available to the public ... a hospital facility’s CHNA report is made widely available to the public only if the hospital facility— (A) Makes the CHNA report widely available on a Web ... and (B) Makes a paper copy of the CHNA report available for public inspection § 1.501(r)-3 (b)(6)-(7)</p>	<p>Line 11: Describe how the hospital facility is addressing the significant health needs identified in its most recently conducted CHNA and any such needs that aren’t being addressed together with the reasons why such needs aren’t being addressed.</p>
Separate CHNA reports		<p>While a hospital facility may conduct its CHNA in collaboration with other organizations and facilities, ... every hospital facility must document the information ... in a separate CHNA report to satisfy paragraph (b)(1)(iv) of this section unless it adopts a joint CHNA report</p> <p>(v) Joint CHNA reports—...A hospital facility that collaborates with other hospital facilities or other organizations (such as state or local public health departments) in conducting its CHNA will satisfy paragraph (b)(1)(iv) of this section if ... All of the collaborating hospital facilities and organizations included in the joint CHNA report define their community to be the same. ...” § 1.501(r)-3 (b)(6)(iv)</p>	

IMPLEMENTATION STRATEGY

(Part of the CHNA requirements)

Note: No sub-regulatory guidance identified for implementation strategies.

	ACA	IRS Final Rule (Dec. 31, 2014)	Form 990 Instructions
General requirements	<p>Under the sections added to the Internal Revenue Code by ACA Sec. 9007(a), the implementation strategy is part of the CHNA requirements in IRC Section 501(r)(3)(A)(ii).</p> <p>Tax-exempt hospital organizations must adopt “an implementation strategy to meet the community health needs identified” in the CHNA – Sec. 9007(a) (Pub. L. No. 111-148)</p>	<p>An “authorized body” of the tax-exempt hospital facility must adopt “an implementation strategy to meet the community health needs identified through the CHNA ... on or before the 15th day of the fifth month after the end of such taxable year.” (Section 1.501(r)-(3)(a)(2))</p>	<p>“Each hospital facility must conduct a CHNA at least once every three years, and adopt an implementation strategy to meet the community health needs identified through such CHNA” –Lines 3 through 12c</p> <p>“Section 501(r)(3) also requires each hospital facility to adopt an implementation strategy to meet the community health needs identified through its CHNA.” –Line 12a</p>
Connection to CHNA		<p>“... [A] hospital facility’s implementation strategy to meet the community health needs identified through the hospital facility’s CHNA is a written plan that, with respect to each significant health need identified through the CHNA, either</p> <ul style="list-style-type: none"> (i) Describes how the hospital facility plans to address the health need; or (ii) Identifies the health need as one the hospital facility does not intend to address and explains why the hospital facility does not intend to address the health need. Sec. 1.501(r)-3(c) <p>“... [T]he implementation strategy– (i) Describes the actions the hospital facility intends to take to address the health need and the anticipated impact of these actions; (ii) Identifies the resources the hospital facility plans to commit to address the health need; and (iii) Describes any planned collaboration between the hospital facility and other facilities or organizations in addressing the health need. Sec. 1.501(r)-3(c)(2)</p> <p>(3) ... “In explaining why it does not intend to address a significant health need ... a brief explanation of the hospital facility’s reason for not addressing the health need is sufficient.” Sec. 1.501(r)-3(c)(3)</p>	
Joint plans		<p>(4) “A hospital facility may develop an implementation strategy in collaboration with other hospital facilities or other organizations In general, a hospital facility that collaborates with other facilities or ... must still document its implementation strategy in a separate written plan that is tailored to the particular hospital facility, taking into account its specific resources.</p> <p>However, a hospital facility that adopts a joint CHNA report ...may also adopt a joint implementation strategy that ... either describes how one or more of the collaborating facilities or organizations plan to address the health need or identifies the health need as one the collaborating facilities or organizations do not intend to address and explains why they do not intend to address the health need.” Sec. 1.501(r)-3(c)(4)</p>	

COMMUNITY BUILDING ACTIVITIES

Note: Community building activities not mentioned in the ACA or the December 31, 2014, final IRS rule.

Form 990 Instructions

“Report in this part the costs of the organization's activities that it engaged in during the tax year to protect or improve the community's health or safety, and that aren't reportable in Part I of this schedule. Some community building activities may also meet the definition of community benefit. Don't report in Part II community building costs that are reported on Part I, line 7, as community benefit (costs of a community health improvement service reportable on Part I, line 7e). An organization that reports information in this Part II must describe in Part VI how its community building activities promote the health of the communities it serves.” (Part II, Community Building Activities, p. 4)

Reporting of community building activities includes Lines:

1. “Physical improvements and housing,”
2. “Economic development”
3. “Community support” can include...child care and mentoring programs...
4. “Environmental improvements,”
5. “Leadership development and training for community members,”
6. “Coalition building” includes ...participation in community coalitions and other collaborative efforts...
7. “Community health improvement advocacy,”
8. “Workforce development,”
9. “Other” refers to community building activities that protect or improve the community's health or safety that aren't described in the categories ... above”

Sub-regulatory guidance

“The Instructions for Schedule H currently include physical improvements and housing in Part II (Community Building Activities).

Nevertheless, the Instructions also provide that ‘some community building activities may also meet the definition of community benefit.’ The Instructions for Schedule H describe community benefit activities or programs as those addressing an established need that ‘seek to achieve a community benefit objective, including improving access to health services, enhancing public health, advancing increased general knowledge, and relief of a government burden to improve health.’

Thus, some housing improvements and other spending on social determinants of health that meet a documented community need may qualify as community benefit for the purposes of meeting the community benefit standard. If a hospital chooses to report such a community benefit in Part I (Financial Assistance and Certain Other Community Benefits at Cost) of Schedule H, then the Instructions say: ‘Do not report in Part II community building costs that are reported on Part I, line 7 as community benefit.’”

--IRS Exempt Organizations Update Archive, December 18, 2015

ENFORCEMENT

Note: No sub-regulatory guidance identified for enforcement.

	ACA	IRS Final Rule (Dec. 31, 2014)	Form 990 Instructions
Revocation of tax exempt status		“Failures to satisfy section 501(r) [Note: 501 (r) includes CHNA and financial assistance provisions]. (a) Revocation of section 501(c)(3) status. ... [A] a hospital organization failing to meet one or more of the requirements of section 501(r) separately with respect to one or more hospital facilities it operates may have its section 501(c)(3) status revoked as of the first day of the taxable year in which the failure occurs.” § 1.501(r)-2(a)	
Tax penalties	“If a hospital organization to which section 501(r) applies fails to meet the requirement of section 501(r)(3) [Note: which governs CHNAs] for any taxable year, there is imposed on the organization a tax equal to \$50,000.” –124 STAT. 857 (pdf page 739)	<p>“If a hospital organization ...fails to meet the requirements of section 501(r)(3) separately with respect to a hospital facility ..., there is imposed on the hospital organization a tax equal to \$50,000. - § 53.4959-1(a)</p> <p>If a hospital organization operates multiple hospital facilities and fails to meet the requirements of section 501(r)(3) with respect to more than one facility it operates, the \$50,000 tax is imposed on the hospital organization separately for each hospital facility’s failure.” - § 53.4959-1(a)</p>	Reporting of excise tax required –Lines 12a-c