KPMG

Tax-Exempt Hospitals and Community Benefit: Tips for Showcasing Your Community Impact

October 3, 2023

Notices

The following information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Administrative

CPE regulations

KPMG is approved by NASBA to deliver CPE-worthy training

In order to receive CPE credit:

- attend for entire session
- participate in interactivity checks

Interactivity checks will appear in your media player, and may or may not be verbally addressed by presenters.

Participation is tracked, and failure to actively participate will result in denial of CPE credits.

Technical issues

- If you have any technical issues, please submit a question through the Questions & Answers panel and our producers will respond to you directly.

Content questions

- Submit all content questions through the Questions & Answers panel.

Speakers

Lori Robbins

National Tax Leader – Healthcare
Washington National Tax
KPMG US

Philip Bartlett

Managing Director
Development and Exempt Organizations
KPMG US

Brittany Elliser

Managing Director
Development and Exempt Organizations
KPMG US

Preston Quesenberry

Managing Director
Washington National Tax
KPMG US

Agenda

- Tax-exempt Hospitals Under Attack?
- The Community Benefit Standard
- The Do’s and Don’ts of Schedule H Reporting
- Q & A

Tax-exempt Hospitals Under Attack?

Tax-exempt Hospitals Under Attack

— Letters from Senators

- Aug. letters to IRS and TIGTA; Feb. letters to McKinsey and Ascension

— Congressional Hearings

- Held by the House Oversight Subcommittee (of Ways & Means Committee) on Apr. 26, 2023

— Proposed Legislation

- The Holding Nonprofit Hospitals Accountable Act, H.R. 2859 (Apr. 25, 2023)

— Studies and Reports

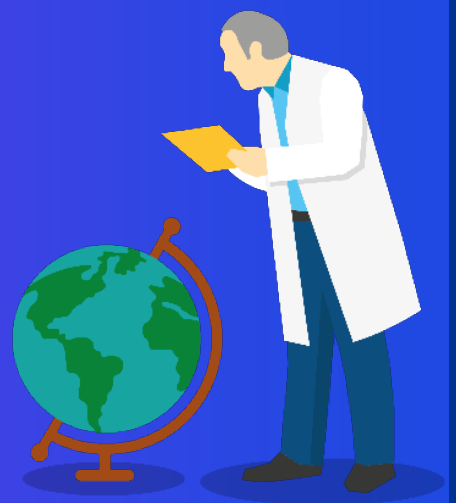
- Health Affairs study on hospital profits and charity care (June 2023); Lown Institute's "Fair Share Spending" report (Apr. 2023); KFF's report on the value of hospitals' tax-exemption (Mar. 2023)

August 8 Letter from Senators to the IRS on Tax-exempt Hospitals

— Letter from a bipartisan group of Senators (Warren, Grassley, Warnock and Cassidy)--

- Complains that tax-exempt hospitals are subject to “lax federal oversight” and an “overly broad” community benefit standard that is “arguably insufficient in its current form to guarantee protection and services to the communities hosting these hospitals”
- Cites reports and studies claiming insufficient community benefit and aggressive debt collection activities
- Urges the IRS to update the Form 990 to “ensure the information demonstrating the community benefits a hospital is providing is clear and can be easily identified”
- Asks for the IRS to identify non-profit hospitals that have been referred to IRS exam or lost tax-exemption for noncompliance with the community benefit standard

The Community Benefit Standard



Origins of the community benefit test: Rev. Rul. 69-545

— "Good example" in Rev. Rul. 69-545

- Open emergency room: no one requiring emergency care is denied treatment
  - "[O]therwise ordinarily limits admissions to those who can pay the cost of their hospitalization, either themselves, or through private health insurance, or with the aid of public programs such as Medicare"
  - Thereby "promoting the health of a class of persons that is broad enough to benefit the community"
  - Not necessary if a state health planning agency determined that additional emergency facilities would be unnecessary and duplicative or if the hospital offers medical care limited to special conditions unlikely to necessitate emergency care such as eye or cancer hospitals. *See* Rev. Rul. 83-157

Rev. Rul. 69-545 (continued)

— **Serving public v. private interest due to above and the facts that--**

- Board of trustees is composed of “independent civic leaders” (“community board”)
- Medical staff privileges in the hospital are available to all qualified physicians in the area (“open medical staff”)

— **Operating surplus applied to--**

- Expansion and replacement of existing facilities and equipment
- Amortization of indebtedness
- Improvement in patient care
- Medical training, education, and research

— ***Geisinger Health Plan* (3rd Cir., 1993) *and IHC Health Plans* (10th Cir., 2003)**

Schedule H: Community benefit reporting

7 Financial Assistance and Certain Other Community Benefits at Cost

	Financial Assistance and Means-Tested Government Programs	**(a)** Number of activities or programs (optional)	**(b)** Persons served (optional)	**(c)** Total community benefit expense	**(d)** Direct offsetting revenue	**(e)** Net community benefit expense	**(f)** Percent of total expense
a	Financial Assistance at cost (from Worksheet 1)						
b	Medicaid (from Worksheet 3, column a)						
c	Costs of other means-tested government programs (from Worksheet 3, column b)						
d	**Total.** Financial Assistance and Means-Tested Government Programs						
	Other Benefits						
e	Community health improvement services and community benefit operations (from Worksheet 4) . .						
f	Health professions education (from Worksheet 5)						
g	Subsidized health services (from Worksheet 6)						
h	Research (from Worksheet 7) .						
i	Cash and in-kind contributions for community benefit (from Worksheet 8)						
j	**Total.** Other Benefits						
k	**Total.** Add lines 7d and 7j . .						

Schedule H: Part VI Narrative

— **Line 5: Provide any other information important to describing how the organization's hospitals or other health care facilities further its exempt purpose by promoting the health of the community or communities. Your response should include, but need not be limited to, whether:**

- A majority of the organization's governing body is comprised of persons who reside in the organization's primary service area who are neither employees nor independent contractors of the organization, nor family members thereof;
- The organization extends medical staff privileges to all qualified physicians in its community for some or all of its departments or specialties; and
- How the organization applies surplus funds to improvements in facilities and equipment, patient care, medical training, education, and research.

Schedule H Reporting

Schedule H: Community benefit reporting

7	Financial Assistance and Certain Other Community Benefits at Cost						
	Financial Assistance and Means-Tested Government Programs	**(a)** Number of activities or programs (optional)	**(b)** Persons served (optional)	**(c)** Total community benefit expense	**(d)** Direct offsetting revenue	**(e)** Net community benefit expense	**(f)** Percent of total expense
a	Financial Assistance at cost (from Worksheet 1)						
b	Medicaid (from Worksheet 3, column a)						
c	Costs of other means-tested government programs (from Worksheet 3, column b)						
d	**Total.** Financial Assistance and Means-Tested Government Programs						
	Other Benefits						
e	Community health improvement services and community benefit operations (from Worksheet 4)						
f	Health professions education (from Worksheet 5)						
g	Subsidized health services (from Worksheet 6)						
h	Research (from Worksheet 7)						
i	Cash and in-kind contributions for community benefit (from Worksheet 8)						
j	**Total.** Other Benefits						
k	**Total.** Add lines 7d and 7j						

Community benefit report to Congress

Table 5: Charity Care and Certain Other Community Benefits at Cost for Tax Year 2016: Number and Selected Financial Data by Type of Community Benefit[17] [18]				
Type of Community Benefit	**Total community benefit expense**	**Direct offsetting revenue**	**Net community benefit expense**	**Percent of total expense[19]**
Total Community Benefits [20]	$198,206,829	$123,401,588	$75,111,191	9.42
Total charity care and means-tested government programs [21]	$143,883,573	$95,990,526	$48,216,080	6.05
Charity care at cost	$15,048,357	$2,473,629	$12,635,759	1.58
Unreimbursed Medicaid[22]	$125,090,496	$91,045,310	$34,281,044	4.30
Unreimbursed costs—other means-tested government programs	$3,744,720	$2,471,587	$1,299,276	0.16
Total other benefits[23]	$54,323,256	$27,411,062	$26,895,111	3.37
Community health improvement services and community benefit operations	$3,593,642	$647,074	$2,946,800	0.37
Health professions education	$16,643,019	$5,014,090	$11,626,758	1.46
Subsidized health services	$21,236,305	$14,600,298	$6,621,595	0.83
Research	$10,723,844	$7,083,104	$3,640,710	0.46
Cash and in-kind contributions to community groups	$2,126,446	$66,496	$2,059,248	0.26
Note: Money amounts are in thousands of dollars. Detail may not add to totals due to rounding.				

Source: Internal Revenue Service, “Report to Congress on Private Tax-Exempt, Taxable, and Government-Owned Hospitals,” Available at https://www.grassley.senate.gov/imo/media/doc/3-24-20%20CY%202016%20Hospital%20Report%202020.pdf

More recent community benefit statistics

— Financial assistance, means-tested programs and certain other benefits (Percent of total expense)

Hospital Category	Financial Assistance, Unreimbursed Medicaid, Unreimbursed Costs From Means-Tested Government Programs	Health Professions Education	Medical Research	Cash And In-Kind Contributions To Community Groups	Other*	Total Financial Assistance And Other Community Benefits
All Filed Schedule Hs (2,791 hospitals)	6.4%	1.7%	0.5%	0.4%	1.5%	10.5%
DEMOGRAPHIC COMPARISONS (1,931 individual hospitals)						
Size						
Small	6.0%	0.3%	0.1%	0.1%	2.4%	8.9%
Medium	6.4%	0.5%	0.1%	0.2%	1.9%	8.9%
Large	6.4%	2.2%	0.6%	0.3%	1.5%	10.9%

Source: American Hospital Association, “Results from 2019 Tax-Exempt Hospitals” Schedule H Community Benefit Reports,” available at https://www.aha.org/system/files/media/file/2022/06/aha-2019-schedule-h-reporting.pdf.

Line 7a. Financial assistance at cost

IRS Definition: Financial assistance includes free or discounted health services provided to persons who meet the organization's criteria for financial assistance and are unable to pay for all or a portion of the services.

Includes

- Free and partially discounted care (discounted from cost, not charges) provide to individuals who meet criteria for financial assistance.
- Provider taxes, assessments or fees if Medicaid DSH funds in your state are used in whole or in part to offset the cost of financial assistance.

Does not include

- Bad debt.
- Discounts provided to self-pay patients who do not qualify for financial assistance.
- Contractual allowances or quick-pay discounts.

Common Sources of Underreporting

- Don’t have process of reclassifying--
  - Self-pay discounts provided to patients found eligible for financial assistance to charity care.
  - Bad-debt expenses for patients that can found eligible for financial assistance on a presumptive basis
- Should write-offs provided to insured patients eligible for financial assistance be “grossed up” to reflect the fact that cost-to-charge ratio is determined based on gross charges (not insurance-adjusted charges)?

Line 7b. Medicaid & line 7c. costs of other means-tested government programs

Government-sponsored means-tested health care community benefit includes unpaid costs of public programs for low-income persons – the shortfall created when a facility receives payments that are less than the cost of caring for public program beneficiaries. This payment shortfall is not the same as a contractual allowance, which is the full difference between charges and government payments.

Includes

Revenues and costs related to:

- Medicaid.
- Other means-tested government programs, including:
  - State Children's Health Insurance Programs (SCHIP).
  - State and local indigent care: Medical programs for low-income or medically indigent persons not eligible for Medicaid.

Does not include

- Medicare shortfall (this can be included in other financial reports but not as a community benefit).
- Other government programs that are not means-tested, such as VA and Indian Health Service.

Common Source of Underreporting

- Don't include Medicaid provider taxes, fees or assessments in the total expense incurred to serve Medicaid patients.

Line 7e. Community health improvement services and community benefit operations

Includes	Does Not Include
— "Community health improvement services" means activities or program carried out with the express purpose of improving community health — "Community benefit operations" means: • *Activities associated with conducting community health needs assessments,* • *Community benefit program administration, and* • *The organization's activities associated with fundraising or grant writing for community benefit programs*	— Services that generate inpatient or outpatient revenue (though there may be a nominal patient fee) — Activities or programs primarily designed for marketing purposes or that are more beneficial to the organization that the community, e.g., programs or activities-- • *Required for licensure or accreditation* • *Restricted to employees or physicians affiliated with the organization* • *Designed primarily to increase referrals of patients with third party coverage*

Line 7e. Community health improvement services and community benefit operations (continued)

IRS Definition: "Community health improvement services" means activities or programs, subsidized by the health care organization, carried out or supported for the express purpose of improving community health. Such services don't generate inpatient or outpatient revenue, although there may be a nominal patient fee or sliding scale fee for these services.

— **To be reported, community need for the activity or program must be established. Community need for a program or activity can be demonstrated through the following:**

- A CHNA conducted or accessed by the organization
- Documentation that demonstrated community need or a request from a public health agency or community group was the basis for initiating or continuing the activity or program
- The involvement of unrelated collaborative tax-exempt or government organizations as partners in the activity or program carried out for the express purpose of improving community health.

Line 7e. Community health improvement services and community benefit operations (continued)

— **Community benefit activities or programs also seek to achieve a community benefit objective. These activities include:**

- *Improving access to health services,*
- *Enhancing public health,*
- *Advancing increased general knowledge, and*
- *Relief of a government burden to improve health*

Line 7e. Community health improvement services and community benefit operations (continued)

— **Community benefit activities or programs that seek to achieve a community benefit objective include programs of activities that do the following:**

- Are available broadly to the public and serve low-income consumers.
- Reduce geographic, financial or cultural barriers to accessing health services, and if they ceased would result in access problems (i.e., longer wait times).
- Address federal, state, or local public health priorities such as eliminating disparities in access to health care services or disparities in health status among different populations.
- Leverage or enhance public health department activities such as childhood immunization efforts.
- Strengthen community health resilience by improving the ability of a community to withstand and recover from public health emergencies.
- Otherwise would become the responsibility of government or another tax-exempt organization.
- Advance increased general knowledge through education or research that benefits the public.

Line 7e. Community health improvement services and community benefit operations: Underreporting causes

- Only report direct expenses, even though Schedule H instructions indicate that both direct and indirect expenses may be included.
- Don’t shift expenses for community building programs to community health improvement services.
- Don’t pick up activities such as helping patients enroll in Medicaid or the ACA Health Insurance Marketplace and other programs whose primary purpose is to improve public health.

Line 7f. Health professional education

This category includes educational programs for physicians, interns and residents, medical students, nurses and nursing students, pastoral care trainees and other health professionals when that education is necessary for a degree, certificate, or training that is required by state law, accrediting body or health profession society.

— Health professions education

- Educational programs that result in a degree, a certificate, or training necessary to be licensed to practice as a health professional, as required by state law, or continuing education necessary to retain state license or certification by a board in the individual's health profession specialty.

Line 7f. Health professional education (continued)

Includes

- Stipends, fringe benefits of interns, residents, and fellows in accredited graduate medical education programs.
- Salaries and fringe benefits of faculty directly related to intern and resident education.
- Salaries and fringe benefits of faculty directly related to educating:
  - Medical students;
  - Students enrolled in nursing programs that are licensed by state law or, if licensing isn't required, accredited by the recognized national professional organization for the particular activity;
  - Students enrolled in allied health professions education programs, licensed by state law or, if licensing isn't required, accredited by the recognized national professional organization for the particular activity, including, but not limited to, programs in pharmacy, occupational therapy, dietetics, and pastoral care; and
  - Continuing health professions education open to all qualified individuals in the community, including payment for development of online or other computer-based training accepted as continuing health professions education by the relevant professional organization.
    - *Note: These costs are sometimes missed!*
- Scholarships provided by the organization to community members.

Does Not Include

- Costs related to Ph.D. students and post-doctoral students (included on Worksheet 7)
- Scholarships for staff members
- Continuing medical education restricted to own staff
- Nurse education if graduates are required to become the organization's employees

Line 7g. Subsidized health services

Clinical services provided despite a financial loss to the organization. The financial loss is measured after removing losses associated with bad debt, financial assistance, Medicaid, and other means-tested government programs

- **To qualify as a subsidized health service, the organization must provide the service because it meets an identified community need. A service meets an identified community need if it is reasonable to conclude that if the organization no longer offered the service:**
  - The service would be unavailable in the community,
  - The community's capacity to provide the service would be below the community's need, or
  - The service would become the responsibility of government or another tax-exempt organization.
- **Hospitals commonly underreport subsidized health services because of work involved to—**
  - Find services that lose money after backing out financial assistance, Medicaid, bad debt, etc.
  - Establish that community need for the services exists.

Line 7g. Subsidized health services (continued)

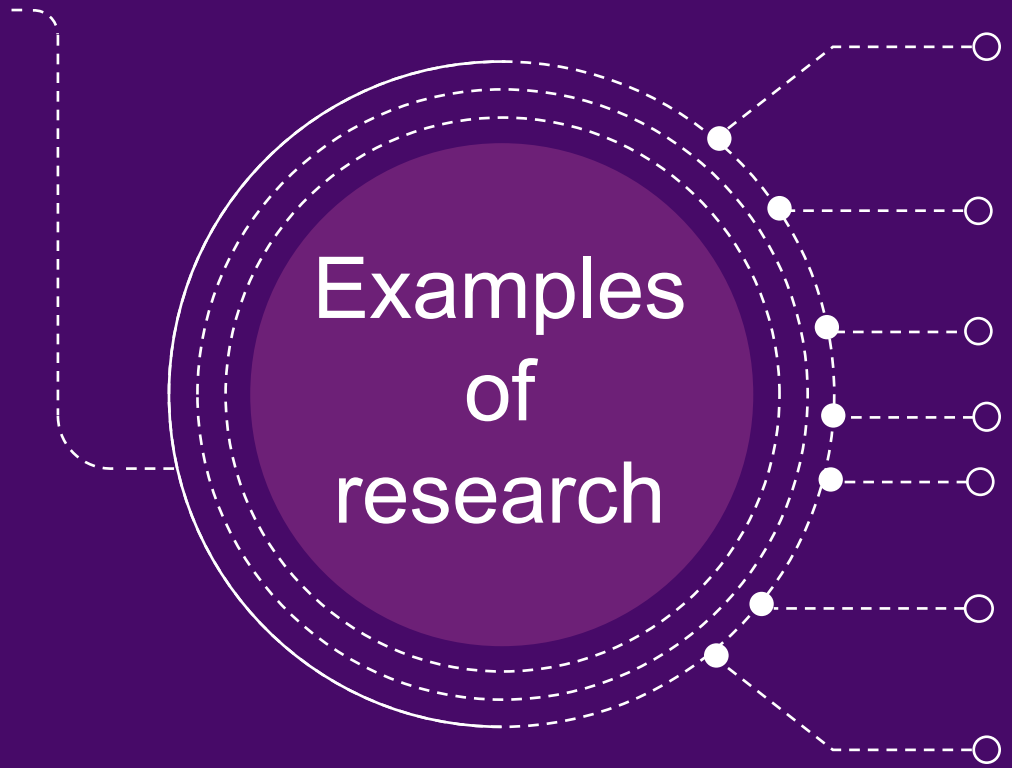
Includes	Does Not Include
— Inpatient programs: • Neonatal intensive care • Addiction recovery • Psychiatric units — Outpatient programs: • Emergency and trauma services • Satellite clinics (designed to serve low-income communities) • Home health programs — Stand-alone physician clinics • Must report associated costs on Part VI	— Ancillary services that support inpatient and ambulatory programs • Anesthesiology • Radiology • Laboratory departments

Line 7h – Research

Research means any study or investigation the goal of which is to generate increased generalizable knowledge made available to the public

Can Be Reported	Cannot Be Reported
— The organization can include the cost of internally funded research it conducts, as well as the cost of research it conducts funded by a tax-exempt or government entity. • "Restricted grants" for research must be reported as direct offsetting revenue • "Unrestricted grants" that the organization happens to use for research does not need to be reported as direct offsetting revenue • When is a grant "restricted" or "unrestricted"? (This question arose with "Provider Relief Funds.")	— The organization cannot include direct or indirect costs of research funded by an individual or an organization that isn't a tax-exempt or government entity. — The organization can describe in Part VI any research it conducts that isn't funded by tax-exempt or government entities, including the cost of such research, the identity of the funder, how the results of such research are made available to the public, if at all, and whether the results are made available to the public at no cost or nominal cost.

Line 7h – Research (continued)



- Knowledge about underlying biological mechanisms of health and disease, natural processes, or principles affecting health or illness;
- Evaluation of safety and efficacy of interventions for disease such as clinical trials and studies of therapeutic protocols;
- Laboratory-based studies;
- Epidemiology, health outcomes, and effectiveness;
- Behavioral or sociological studies related to health, delivery of care, or prevention;
- Studies related to changes in the health care delivery system; and
- Communication of findings and observations, including publication in a medical journal.

Line 7h – Research (continued)

— Research costs that can be included:

- Salaries and benefits of researchers and staff, including stipends for research trainees (Ph.D. candidates or fellows);
- Facilities for collection and storage of research, data, and samples;
- Animal facilities;
- Equipment;
- Supplies;
- Tests conducted for research rather than patient care;
- Statistical and computer support;
- Compliance (for example, accreditation for human subjects protection, biosafety, Health Insurance Portability and Accountability Act (HIPAA), etc.); and
- Dissemination of research results.

Line 7i – Cash and in-kind contributions for community benefit

Contributions made by the organization to health care organizations and other community groups restricted, in writing, to one or more of the community benefit activities described in the table on Part I, line 7

Includes

- Cost of staff hours donated by the organization to the community while on the organization's payroll,
- Indirect cost of space donated to tax-exempt community groups (such as for meetings), and the
- Financial value (generally measured at cost) of donated food, equipment, and supplies.

Common Source of Underreporting

- Hospitals commonly don’t pick up subsidies paid to physician practices or medical groups that operate in separate EINs or for-profit corporations and that incur financial assistance, Medicaid, and other community benefit losses

Does not include

- Payments that the organization makes in exchange for a service, facility, or product, or that the organization makes primarily to obtain an economic or physical benefit.
  - Payments made in lieu of taxes that the organization makes to prevent or forestall local or state property tax assessments, and
  - A teaching hospital's payments to its affiliated medical school for intern or resident supervision services by the school's faculty members.
- Cash or in-kind contributions contributed by employees;
- Emergency funds provided by the organization to the organization's employees;
- Loans, advances, or contributions to the capital of another organization that are reportable in Part X of the core Form 990; or
- Unrestricted grants or gifts to another organization that can, at the discretion of the grantee organization, be used other than to provide Line 7 community benefit

Q&A

Q&A

— If you submitted a question, someone from KPMG may contact you via phone or email. Or you may contact one of today's presenters directly:

Philip Bartlett	+1 (614) 249 2343	pbbartlett@kpmg.com
Brittany Elliser	+1 (225) 379 6054	bkelliser@kpmg.com
Preston Quesenberry	+1 (202) 533 3985	pquesenberry@kpmg.com
Lori Robbins	+1 (202) 533 3491	lorirobbins@kpmg.com

Thank you for joining us.

The player will now refresh to display an exit survey. Please complete this survey and click the Submit button.

If you met the CPE requirements, you will receive your certificate at the email address you entered when logging in in approximately two weeks.

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

kpmg.com/socialmedia