

President Signs PPACA – New § 501(c)(3) Requirements for Charitable Hospitals

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On March 23, 2010, President Barack Obama signed into law the [Patient Protection and Affordable Care Act of 2010](#) (the “PPACA”). The PPACA, among other things, added additional requirements for hospitals seeking to obtain or maintain charitable tax-exempt status under Section 501 of the Internal Revenue Code of 1986 (the “IRC”). Section 9007 of the PPACA requires charitable hospitals to: (1) assess community health needs and implement plans to meet those needs; (2) provide financial assistance and emergency care; (3) limit certain billing and collection actions and limit charges to the uninsured for emergency care; and (4) report on community health needs and provide annual audited financial statements to the Internal Revenue Service (the “IRS”).

Four Requirements

First, the PPACA requires hospitals to conduct a community health needs assessment at least once every three years and to adopt an implementation strategy to meet the community health needs identified by the assessment. A community health needs assessment must take into account input from persons who represent the broad interests of the community served by the facility, including those with special knowledge of or expertise in public health, and the assessment must be made widely available to the public. Hospitals that fail to perform a community health needs assessment or to adopt an implementation strategy face a \$50,000 excise tax.

Second, the PPACA requires hospitals to establish written financial assistance and emergency care policies. Financial assistance policies must include: (1) eligibility criteria for financial assistance and whether the assistance includes free or discounted care; (2) the basis for calculating amounts charged to patients; (3) the method for applying for financial assistance; (4) measures to widely publicize the policy within the community; and, except for hospitals that have separate billing and collections policies, (5) the actions hospitals may take in the event of non-payment, including collections action and reporting to credit agencies. Emergency care policies must require hospitals to provide, without discrimination, care for emergency medical conditions to individuals regardless of their eligibility under the hospital’s financial assistance policy.

Third, the PPACA provides that hospitals may not engage in extraordinary collection actions before making reasonable efforts to determine whether the individual is eligible for financial assistance in accord with the hospital’s written policy. Those eligible for financial assistance must not be charged more for emergency or medically necessary care than the amounts generally billed to those with insurance covering such care. The PPACA also prohibits the use of gross charges.

Finally, the PPACA contains new reporting requirements. Hospitals must report the findings of their community health needs assessments to the IRS along with a description of any needs not being addressed and reasons why those needs are not being addressed. Hospitals must also submit audited financial statements to the IRS. The Secretary of the Treasury must, in turn, make annual reports to the Congress with respect to all hospitals on levels of charity care provided, bad debt expenses, unreimbursed costs for services with respect to both means-tested and non-means tested programs and, with respect to private tax-exempt hospitals, costs incurred for community benefit activities.

Effective Dates

Charitable hospitals intending to qualify as tax-exempt under Section 501 of the IRC must meet the new requirements of the PPACA for tax years beginning after March 23, 2010, except that the community health needs assessment and related excise tax apply to tax years beginning on March 23, 2012.

For Further Information

If you have any questions, please contact the Edwards Angell Palmer & Dodge lawyer responsible for your affairs, or the authors of this Update, [Kris A. Moussette](#) (617.239.0506) or [Matthew O. Page](#) (617.239.0897).