



September 14, 2007

By Electronic Filing

Internal Revenue Service
Form 990 Redesign, SE:T:EO
1111 Constitution Avenue, NW
Washington, D.C. 20224

RE: Comments on Draft redesigned form 990 and Schedules

The Healthcare Financial Management Association (HFMA) is pleased to submit the following comments on the draft redesigned Form 990 and new draft schedules.

These reporting documents have the potential to help tax-exempt healthcare providers better tell their community benefit story and demonstrate that they are fulfilling their tax-exempt purpose. Revising the form and adding a schedule to reflect today's complex healthcare environment is timely and laudable. We look forward to working with the IRS and our membership to ensure that these reporting tools achieve the stated goals of transparency and accountability while minimizing administrative burden.

Over the past several months, HFMA has worked closely with members, other healthcare organizations, and IRS staff on this issue. We observe that the tax-exempt healthcare community is closely aligned on their concerns about the extent of revisions that must be made to the redesigned Form 990 and new schedules (particularly Schedule H) before they become effective tools to promote transparency, comparability, and accountability. The American Hospital Association, American Bar Association, Catholic Healthcare Association, and others have submitted comments that provided detailed, line-by-line recommendations. Rather than repeat their work, we wish to express our concurrence with the common themes and recommendations submitted by our colleagues. In this letter, we will limit our remarks to those points that are specific to HFMA's expertise and positions.

Attributes of Tax-Exempt Healthcare Providers

We are delighted to see that the form and schedule clearly reflect the fact that charitable activity extends well beyond the provision of charity care, as provided for by IRS Revenue Ruling 69-545.

Tax-exempt healthcare organizations are formed to address the specific needs of their communities; therefore, the attributes that merit tax-exemption are not standard across all institutions. In 1991, an HFMA Chairman's Task Force released a report identifying the major attributes of tax-exempt organizations. The Principles and Practices Board built on these attributes in light of the current environment. These attributes can be divided into organizational characteristics and types of services.

Organizational characteristics:

- Mission to Provide Community Benefit. Mission is a cornerstone of granting tax-exemption. According to federal law, the tax-exempt provider must have a clearly defined mission statement committing the institution to charitable endeavors. Both the institution's historical background and the community's needs are important in determining the mission statement.
- Use of Financial Surpluses. No individual may receive any portion of a tax-exempt institution's financial surpluses as a result of ownership. Both federal and state laws require that all financial surpluses must go toward furthering the organization's charitable purpose. Compensation arrangements must be carefully constructed to reflect fair market value for services rendered.
- Accountability. The organization's board of trustees must hold itself answerable to its community for maximizing the entity's contribution to the community.
- Goodwill. Goodwill is an intangible attribute characteristic of successful tax-exempt hospitals continuing their mission of providing care and meeting their community responsibility over a long period of time. Such organizations usually have stable ownership and governance structures and regularly receive significant philanthropic and volunteer support.

Types of charitable services:

- Provision of Charity Care. Free or discounted care is an important component of many hospitals' tax-exempt missions, but is not the only function that hospitals perform to merit tax-exempt status. Organizations that provide charity care must establish and communicate a clear charity care policy based on community needs and input. The policy should include easy-to-understand, written eligibility criteria.
- Reduction of Government Burden. Many tax-exempt hospitals provide services that government otherwise would have to provide. Services especially demanded from tax-exempt healthcare providers include high-tech, high-intensity services, emergency care, chronic care, long-term care, and unprofitable services.

- Provision of Essential Healthcare Services. Tax-exempt healthcare providers are often the sole providers of healthcare services that are so essential to community health that tax-exempt status is warranted. Examples of essential services include emergency rooms and outpatient clinics serving low-income patients.
- Provision of Unprofitable Services. The provision of unprofitable services is commonly a provider's charitable response to a community need. Unprofitable services in this sense lose money because of high costs combined with low volume or inadequate payment rather than inefficient operations. Common examples of unprofitable services include burn, neonatal, and trauma centers and community mental health centers.
- Public Education. Teaching institutions, of course, are exempt because of their role in the advancement of education and science. Most tax-exempt healthcare providers, however, also provide a range of educational programs to enhance public health. Examples of such programs include public health education, wellness programs, and the sponsorship of educational activities.
- Serving Other Unmet Human Needs. Some tax-exempt hospitals provide important services that are tangential to health care but that are unmet by any other entity in the service area. Examples of these activities include senior citizen education and outreach programs, care for "boarder" babies, or the operation of a "meals-on-wheels" program.

We are concerned that the structure, content, and magnitude of information required by the revised form and schedules sets an expectation that compliance with tax-exempt regulations is *only* achieved if the dollar value of the community benefits provided equals the value of the tax-exemption. This expectation makes it difficult to acknowledge the intangible benefits related to the service and operation of tax-exempt healthcare institutions that are not readily measured in dollars. Importantly, such expectations obscure the fact that the IRS and court rulings have repeatedly determined that the promotion of health care is in itself a charitable activity.

We have found over the past 15 years that these 10 attributes have been a useful, comprehensive framework for articulating what makes an exempt organization different from its for-profit counterparts. Therefore, we urge the IRS to ensure that the form, schedules, instructions, as well as the field audit guides used to help interpret these materials, are structured to express these attributes, and that the form 990 and schedules allow healthcare providers to capture clearly all the relevant attributes by which they support the community benefit standard.

Reporting of Charity Care and Bad Debt

HFMA believes that currently, most healthcare organizations under-report charity care and over-report bad debt, largely because of the nature of healthcare delivery, and in many cases, the difficulty in obtaining appropriate financial information from patients to determine their financial status prior to service delivery. Historically, both charity care and bad debt were treated as uncompensated care and often were not clearly separated. As such, the difference between the two often was blurred.

To address this problem, in 2006, HFMA's Principles and Practices Board, updated Statement 15: *Valuation and Financial Statement Presentation of Charity Care and Bad Debts by Institutional Healthcare Providers*.

A noteworthy revision to Statement 15, which has important implications for charity care reporting as well as collection activities concerning unpaid patient bills, addresses how to record bad debt. The Principles and Practices Board states that revenue for patient services should be recognized only when it meets GAAP's revenue recognition criteria:

- Pervasive evidence exists of a payment agreement between the provider and the patient
- Services have been rendered
- The price is fixed or determinable, and
- Collectibility is reasonably assured

The accounting standard-setting bodies have clearly stated charity care results from an entity's decision to forego revenue. Bad debts, on the other hand, result from the customer/patient's refusal to pay for services that have met the criteria for revenue recognition listed above. (The full statement can be downloaded at <http://www.hfma.org/ppb15>)

Statement 15 also addresses the appropriate reporting of Medicare payment shortfalls:

Medicare shortfalls, if disclosed, should be treated separately, because the program serves all elderly and disabled beneficiaries, regardless of income. This difference has resulted in a wide diversity of practice regarding the inclusion of Medicare shortfalls as community benefit. The Principles and Practices Board acknowledges that Medicare shortfalls can be an important issue for many providers, and that such losses can be material to the facility's financial status. The Principles and Practices Board concludes that each hospital should decide, based on its circumstances, whether Medicare shortfalls should be part of its community benefit disclosure. In all cases where Medicare shortfalls are disclosed, the disclosure should be separate from charity care and accompanied by sufficient detail and context to help readers understand each reported cost calculation. (Paragraph 11.2).

We recommend that the IRS incorporate Statement 15 guidance into its instructions for measuring and reporting charity care and bad debt. Also, in Schedule H, Line 3, we recommend adding a specific line item for Medicare payment shortfalls.

Billing and Collection Practices

Billing and collections practices is an important issue with significant policy implications. However, the information requested in Schedule H Part II does not provide evidence of how a facility complies with current regulations governing tax-exempt organizations. Therefore, HFMA recommends that this section be removed, or that the IRS explain how each set of information requested serves to demonstrate a provider's exempt-organization compliance.

Deadline

Finally, HFMA is deeply concerned about the proposed implementation deadlines, and we urge an extension to the filing deadline for the revised form and new schedules to tax year 2010. The extra time will allow affected entities to develop the additional processes which will be necessary to gather and prepare the additional information required in the new forms, especially draft Schedule K (Supplemental Information on Tax-Exempt Bonds). Also, the revisions the IRS makes to the form, instructions, and schedules after reviewing public comments are likely to be extensive. The extent of these changes, combined with the complexity of the information that the IRS seeks to capture, makes an additional review period prudent. To meet the tax year 2010 deadline, we hope to see the second draft early in 2008, with a final form released no later than December 31, 2008.

HFMA hopes that these comments and recommendations are useful as the IRS pursues the best interests of patients, taxpayers, and the nation's healthcare system. We are at your service to provide additional background material or perspective on this complex issue. You may reach me, or Richard Gundling, Vice President of HFMA's Washington, DC, office, at (202) 296-2920. We look forward to working with you.

Sincerely,



Richard L. Clarke, DHA, FHFMA

About HFMA

HFMA is the nation's leading membership organization for more than 34,000 healthcare financial management professionals. Our members are widely diverse, employed by hospitals, integrated delivery systems, managed care organizations, ambulatory and long-term care facilities, physician practices, accounting and consulting firms, and insurance companies. Members' positions include chief executive officer, chief financial officer, controller, patient accounts manager, accountant, and consultant.

HFMA is a nonpartisan professional practice organization. As part of its education, information, and professional development services, HFMA develops and promotes ethical, high-quality healthcare finance practices. HFMA works with a broad cross-section of stakeholders to improve health care by identifying and bridging gaps in knowledge, best practices, and standards.