

# Diving into Not-for-Profit Healthcare Benefit Tracking



Emilie Knieriem  
Senior Manager  
Blue & Co., LLC

[eknieriem@blueandco.com](mailto:eknieriem@blueandco.com)

Direct: 502-461-8512



Tyler Greene  
Manager  
Blue & Co., LLC

[tgreene@blueandco.com](mailto:tgreene@blueandco.com)

Direct: 317-983-7964

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The information contained here does not constitute legal or tax advice.

The information is provided for informational/educational purposes only and cannot be relied upon. Please consult with counsel regarding your organization's particular circumstances.

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# Agenda

Value of Tax-Exempt Status

Community Benefit

- Definition of Community Benefit
- What Counts?

Increased Scrutiny of Community Benefit

How can Hospitals Prepare?

# Requirements for Nonprofit Hospitals to Obtain Federal Tax-Exempt Status

## ORGANIZATIONAL AND OPERATIONAL REQUIREMENTS

A hospital must be organized and operate to achieve a charitable purpose—the promotion of health for the benefit of the community.



## COMMUNITY BENEFITS

Internal Revenue Service has identified six factors that demonstrate community benefit:

- Operate an emergency room open to all, regardless of ability to pay
- Maintain a board of directors drawn from the community
- Maintain an open medical staff policy (i.e., not restrict medical staff privileges to a limited group of physicians)
- Provide care to all patients able to pay, including those who do so through Medicare and Medicaid
- Use surplus funds to improve facilities, equipment, and patient care
- Use surplus funds to advance medical training, education, and research



## PATIENT PROTECTION AND AFFORDABLE CARE ACT REQUIREMENTS

Hospitals must:

- Conduct a community health needs assessment
- Maintain a written financial assistance policy
- Set a limit on charges
- Set billing and collection limits

IRS must review each tax-exempt hospital's community benefit activities at least once every 3 years.



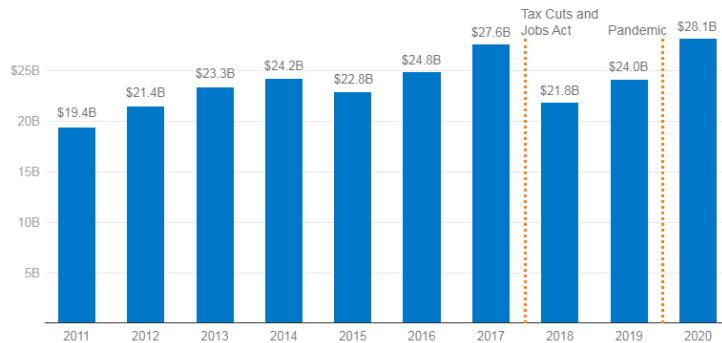
Source: GAO review of relevant laws and regulations. | GAO-23-106777

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# Value of Tax-Exempt Status

Figure 3

The Value of Tax Exemption Grew From About \$19 Billion in 2011 to About \$28 Billion in 2020, Representing a 45 Percent Increase



NOTE: A given hospital may appear in one year but not another due to missing data or hospital openings and closures. Value of tax exemption reflects the estimated benefit of not having to pay federal, state, and local taxes as well as estimated increases in charitable contributions and decreases in bond interest rate payments due to tax-exempt status. The Tax Cuts and Jobs Act of 2017 permanently reduced the corporate income tax rate from 35 to 21 percent effective 2018.

SOURCE: KFF analysis of RAND Hospital Data, 1996-2020; the American Hospital Association (AHA) Annual Survey Database, 2011-2020; and Internal Revenue Service (IRS) Form 990 data, 2011-2020. • PNG

KFF

Lown Institute analysts identified more than 1,350 hospitals that have “fair share” deficits, meaning that the value of their community investments fails to equal the value of their tax breaks.

The combined deficits of nonprofit hospitals totaled \$14.2 billion in 2020, enough to relieve the medical debt of 18 million Americans or prevent 600 at-risk rural hospitals from closing.

\*Calculations excluded Unreimbursed Medicaid, Health Professions Education and Research.

<https://lownhospitalsindex.org/2023-fair-share-spending/>

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# Value of Tax Exempt Status

- More than a dozen states have considered or passed legislation to better define the community benefit provided by non-profit hospitals in exchange for tax breaks. Below are a couple of examples:
  - **Florida** – In 2020, HB 7079 was passed requiring a hospital seeking a county property tax exemption to submit its IRS Form 990, Schedule H to the state. It also limited a hospital's county tax exemption to the value of the net community benefit expense it provided according to its schedule H. In 2021, **HB 7061** removes these requirements and tax limitations.
  - **California** - AB 1204 requires hospitals and hospital systems to annually submit an equity report starting in 2025 that includes an “analysis of health status and access to care disparities for patients on the basis of age, sex, race, ethnicity, language, disability status, sexual orientation, gender identity, and payor.” The report must include a plan to address disparities identified by the data with measurable objectives and timeframes. The bill allows HCAI to impose a fine up to \$5,000 if a hospital fails to adopt, update, or submit an equity report.

# Value of Tax-Exempt Status – Why is it Important?

- Public Perception
- Significant Growth in the value of tax-exemption
- Additional reporting requirements and monitoring by public interest groups
- Increasing pressure from state legislators
- Continuing pressure from congress

# Polling Question #1

Do you track your value of tax-exempt status?

- Yes
- No

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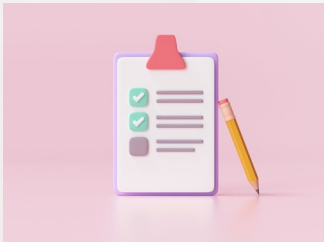
# Community Benefit – What is it?



- Programs or activities that provide treatment and/or promote health and healing as a response to community needs
  - Generates a low or negative financial return
  - Responds to needs of special populations
  - Supplies, services or programs
  - Responds to public health needs
  - Involves education or research

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# Identifying Community Need



**A CHNA conducted or accessed by the organization**

**Documentation that demonstrated community need or a request from a public health agency or community group.**

**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.**

# Community Benefit - What does not count



The program represents a community benefit provided by another entity or individual, such as:

Activities by employees on their own time



The program benefits the organization more than the community:

Generates referrals to the hospital versus community resources

# What does not count cont...



Access to the program is restricted to employees or medical staff affiliated with the hospital, such as Continuing Medical Education program, only for your medical staff



The activity represents a normal “cost of doing business” or is associated with the current standard of care (expected of taxable and tax-exempt entities alike)

Employee benefits, such as in-service trainings

Licensure requirements

Discharge planning

# What Qualifies (Counts) as a Community Benefit?

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Financial Assistance

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Medicaid

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Other Means-tested  
Government Programs

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Other Community  
Benefits Categories A-G

- A. Community Health Improvement
- B. Health Professions Education
- C. Subsidized Health Services
- D. Research
- E. Financial & In-Kind Contributions
- F. Community Building Activities
- G. Community Benefit Operations

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# Polling Question #2

What is your community benefit percentage?

- Less than 1%
- Between 1-3%
- Greater than 5%
- I don't know

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# Community Benefit – What Counts?

Part I, Line 7e - Community Health Improvement Services		
Activity or Program	Report	Example Rationale
Immunization for low-income children	Yes	Public health priority, relief of government burden
Flu shots for employees	No	Cost of doing business, more benefit to organization than community
Health screening program in low-income community	Yes	Enhances access, health education
Health screening program in upscale mall for marketing purposes	No	More benefit to organization than community
Health education regarding diabetes	Yes	Public health priority
Marketing material for orthopedic program	No	Marketing focus, more benefit to organization than community
Outreach to help seniors remain independent in their homes	Yes	Public health priority
Discharge planning function	No	Represents the current standard of care, required for licensure
Taxi vouchers for low-income persons	Yes	Provides access to care for vulnerable persons
Van service between wealthy retirement community and only the organization	No	Benefits the organization more than the community

# Community Benefit – What Counts?

Part I, Line 7f - Health Professionals Education		
Activity or Program	Report	Example Rationale
Scholarships for community members	Yes	More benefit to community than organization
Scholarships for staff members	No	More benefit to organization than community
Continuing medical education for community physicians	Yes	Accessible to all qualified physicians
Continuing medical education for own medical staff	No	Restricted to own medical staff members
Nurse education if graduates are free to seek employment at any organization	Yes	More benefit to community than organization
Nurse education if graduates are required to become the organization's employees	No	Program designed primarily to benefit the organization

Part I, Line 7g - Subsidized Health Services		
Activity or Program	Report	Example Rationale
Clinics for low-income persons	Yes	Enhances access
Prenatal classes for mostly insured persons	No	Current standard of care
Mental health service with high census and Medicaid patients	Yes	Responds to need and provides access for low-income consumers
Mental health service with low census that loses money	No	Need not established and may reflect poor business decision
Cosmetic surgery and other elective care for which financial assistance is not available	No	Difficult to establish community need and inaccessible for patients needing financial assistance

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# Community Benefit – What Counts?

Part I, Line 7h - Research Programs		
Activity or Program	Report	Example Rationale
Research on how to reduce disparities in cancer	Yes	Community need
Study on whether to open a new cardiac unit	No	Market research
Study on how to triage ER patients, results published in professional journal	Yes	Results shared with others
Quality assurance study on reducing medication errors	No	Finding used solely by the organization

Part I, Line 7i - Cash and In-Kind Contributions		
Activity or Program	Report	Example Rationale
Donation to community clinic	Yes	Enhances access
Executive time at a charity golf outing	No	Unrelated to health/mission
Cost of staff working in a free clinic while on hospital payroll	Yes	Commitment of organization's resources
Value of staff time when volunteering on their own time	No	Benefit provided by the staff, not the organization
Equipment with remaining useful life donated to community clinic	Yes	Equipment has financial value and donation results in net financial cost
Equipment that has been fully depreciated	No	Equipment has been fully expensed – only new cost for delivery can be reported
Emergency funds provided to local Red Cross	Yes	Benefits the community more than the organization
Emergency funds provided: a) to employee support fund or b) by employee	No	a) Benefits only persons internal to the organization and b) not an expense of the organization

# Community Benefit – What Counts?

Part II - Community Building Activities		
Activity or Program	Report	Example Rationale
Housing for low-income seniors	Yes	Community need/access to housing
Housing for employees	No	Restricted to individuals affiliated with the organization
Crime prevention program	Yes	Public health/social need
Staff in-service education on domestic abuse	No	In-service education is cost of doing business and standard of care
Advocacy on access to transportation, affordable housing, early childhood development programs	Yes	Community need
Advocacy for enhanced reimbursement	No	Benefits the organization
Proper disposal of radioactive waste	No	Required by law
Waste reduction to minimize incineration	Yes	Contributions to improved air quality/related asthma prevention

Part II - Community Benefit Operations		
Activity or Program	Report	Example Rationale
Costs of conducting community assessment	Yes	Critical for effective community benefit program
Consultant fees for feasibility study of new service line	No	Related to operations of the organization
Fundraising for organization community benefit activities	Yes	Related to community need
Fundraising for new technology	No	Related to operations of the organization
Attending workshop of community benefit program evaluation	Yes	Directly related to community benefit program
Attending workshop on management skills	No	Not related to community benefit program

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# Importance of Community Benefit on Schedule H



Reporting community benefit expenses is a key element of Form 990, Schedule H because providing community benefit is a primary justification for hospitals to be tax-exempt charitable organizations under Section 501(c)(3).



- Because all hospitals must complete Schedule H, this reporting provides insight into overall hospital practices.



- While there are no IRS requirements regarding how much community benefit must be provided, this is an area of focus for Congress, states and others.



- Forms 990 and Schedule H are available on IRS web site at Tax Exempt Organization Search ([irs.gov](https://www.irs.gov)) Can search by name or employer identification number



IRS also makes Form 990 and Schedule H data available digitally, in XML format, through Tax Exempt Organization Search

# Increased Scrutiny of Community Benefit

- Critics are increasingly challenging the distinction between taxable and tax-exempt hospitals and health systems.
- The “halo effect” of tax-exempt status has diminished and reputational risk has increased because of scrutiny from legislators, media and others.
- Federal, state and local governments are actively seeking new sources of revenues and reevaluating “tax breaks”.

# Media Scrutiny of Community Benefit: Wall Street Journal article (7/25/22)

- Wall Street Journal Concluded that:
  - US tax-exempt hospitals “wrote off in aggregate 2.3% of their patient revenue on financial aid for patients’ medical bills”, compared to 3.4% by taxable hospitals in US and 4.7% by government hospitals
    - Used Medicare Cost Report data for hospitals’ most recent FYs (2019-21)
    - Did not use complete 2020 or 2021 Medicare Cost report data sets
  - Three-fifths of tax-exempt hospitals spent less than 2% on charity care
  - In Medicaid expansion states, taxable and tax-exempt hospitals both spent approximately 1.5% of patient revenue on charity care
  - In non-Medicaid expansion states (like Florida), taxable hospitals spent an average of 5% of net patient revenue on charity care, and tax-exempt hospitals spent an average of 4.2% on charity care

# Polling Question #3

Do you have a separate team tracking the community benefit activities?

- Yes
- No

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# How can Hospitals Prepare?

- Consider other information reported on Form 990, Schedule H
- Prepare an internal valuation of the hospital's tax-exempt status
- Review the hospital's Financial Assistance Policy and related policies and procedures
- Review trends in state requirements
- Develop communication strategy on hospital's community benefit

Questions?

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