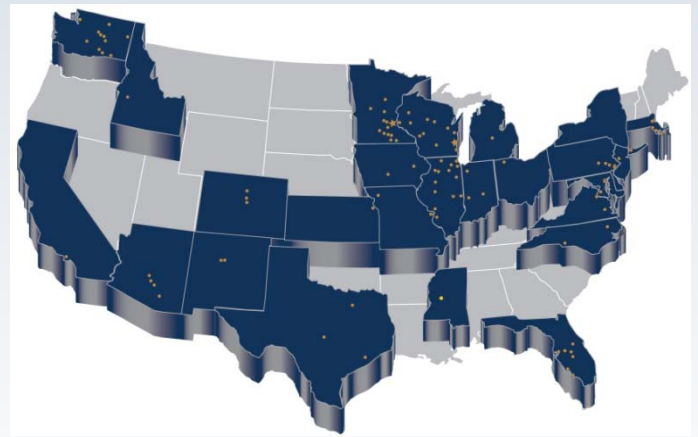


501(r): Strengthening your Community and Your Hospital

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About CliftonLarsonAllen

- One of the nation's top 10 CPA and consulting firms
- Service areas include audit, accounting, tax, consulting, and advisory
- 3,600+ professionals
- 90 offices nationwide



Speaker Introductions



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Kurt Bennion, a health care Engagement Director at CliftonLarsonAllen, specializes in the tax and exemption issues facing tax-exempt organizations in the health care industries. Kurt provides a technical expertise in addressing the most recent developments in laws and regulations that impact tax-exempt health care organizations.

Agenda

- Overview of Section 501(r)
- Applicability of Section 501(r)
- Penalties for Non-compliance
- Policies and Procedures
 - Financial Assistance Policy
 - Emergency Medical Care Policy
 - Limitation on Charges
 - Billing and Collections
- Community Health Needs Assessment
 - The Process
 - Required Documentation
 - ◇ Community Health Needs Assessment Report
 - ◇ Implementation Plan
- Impact on Form 990 and Schedule H
- Miscellaneous Notes

My Perspective

- Your hospital has a valuable asset that doesn't appear anywhere on its balance sheet.
 - Tax-exempt status!!!
- That asset is increasingly at risk.
 - Additional requirements to prove that you deserve it.

What is tax-exempt status worth to your hospital?

Overview of Section 501(r)

- Created by §9007 of the Patient Protection and Affordable Care Act of 2010
- Minimal exposure due to the enormity of other provisions
 - Individual mandate for health insurance
 - State health insurance exchanges
 - Limits on billing based on pre-existing conditions
 - Expanded Medicaid eligibility
 - Penalties for large employers not offering health insurance
 - Bundled payments and the shared savings program

Components of Section 501(r)

- A hospital organization exempt under §501(c)(3) must meet several requirements:
 1. Written financial assistance policy
 - a. Written Emergency medical care policy
 2. Limitation on charges
 3. Billing and collection practices
 4. Community health needs assessment
- Other components of §9007:
 - Penalties for noncompliance
 - The Secretary of the Treasury is required to review all applicable hospitals' activities at least every 3 years
 - The Secretary of the Treasury is required to report to Congress annually

Applicability of Section 501(r)

- 501(r) applies to “hospital organizations.”
 - An organization that operates a facility required by a state to be licensed, registered, or similarly recognized as a hospital or
 - “Any other organization which the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption under subsection 501(c)(3)...”
- Applies to 501(c)(3) organizations that operate a state-licensed hospital facility through a:
 - Disregarded entity
 - Joint venture
 - LLC
 - Any other entity treated as a partnership for income tax purposes
- Applies to dual status government hospitals.
- *Does not* apply to hospitals located outside of the U.S.
- Applies separately to every hospital facility.

Penalties for Noncompliance

If Section 501(r) applies to a hospital organization:

1. Each hospital that fails to comply with the community health needs assessment (“CHNA”) requirement must pay a \$50,000 excise tax.
 - Tax applies each year a hospital fails to comply.
 - Tax applies separately to each hospital that fails to comply.

Penalties for Noncompliance (cont.)

2. Each hospital that fails to comply with any requirement of 501(r) is not treated as exempt under 501(c)(3).

- Income tax
- Property tax
- Sales tax
- Tax-exempt bonds
- Charitable contributions
- Hospital license
- If an organization operates multiple hospitals, it is possible for one hospital to maintain its 501(c)(3) status while another loses it.

Health Care Reform – 501(r) Policies and Procedures

- Two written policies must have been implemented by the end of the year that began after 3/23/2010:
 1. Financial assistance policy
 2. Emergency medical care policy
- Two practices must have been in place by the same date, based on policies and procedures:
 1. Limitations on charges
 2. Billing and collection

Financial Assistance Policy

- A written policy that must include:
 1. Eligibility criteria for financial assistance
 2. Whether the financial assistance includes free or discounted care
 3. The basis for calculating amounts charged
 4. The method(s) of applying for financial assistance
 5. Measures to widely publicize the policy in the community
- If no separate billing and collection policy, must also include actions allowed in event of non-payment.

Emergency Medical Care Policy

- A written policy stating that the hospital will provide care for emergency medical conditions:
 1. Without discrimination and
 2. Regardless of qualification under the Financial Assistance Policy.
- “Emergency medical condition” is defined in §1867 of the Social Security Act.
 - Enacted in 1986 as a part of EMTALA.

Limitation on Charges

- Policies and practices ensure that, for individuals who qualify under the Financial Assistance Policy:
 1. Gross charges are prohibited.
 2. Amounts charged for emergency and other medically necessary care do not exceed amounts charged to those with insurance coverage.
 - Acceptable options:
 - Average of three lowest negotiated commercial rates
 - Lowest negotiated commercial rate
 - Medicare rate

Billing and Collection

- Before engaging in extraordinary collection actions, make reasonable efforts to determine whether an individual qualifies under the Financial Assistance Policy.
- Extraordinary actions: lawsuits, liens on residences, arrests, body attachments, and similar collection processes.
- Reasonable effort: notifying the patient of the Financial Assistance Policy upon admission and in any communications (written and oral) regarding the patient's bill, including invoices and phone calls.

Using 501(r) to Strengthen Your Hospital

- Does my hospital have the necessary written policies?
- Do my hospital's policies include all of the required provisions?
- Do my hospital's activities around charges, billing and collection comply with 501(r)?
- How can my hospital guarantee that the "limit on charges" thresholds are never exceeded?
- What internal review and/or internal control procedures are in place to ensure continued compliance?
- What is my hospital's procedure for correcting any mistakes?
- Does my hospital have any FIN 48 disclosures associated with the 501(r) requirements?
- How does my hospital's specialty/focus interact with the policy requirements?

Using 501(r) to Strengthen Your Hospital (cont.)

- My hospital is considering adding a specialty. How will 501(r) financially impact that decision?
- If my hospital is adjusting its financial assistance, billing and collection policies and procedures to provide greater protection for its patients, is there anything my hospital can do to benefit from the changes?
- Is my hospital's qualification level for financial assistance at the optimal level?
- Should my hospital change its focus on the portion of the community with greater need?
- If my hospital will change its focus on the community, what is the best method for getting that message out to the target audience?
- Should my hospital put greater emphasis on encouraging people to read the financial assistance information?

The Community Health Needs Assessment

- 501(r)(3) requires that a hospital do the following within the tax year or the 2 prior years:
 - Conduct a community health needs assessment (“CHNA”);
 - Adopt an implementation strategy to meet the identified community health needs; and
 - Make a CHNA report widely available to the public.
- Deadline for completing the first CHNA:
 - End of the tax year that begins after March 23, 2012
- The 501(r)(3) requirements are applied every year after that.
- A CHNA is “conducted” in the year the report is made widely available to the public.
 - Okay to start in one year and finish in another year.
- The implementation strategy is “adopted” in the year it is approved/accepted by the governing body.

How Will Your Hospital Respond?

- A hospital can respond to a community health needs assessment in two different ways:
 - View the CHNA as another regulatory requirement to which the hospital will comply, but nothing else.
 - ◇ Costs are incurred, but return on investment is not achieved.
 - View the CHNA as an opportunity to move the hospital forward, increase its role in the community, and strengthen its position in the market.
 - ◇ Additional costs are incurred, with hopes of earning a return on the investment.

The CHNA Process –The Community

- Determine the hospital's community using all relevant facts and circumstances
 - Geographic area
 - Hospital's principal function(s)
 - Target population(s)
 - ◇ Gender
 - ◇ Age
 - ◇ Ethnicity
 - ◇ Health risk
 - Must be defined broadly enough to include all individuals who should, reasonably, be included in the community.
- Collect demographic data about the community
 - Hospital records
 - U.S. Census Bureau
 - State/county/city health agencies
 - Other resources

The CHNA Process

- Required to include input from persons who represent the broad interests of the community served by the hospital.
 - Persons with special knowledge or expertise in public health;
 - Government departments and agencies with current data or other information relevant to the health needs of the community; and
 - Leaders, representatives or members of the following populations:
 - ◇ Medically underserved
 - ◇ Low-income
 - ◇ Minority
 - ◇ Chronic disease

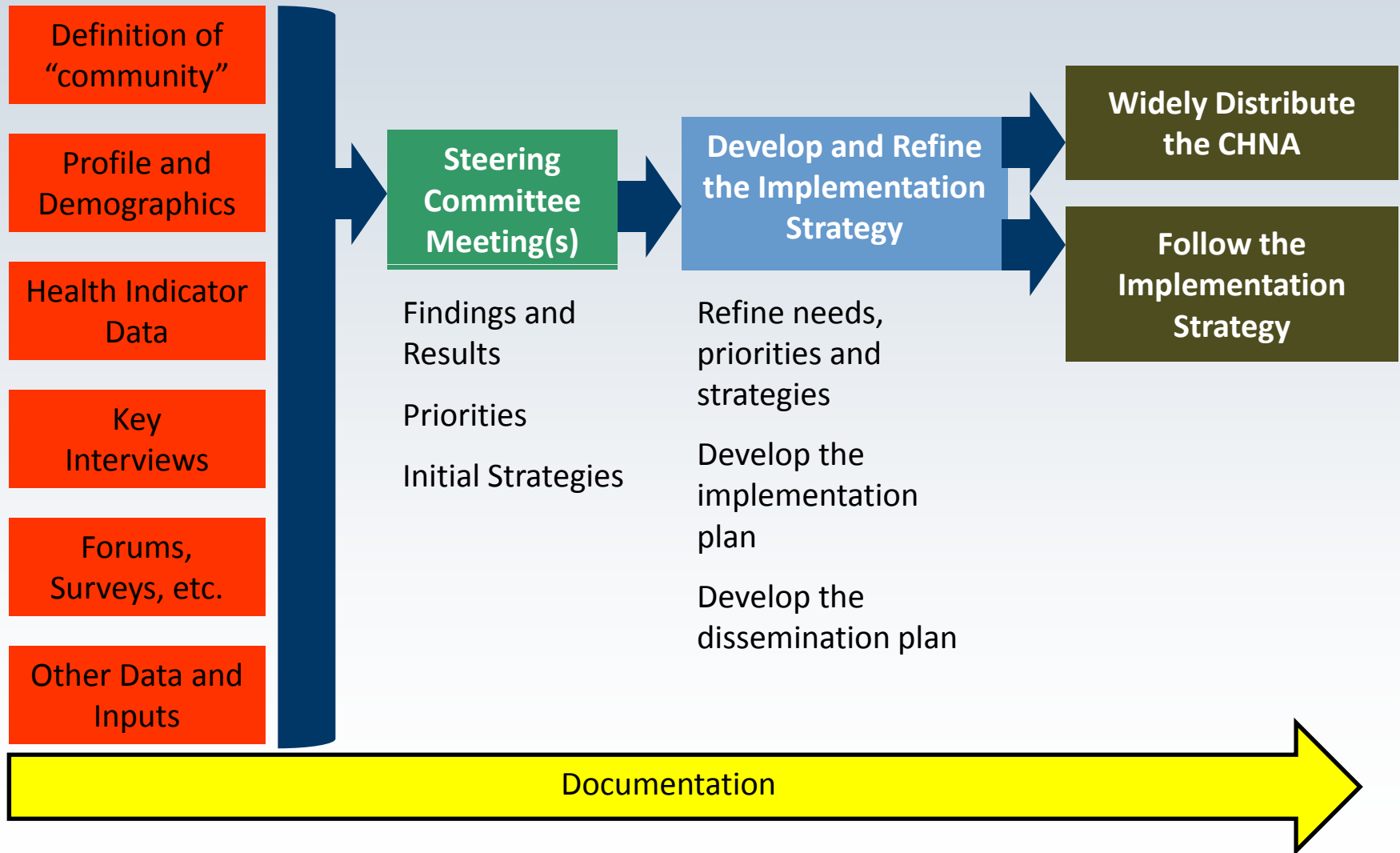
The CHNA Process - Committees

- Recommendations (not required):
 - Create a Steering Committee
 - ◇ Purpose: guide/monitor the process and make final decisions
 - ◇ 4-8 individuals internal to the hospital
 - Doctor
 - Nurse
 - Finance
 - Marketing
 - Executive
 - Create a Community Committee to analyze data, form conclusions, generate ideas, and make recommendations to the Steering Committee
 - ◇ 8-12 individuals internal and external to the hospital
 - Steering Committee representative
 - Doctors and nurses
 - Government officials
 - Local business leaders
 - Local nonprofit leaders

The CHNA Process – Community Input

- Methods of gathering input from the community:
 - One-on-one interviews
 - Questionnaires
 - Phone surveys
 - Written surveys
 - Community forums
 - Focus groups
- Include those who do not use your hospital.
- Used to identify the most significant health needs in the community.

The CHNA Process (cont.)



The CHNA Report

- Information that must be included in the report:
 1. Community
 - Description of the community served; and
 - How the community was determined.
 2. Assessment Process
 - Process and methods used to conduct the assessment;
 - Sources and dates of data used;
 - Analytical methods applied;
 - Information gaps that impact the hospital's ability to assess community health needs;
 - Identity of any organizations with which the hospital collaborated; and
 - Identity and qualifications of any third parties contracted to assist in the process.

The CHNA Report (cont.)

3. Sources of Input

- How the hospital took into account input from persons representing the broad interests of the community;
- Name, title, affiliations and qualifications of any individual who has special knowledge or expertise in public health;
- Identity of individuals representing government departments or agencies;
- Identity and qualifications of any individual who represents the underserved, low-income, minority, and chronically ill populations.
- Identity of organizations that provided input;
 - Name and title of the person(s) representing those organizations;
and
- When and how the organization consulted with the persons;

The CHNA Report (cont.)

4. Community Health Needs

- Prioritized description of all community health needs identified; and
- Process and criteria used to prioritize the needs.

5. Facilities and Resources

- Existing health care facilities and other resources available within the community to meet the identified health needs.

Making the CHNA Widely Available

- A CHNA is considered widely available when:
 - If the hospital has a website, the CHNA report is posted on its website;
 - If the hospital doesn't have a website, the CHNA report is posted on its parent's website; or
 - The CHNA report is posted on a 3rd party's website and:
 - ◇ If the hospital or its parent has a website, their website has a link to the CHNA report, along with clear instructions for accessing the report; or
 - ◇ If neither the hospital nor its parent has a website, each provides the website/URL of the 3rd party website to anybody who requests a copy of the CHNA report.

Making the CHNA Widely Available (cont.)

- Additional requirements for reports posted on the internet:
 - The website must clearly inform readers that the report is available.
 - The website must provide instructions for downloading the report.
 - The document must be in a format that, when accessed, downloaded, viewed and printed, exactly reproduces the image of the report.
 - A user must be able to access, download, view, or print the report without special software or hardware that has to be purchased.
 - The report must be available for free.
 - The hospital must provide the website/URL to anybody who requests a copy.
- The CHNA report must be available until the date on which it makes the next CHNA report available to the public.

The Implementation Strategy

- A responsive implementation strategy must be documented and adopted.
 - Specifically address each of the community health needs identified through the assessment.
 - How the hospital plans to meet the health need; or
 - Why the hospital does not intend to meet the health need.
 - Identify any other organizations with whom the hospital collaborated in preparing the implementation strategy.
- “Adopted” when approved by an authorized governing body.
 - The governing body of the hospital
 - A committee, if:
 - Allowed under state law; and
 - Given authority by the governing body to act on its behalf
 - Other parties, if:
 - Allowed under state law;
 - Given authority by the governing body to act on its behalf; and
 - Following procedures specified by the governing body.
- Must be adopted in same year that the CHNA is widely distributed.
- Attached to Form 990 and Schedule H every year.

Monitoring and Follow-Up

- Periodically review activities and programs
 - Compare to implementation strategy document
 - Committee meetings
- Measure results
 - Compare to benchmarks
 - Compare to goals
- Assess effectiveness
 - Financial impact
 - Medical impact
 - Community satisfaction

Using 501(r) to Strengthen Your Hospital

- What amount is the hospital willing to invest, either in terms of finances or employee time, in the activities described in the implementation strategy?
- What result does the hospital want and/or expect to see from each response?
- How is the hospital going to follow up and measure each activity to determine the effectiveness of its responses?
- What organizations may be interested in collaborating during the various stages of the CHNA process?
- Can the CHNA be combined with a strategic assessment?
- Since the CHNA documents are open to the public, are they being used effectively as marketing opportunities?
- How can the hospital's responses in the implementation strategy be used to make the hospital a more visible and active member of the community?

Miscellaneous - Collaborating

- Each requirement must be met separately by each hospital facility.
- Collaboration is allowed with other hospitals or entities.
 - System-wide policies and procedures
 - Using community demographics collected by others
 - Conducting community health needs assessments
 - Developing implementation plans
- Separate written documents must be maintained.
 - CHNA report
 - Implementation plan
 - Supporting documents
- Must document and report any collaborations.
- Tailor documents to fit that specific hospital.
 - Programs, resources, priorities, anticipated impact, planned collaborations, etc.

Miscellaneous - Dual Status Hospitals

- Government hospitals that also have exemption under §501(c)(3).
 - Usually obtained in order to have a 403(b) pension plan.
- Generally not required to file a Form 990.
- 501(r) applies, but with slightly different rules:
 - IRS is considering alternative procedures for the CHNA.
 - Exempt from all 501(r) requirements related to reporting on Form 990.
 - ◇ Disclosing excise taxes
 - ◇ Disclosing plan for addressing community health needs
 - ◇ Attaching Implementation Plan

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Final Words

- Please complete our **online survey which will pop up on your screen once you close out of the session.**
- A **complimentary whitepaper** summarizing the topic will be available within the next 10 business days.
- **Thank you for your participation – you may now disconnect.**
- Have a great day!