



IRS Clarifies Financial Assistance Policy Requirements for Charitable Hospital Organizations

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The Internal Revenue Service (IRS) has clarified the requirements for charitable hospital organizations required to adopt a financial assistance policy. For large hospitals or hospitals using the services of multiple private physician groups or other third-party health care providers, the new guidance is intended to ease the burden of compliance.

Background

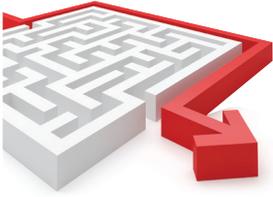
The Affordable Care Act added Section 501(r) to the Internal Revenue Code, which imposes additional requirements on charitable hospital organizations in order to maintain their tax-exempt status under Code Section 501(c)(3). One of these requirements is to maintain a written financial assistance policy. Under the final regulations, the financial assistance policy must apply to all emergency or other medically necessary care provided by the hospital, including care provided in the hospital by a substantially related entity.

However, recognizing that patients are commonly seen by private physician groups or other third-party health care providers while in the hospital and that patients are typically unaware of the relationships between a hospital and the health care providers working within the hospital, the final regulations also require that a financial assistance policy must include a list of all providers delivering emergency or other medically necessary care in the hospital and clearly disclose which services provided in the hospital are covered by the financial assistance policy and which are not.

Content of Provider List

In IRS Notice 2015-46, the IRS has clarified that:

- If all of the doctors in a practice group that provides emergency or other medically necessary care in the hospital are covered by the hospital's financial assistance policy, the hospital may include the name of the practice group, rather than the name of each individual doctor, in its provider list and indicate which services are covered by the financial assistance policy.
- If all providers of all services in a department of the hospital are covered by the financial assistance policy, the hospital may include the name of the department, rather than the name of each doctor or practice group, in its provider list and indicate that the services in that



department are covered by the financial assistance policy.

- If a provider is covered by the hospital's financial assistance policy in some circumstances but not in others, the hospital must describe the circumstances under which the care delivered by the provider will and will not be covered by the financial assistance policy.
- The hospital is required to indicate whether a provider's services are covered by its own financial assistance policy, but is not required to indicate whether a provider's services are, or may be, covered by another entity's financial aid policy or program.

Maintaining and Updating the Provider List

IRS Notice 2015-46 has also clarified that a hospital may maintain its provider list in a document separate from its financial assistance policy, (e.g., in an appendix), so long as the document includes the date on which it was created or last updated and the financial assistance policy states that the provider list is maintained in a separate document and explains how a paper or online copy may be obtained free of charge.

Once a provider list is adopted, a hospital has an ongoing responsibility to update the provider list to add new information, correct erroneous information and delete obsolete information. Omissions and errors in a provider list, including a failure to include a provider in the list or to identify a service covered by the financial assistance policy will not jeopardize the hospital's tax-exempt status or be required to be disclosed if the hospital updates its provider list at least quarterly. Although Treasury Regulations require that a financial assistance policy be approved by an authorized body of the hospital, an update to an existing provider list that does not otherwise modify the financial assistance policy may be adopted without submitting the entire financial assistance policy to the authorized body of the hospital for re-approval.

IRS Notice 2015-46 is applicable for taxable years beginning after December 29, 2015. For more information on the matters discussed in this Locke Lord QuickStudy, please contact the authors:

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