Association Of State And Territorial Health Officials
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July 5, 2013

Principal Deputy Commissioner Daniel I. Werfel
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20044

RE: Internal Revenue Service Notice of Proposed Rulemaking Community Health Needs Assessments for Charitable Hospitals (REG–106499–12)

Dear Principal Deputy Commissioner Werfel:

The Association of State and Territorial Health Officials (ASTHO) is writing to submit comments for Notice 26 CFR Parts 1 and 53 regarding the implementation of Section 501(r)(3) which requires that non-profit hospital organizations conduct a community health needs assessment (CHNA) every three years and adopt an implementation strategy to meet the needs identified through a CHNA. ASTHO commends the IRS for incorporating the different recommendations it received from hospitals, governmental public health, and community stakeholders into this current version of the CHNA requirements. CHNAs provide another mechanism to strengthen collaborations between state health departments and non-profit hospitals to improve the health of the communities that each serves. ASTHO has provided formal responses on IRS proposed rulemaking in two previous Notices of Proposed Rulemaking. These previous responses are included in Appendix A and B and are consistent with the recommendations provided in this letter.

ASTHO is the national representative of the appointed health officials in all states, District of Columbia and 7 US territories. ASTHO's primary function is to track, evaluate, and advise members on the impact and formation of public or private health policy which may affect them and to provide them with guidance and technical assistance on improving the nation's health. ASTHO supports state health departments in executing core essential public health functions. Assessment is a critical public health function and the basis for health departments' abilities to protect and promote the public's health. From public health preparedness to wellness and health promotion efforts, translating public health data to inform public health programs that improve the health of residents remains a top priority for state health officials.

According to the ASTHO 2010 profile survey, 66% of state health agencies completed a State Health Assessment (SHA) in the past 5 years with an additional 10% that planned to complete a SHA within the next year. [1] The percentage of states that report conducting a SHA will continue to increase as more of them embark upon public health accreditation activities. A SHA is one of three pre-requisites needed prior to submitting an application for accreditation; the other two requirements include a state health improvement plan (SHIP) and a strategic plan. The public health data and strategies for addressing significant public health issues which are identified through these processes can only

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[1] Association of State and Territorial Health Officials. (INSERT MONTH/YR). 2010 National Profile of State and Territorial health departments. Available at (http://www.astho.org/profiles/)

serve to inform and strengthen CHNAs developed by non-profit hospitals. Governmental public health and state health departments, in particular, have a long-standing history of working with communities and stand ready to partner with hospitals in designing and implementing CHNAs.

Definition of Community

Under the proposed regulations, hospitals have the flexibility to define the communities they serve and must ensure that the needs of medically underserved, low-income, and minority populations are not excluded. ASTHO supports this balanced approach as it is consistent with our mission of achieving health equity. State health departments routinely review data and design public health programs to address health equities across various populations. Moreover, this work is done collaboratively with communities served to ensure that their specific needs are addressed. Hospitals can leverage the health data expertise of state health departments by allowing a collaborative approach at the state, local and regional levels with community stakeholders to define the communities served.

Community engagement in ensuring transparency in developing CHNA and implementation strategies

ASTHO recommends that the IRS specifically include language that defines how hospitals engage with communities and governmental public health agencies. The proposed rule requires "a hospital facility to consider written comments received from the public on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy." In order to ensure transparency in the CHNA process, ASTHO recommends a requirement for hospitals to create a community advisory board that includes a broad representation of community stakeholders and state or local public health experts. Members could include representatives from underserved, low income, and minority populations and also leadership from the state and local health departments, and other organizations that serve the community. Many hospitals already convene similar groups as they develop community benefits programs, however, coordinating the work under a standing community advisory board in the CHNA process could help streamline activities. Through this group, community stakeholders could be involved from the very beginning in designing the CHNA process, interpreting the CHNA data and identifying specific strategies that would be successful in their particular community. Finally, this process is also consistent with the way in which state health departments engage with communities through the national public health accreditation process and in conducting state health assessments. ASTHO encourages the IRS to work with the Public Health Accreditation Board to ensure that hospitals work to align the CHNA process with state and local health department accreditation requirements. Through these accreditation activities, state and local health departments routinely work with communities in designing public health needs assessments and initiatives that result in health improvements and could play a convening role for the hospitals in developing community advisory boards.

Community advisory boards can also provide a mechanism to assist hospitals in prioritizing "significant or priority needs" as identified through the CHNA and also in developing strategies to address those needs. Having a diverse group of stakeholders involved throughout the process can inform the development of strategies that have the most potential of improving the health of the communities. This is especially important in ensuring that limited resources are being invested in

programs that may be more likely to succeed and may be aligned with efforts that are already under way to address health needs.

Finally, the different requirements for transparency in implementation strategies and CHNAs will potentially impede effective community engagement. Under the proposed rules, hospitals must widely post their CHNAs on a website and provider paper copies free of charge upon request (see §§1.501-1(c)(4) and § 1.501(r)–3(b)(8)) in order to meet the 501(r) standard. By contrast, hospitals need only attach their implementation strategy to their Form 990, which is filed annually with the Service. Providing the strategy online or via paper copies should be required and not optional since there are often delays between the year during which the CHNA was conducted, the implementation strategy was adopted, and the public availability of the hospital's tax forms.[2] Since ASTHO believes the IRS and the Treasury intend this measure to promote transparency and provide opportunities for comment, it strongly recommends that the requirement for making CHNAs widely available to the public be extended to the implementation strategy. Not only is this consistent with the language of the statute, but we believe it will help aid transparency.

Collaboration with state health departments

ASTHO commends the IRS for recognizing governmental public health as providing expertise with resources and knowledge that hospitals can use to complete CHNAs. ASTHO also supports the requirement that hospitals contact a state or local health department as they develop their CHNA. This recommendation is consistent with detailed responses ASTHO and our public health partners have provided previously (see Appendix A and B). However, ASTHO recommends that hospitals be required to go beyond merely contacting governmental health by formally including the state and local health department in the development of the CHNA and implementation strategies. Beyond licensing hospitals, many state health departments have already established mechanisms for working with hospitals by providing and collecting data, participating in joint planning efforts related to community benefits, and partnering on health campaigns. State health departments can also play a unique role in assisting hospitals with the CHNA process in those small communities where there may be limitations at the local health department level to provide robust data to inform developing the assessment. On the other end of the spectrum, state health departments can also assist hospitals in large urban settings where multiple hospitals may be collaborating with the same communities to develop CHNAs in order to avoid overburdening communities with multiple assessments. Finally, as part of the public health accreditation process, many states conduct statewide health assessments and health improvement plans that prioritize health issues from a state-wide perspective. Hospitals can add value to the exercise of engaging in CHNAs by considering these state plans and incorporating the findings into their own planning process.

Conclusion

ASTHO commends the IRS for incorporating the different recommendations it received from hospitals, governmental public health, and community stakeholders into this current version of the CHNA requirements. CHNAs provide another mechanism to strengthen collaborations between state

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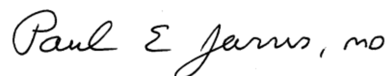
[2] This gap in transparency is even more pronounced in the case of dual status hospitals, which are exempted from filing 990s and which the proposed rules exempt from filing implementation strategies altogether. At a minimum, clarification should be provided on how these hospitals will make their implementation strategies available to the public.

health departments and non-profit hospitals to improve the health of the communities that each serves. ASTHO has begun reviewing examples of promising practices among our members that demonstrate effective collaborations between state health departments and non-profit hospitals to impact the health of communities. We encourage the IRS to take a similar approach by working with the Department of Health and Human Services to identify strong examples of collaboration between governmental public health organizations and non-profit hospitals in conducting CHNAs and developing strong implementation plans.

Thank you with providing ASTHO with the opportunity to share feedback. ASTHO is committed to working in partnership with others to promote and improve population health and appreciates that the proposed rules reflect the same collaborative approach. ASTHO is also available to provide any additional information that would be useful as these regulations are finalized. For more information, please contact Monica Valdes Lupi, JD, MPH, Senior State Public Health Advisor, via email at mlupi@astho.org or by phone at (202) 371-9090.

Sincerely,



Paul Jarris, MD, MBA
Executive Director