



## Community Benefit Briefing

September 2011

Through news updates, state research and policy analysis, and policy questions, this newsletter is meant to assist state and local policymakers to understand and monitor hospital community benefit activities. The Community Benefit Briefing will report, discuss, and analyze various aspects of hospital community benefits, including the effects of the Affordable Care Act (ACA).

### News

#### Illinois Department of Revenue Ruling on Nonprofit Hospitals

The 2010 decision of the Illinois Supreme Court in *Provena Covenant Medical Center v. Department of Revenue* (236 Ill. 2d 368; 925 N.E.2d 1131 (2010)) (*Provena*) initiated a national discussion about what qualifies as “charitable purposes.” The *Provena* court expressly noted that the community benefit doctrine was not at issue. Rather, the decision turned on interpretation of state law limiting property tax exemption to charity-owned property devoted “exclusively [to] charitable purposes.” The court recognized that this requires an analysis very different from that applied to determine compliance with the community benefit standard for federal tax exemption (*Provena*).

The Illinois Department of Revenue (Department) issued rulings on August 16, 2011, denying property tax-exemption applications from three nonprofit Illinois hospitals: Northwestern Memorial’s Prentice Women’s Hospital, Edward Hospital in Naperville, and Decatur Memorial Hospital. Hilltop’s Hospital Community Benefit Program requested, and the Department provided (1) the official rulings denying each hospital’s application for property tax exemption; (2) a single written “hospital message” explaining the Department’s decisions in the three cases; and (3) a hospital-specific “fact sheet” with selected summary statistics for each hospital (e.g., net patient revenues, the percentage of net patient revenues devoted to charity care, and whether charity care is shown on the hospital’s revenue statement).

The message provided by the Department references *Provena*’s reasoning that (Illinois Department of Revenue, 2011):

- Hospital services were generally provided in exchange for a fee
- The hospital provided only a minimal level of charity care
- There was little difference between Provena Hospitals’ provision of charity care and for-profit hospitals’ method of writing off bad debt

In addition, the Department cites an Illinois Supreme Court decision that predates *Provena—Methodist Old Peoples' Home v Korzen* (39 Ill 2d 149; 233 NE2d 537 (1968))—which lists “distinct characteristics of a charitable institution,” including that:

- There is no capital stock or shareholders
- Funding is primarily through public and private charity
- Charity is dispensed to all who need and apply for it
- There is no gain, in a private context, by anyone connected to the entity
- There are no obstacles that prevent access for individuals who would pursue charity

On September 23, 2011, Illinois Governor Pat Quinn requested that the Department temporarily stop its evaluation of 15 property tax exemption applications pending efforts to draft legislation that would clarify an “adequate level of charity care” (Bergen & Honert, 2011). The Illinois Hospital Association (2011), which was included in these discussions, has emphasized the need for a legislative solution to prevent “any potential harm from adverse tax exemption decisions.”

Leading up to the Department’s rulings discussed above, advocates in Illinois emphasized cases in which for-profit hospitals provided charity care at a level equal to or exceeding that provided by their nonprofit counterparts (Schorsch, 2011). The Department acknowledges this concern in the evaluation process, examining whether the entity is operating more like a business or a charity (Schorsch, 2011). Governor Quinn set a March 1, 2012, deadline for recommendations on new legislation. The Governor’s office has indicated that if recommendations are not finalized by this deadline, then the Department will continue its evaluations (Bergen & Honert, 2011).

### Public Health Accreditation Board Standards and Measures Launch

On September 14, 2011, the Public Health Accreditation Board (PHAB) officially launched its voluntary national program for public health department accreditation. The program’s goal is to establish a “reliable national standard for public health” and to advance state, local, territorial, and tribal health department quality and performance (PHAB, 2011a). PHAB standards and the efforts of state and local health departments to achieve accreditation can present significant opportunities for nonprofit hospitals to collaborate with these agencies to support and improve the public health infrastructure in their communities.

#### PHAB Standards

The PHAB standards, which were approved in May 2011 for use by health departments applying for accreditation in 2011-2012, are organized into 12 domains—broad categories of public health responsibilities and functions. Domains #1 through #10 address the “ten essential public health services” that have been recognized as “a working definition of public health and a guiding framework for the responsibilities of local public health systems” (Centers for Disease Control and Prevention, 2011). Domain #11 relates to health department management and administration, and Domain #12 relates to governance (PHAB, 2011b). Specifically, the PHAB domains address health department functions and responsibilities to (PHAB, 2011c):

1. **Assess population health status and public health issues concerning the community**
2. Investigate health problems and environmental hazards
3. Inform and educate the community about public health issues
4. **Engage the community and use collaborative processes to identify and address public health problems**

5. Develop public health policies and engage in public health planning
6. Review public health laws and work with elected officials and other government entities to update and enforce them
7. Promote access to care
8. Maintain a sufficient public health workforce
9. Evaluate, develop, and improve quality assurance processes as part of organizational practice
10. Use and contribute to the public health evidence base
11. Maintain organizational infrastructure: administrative and management capacity
12. Maintain capacity to engage and provide information to the public health governing entity regarding roles, responsibilities, and authority of the health department and the governing entity

PHAB domains #1 and #4 are especially relevant to nonprofit hospitals as they endeavor to satisfy the ACA's requirements relating to community health needs assessment. Both the PHAB standards and the ACA emphasize collaboration and community engagement as a central aspect of needs assessment. The ACA provides that hospitals conducting the community health needs assessment (a condition of their nonprofit tax exemption) take into account "input from persons who represent the broad interests of the community served by the hospital facility, including those with special knowledge of or expertise in public health" (ACA, §9007). The Internal Revenue Service's (IRS's) recent Notice 2011-52 additionally requires nonprofit hospitals to consider the input of "federal, tribal, regional, state or local health or other departments or agencies with current data or other information relevant to the health needs of the community served by the hospital facility" (Davis, 2011, p. 4, quoting IRS, 2011, p. 15).

### ***Collaboration and Accreditation***

PHAB's national accreditation program can be expected to have a significant role in future efforts to strengthen public health system performance, effectiveness, and accountability (Matthews, 2011). As state and local health departments across the country experience budget reductions, job loss, and resource shortfalls (Krisberg, 2010), partnerships between public health agencies and nonprofit hospitals to prepare for and achieve PHAB accreditation can leverage public with private resources to enhance the public health infrastructure and—ultimately—can substantially benefit community health.

[Click here to read about the Standards' historical background.](#)

### **Webinars**

#### ***“Making Strategic Health Investments in Communities: The Issue of ‘Dose’ or Intervention Strength” – October 20, 2011***

Presented by Pamela Schwartz of Kaiser Permanente and Allen Cheadle of the Center for Community Health and Education, this webinar helps participants understand concepts of “reach” and “strength” and how they can support community-based prevention intervention. It also describes ways in which interventions can have a measurable impact and strategies for including stakeholders and making expectations clear so that grantees can plan, implement, and monitor interventions. To register, go to [www.communityhlth.org/communityhlth/education/audio.html](http://www.communityhlth.org/communityhlth/education/audio.html).

#### ***“Assessing and Addressing Community Health Needs” – October 25, 2011***

Presented by the Catholic Health Association of the United States (CHA), this webinar addresses the ACA's new legal requirements concerning community health needs assessment and implementation strategies. It

also reviews how the IRS and the Treasury Department intend to implement the new requirements. In addition, the webinar will introduce a new resource from CHA that identifies the basic components of conducting assessments and developing implementation strategies. Fee: Free for CHA members, \$30 for VHA members, and \$60 for all other registrants. For more information, go to [www.chausa.org/Assessing\\_CB\\_Overview.aspx](http://www.chausa.org/Assessing_CB_Overview.aspx).

## [References](#)

*The Hilltop Institute at the University of Maryland, Baltimore County (UMBC) is a nationally recognized policy and research center dedicated to improving the health and wellbeing of vulnerable populations. Hilltop conducts research, analysis, and evaluations on behalf of government agencies, foundations, and nonprofit organizations at the national, state, and local levels.*

***Hilltop's Hospital Community Benefit Program** is the central resource created specifically for state and local policymakers who seek to assure that tax-exempt hospital community benefit activities are more responsive to pressing community health needs. The program provides tools to state and local health departments, hospital regulators, legislators, revenue collection and budgeting agencies, and hospitals, as these stakeholders develop approaches that will best suit their communities and work toward a more accessible, coordinated, and effective community health system. The program is funded for three years through the generous sponsorship of the Robert Wood Johnson Foundation ([www.rwjf.org](http://www.rwjf.org)) and the Kresge Foundation ([www.kresge.org](http://www.kresge.org)).*

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