



## HEALTH CARE LAW ALERT

### IRS Issues Final Regulations on PPACA Requirements for Charitable Hospitals

On December 29, 2014, the IRS issued final regulations on the requirements under Section 501(r) for Charitable 501(c)(3) Hospitals. The final regulations apply to taxable years beginning after December 29, 2015.

Section 501(r), which was added by the Accountable Care Act (ACA), requires covered facilities to meet the following four requirements:

1. Establish written financial assistance and emergency medical care policies;
2. Limit amounts charged for emergency or other medically necessary care to individuals eligible for assistance under the hospital's financial assistance policy;
3. Make reasonable efforts to determine whether an individual is eligible for assistance under the hospital's financial assistance policy before engaging in extraordinary collection actions against the individual; and
4. Conduct a community health needs assessment (CHNA) and adopt an implementation strategy at least once every three years. (These CHNA requirements are effective for tax years beginning after March 23, 2012).

While these general requirements have been in effect since the ACA was enacted in 2010, the final regulations provide additional guidance as to the entities that must meet these requirements and the reporting obligations under Section 6033 related to tax returns for exempt organizations. For example, they provide some clarification on requirements for hospital charity care or "financial assistance policies", stating that hospitals are not required to provide a billing statement indicating a \$0 balance in addition to a written notification about eligibility for free care and that a written notification that an individual is determined to be eligible for free care is sufficient. They also consolidate the notification component of "reasonable efforts" to determine eligibility for free care; the notification component is simplified and focused primarily on those patients whom a covered facility intends to pursue via "extraordinary collection actions".

Prior to the final regulations, many facilities relied on the IRS's various proposed rules related to these requirements, which they may continue to do for taxable years beginning on or before December 29, 2015, as a "reasonable, good faith interpretation" until the effective date of the final regulations. The IRS final regulations define a "reasonable, good faith interpretation" of

section 501(r) to include compliance with the provisions of the 2012 and/or 2013 proposed regulations or the final regulations.

Additional information on the 501(r) requirements and IRS Notices and proposed rule is available here:

<http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/New-Requirements-for-501%28c%29%283%29-Hospitals-Under-the-Affordable-Care-Act>

The text of the final regulations is available here:

<https://www.federalregister.gov/articles/2014/12/31/2014-30525/additional-requirements-for-charitable-hospitals-community-health-needs-assessments-for-charitable>

**If you have any questions or would like more information on the issues discussed in this communication, please contact any of the following Hancock Estabrook attorneys:**

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