

GAO Highlights

Highlights of [GAO-20-679](#), a report to congressional requesters

Why GAO Did This Study

Slightly more than half of community hospitals in the United States are private, nonprofit organizations. IRS and the Department of the Treasury have recognized the promotion of health as a charitable purpose and have specified that nonprofit hospitals are eligible for a tax exemption. IRS has further stated that these hospitals can demonstrate their charitable purpose by providing services that benefit their communities as a whole.

In 2010, Congress and the President enacted PPACA, which established additional requirements for tax-exempt hospitals to meet to maintain their tax exemption.

GAO was asked to review IRS's implementation of requirements for tax-exempt hospitals. This report assesses IRS's (1) oversight of how tax-exempt hospitals provide community benefits, and (2) enforcement of PPACA requirements related to tax-exempt hospitals.

What GAO Recommends

GAO is making one matter for congressional consideration to specify in the IRC what services and activities Congress considers sufficient community benefit. GAO is also making four recommendations to IRS, including to establish a well-documented process to ensure hospitals' community benefit activities are being reviewed, and to create codes to track audit activity related to hospitals' community benefit activities. IRS agreed with GAO's recommendations.

View [GAO-20-679](#). For more information, contact Jessica Lucas-Judy at (202) 512-9110 or lucasjudyj@gao.gov.

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TAX ADMINISTRATION

Opportunities Exist to Improve Oversight of Hospitals' Tax-Exempt Status

What GAO Found:

Nonprofit hospitals must satisfy three sets of requirements to obtain and maintain a nonprofit tax exemption (see figure).

Requirements for Nonprofit Hospitals to Obtain and Maintain a Tax-Exemption

ORGANIZATIONAL AND OPERATIONAL REQUIREMENTS

A hospital must be organized and operate to achieve a charitable purpose—the promotion of health for the benefit of the community.

COMMUNITY BENEFITS

Internal Revenue Service has identified six factors that demonstrate community benefit:

- Operate an emergency room open to all, regardless of ability to pay
- Maintain a board of directors drawn from the community
- Maintain an open medical staff policy
- Provide care to all patients able to pay, including those who do so through Medicare and Medicaid
- Use surplus funds to improve facilities, equipment, and patient care
- Use surplus funds to advance medical training, education, and research

PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA) REQUIREMENTS

Hospitals must:

- Conduct a community health needs assessment
- Set a limit on charges
- Maintain a written financial assistance policy
- Set billing and collection limits

IRS must review each tax-exempt hospital's community benefit activities at least once every 3 years.

Source: GAO review of relevant laws and regulations. | [GAO-20-679](#)

While PPACA established requirements to better ensure hospitals are serving their communities, the law is unclear about what community benefit activities hospitals should be engaged in to justify their tax exemption. The Internal Revenue Service (IRS) identified factors that can demonstrate community benefits, but they are not requirements. IRS does not have authority to specify activities hospitals must undertake and makes determinations based on facts and circumstances. This lack of clarity makes IRS's oversight challenging. Congress could help by adding specificity to the Internal Revenue Code (IRC).

While IRS is required to review hospitals' community benefit activities at least once every 3 years, it does not have a well-documented process to ensure that those activities are being reviewed. IRS referred almost 1,000 hospitals to its audit division for potential PPACA violations from 2015 through 2019. However, IRS could not identify if any of these referrals related to community benefits. GAO's analysis of IRS data identified 30 hospitals that reported no spending on community benefits in 2016, indicating potential noncompliance with providing community benefits. A well-documented process, such as clear instructions for addressing community benefits in the PPACA reviews or risk-based methods for selecting cases, would help IRS ensure it is effectively reviewing hospitals' community benefit activities.

Further, according to IRS officials, hospitals with little to no community benefit expenses would indicate potential noncompliance. However, IRS was unable to provide evidence that it conducts reviews related to hospitals' community benefits because it does not have codes to track such audits.