

8.5000 HOSPITAL COMMUNITY BENEFIT ACCOUNTABILITY

PURPOSE: To require hospitals to report to the Department of Health Care Policy and Financing (HCPF the Department) information on their Community Benefit activities, planning and investments.

8.5001 DEFINITIONS

“Community” means the community that a hospital has defined as the community that it serves pursuant to 26 CFR § 1.501(r)-(b)(3).

“Community Based Organization” means a public or private nonprofit organization of demonstrated effectiveness that represents a community or significant segments of a community and provides educational or related services to individuals in the community under 20 USC § 7801(5).

“Community Benefit” means the requirement to provide an unreimbursed benefit to the health of the community in order to maintain their tax-exempt status under section 501(c)(3) of Federal Internal Revenue Code. Community Benefit is also used in terms of dollar amount spent on the community in the form of Free or Discounted Health Care Services; Provider Recruitment, Education, Research and Training; and Community Investment Activities.

“Community Benefit Implementation Plan” means a plan that satisfies the requirements of an implementation strategy as described in 26 CFR § 1.501(r)-3(c).

“Community Benefit Priorities” means priorities of the community that the Reporting Hospital is prioritizing for Community Benefit activities and documented within the Reporting Hospital’s Community Health Needs Assessment.

“Community Health Center” means a federally qualified health center as defined in 42 U.S.C. sec. 1395x (aa)(4) or a rural health clinic as defined in 42 U.S.C. sec. 1395x (aa)(2).

“Community Health Needs Assessment” means a community health needs assessment that satisfies the requirements of 26 CFR § 1.501(r)-3(b).

“Community Identified Health Need” means a health need of a Community that is identified in a Community Health Needs Assessment.

“Community Investment” means investments made by the Reporting Hospital through direct funding or in-kind programs or services for programs that address a health need. They are the sum of Programs that Address Behavioral Health, Programs that Address Community Based Health Care, Programs that Address the Social Determinants of Health, and other all services and programs that addressed Community Identified Health Needs. For the purposes of the report described in 8.5003, they do not include Provider Recruitment, Education, Research and Training, Free or Discounted Health Care Services, or Medicaid Shortfall.

“Free or Discounted Health Care Services” means health care services provided by the hospital to persons who meet the hospital’s criteria for financial assistance and are unable to pay for all or a portion of the services, or physical or behavioral health care services funded by the hospital but provided without charge to patients by other organizations in the Community. Free or Discounted Health Care Services does not include the following:

1. Services reimbursed through the Colorado Indigent Care Program (CICP),
2. Bad debt or uncollectable amounts owed that the hospital recorded as revenue but wrote off due to a patient’s failure to pay, or the cost of providing care to such patients,
3. The difference between the cost of care provided under Medicaid or other means-tested government programs or under Medicare and the revenue derived therefrom,
4. Self-pay or prompt pay discounts, or

5. Contractual adjustments with any third-party payers.

“Health System” means a larger corporation or organizational structure that owns, contains, or operates more than one hospital.

“Medicaid Shortfall” means the difference between a hospital’s cost of care for providing services for Medicaid eligible patients and the payments received for these services.

“Programs that Address Behavioral Health” means funding or in-kind programs or services that improve an individual’s mental and emotional well-being and actions that affect an individual’s overall wellness. Behavioral health issues and disorders include but are not limited to education, mentorship, or other supports that help people make or maintain healthy life choices or manage chronic disease, including addiction prevention and treatment programs, suicide prevention programs and mental health treatment, mental health disorders, serious psychological distress, serious mental disturbance, unhealthy stress, programs to prevent tobacco use, substance use disorders, disease management programs, subclinical conditions, diagnosable diseases, treatable diseases, nutrition education programs, programs that support maternal health, including screening, referral and treatment for perinatal and postpartum depression and anxiety, and healthy birth outcomes, and programs that help seniors and people with disabilities live as independently as possible in the Community. Programs that Address Behavioral Health include but not limited to:

1. Assertive community treatment.
2. Case management services.
3. Drug screening and monitoring.
4. Individual and group therapy.
5. Prevention and early intervention activities.
6. Recovery services.
7. Residential and inpatient substance use disorder services, and
8. Residential mental health services.

~~“Programs that Address Health Behaviors or Risk” means programs funded by the hospital and provided by the hospital or other Community organizations that provide education, mentorship, or other supports that help people make or maintain healthy life choices or manage chronic disease, including addiction prevention and treatment programs, suicide prevention programs and mental health treatment, programs to prevent tobacco use, disease management programs, nutrition education programs, programs that support maternal health, including screening, referral and treatment for perinatal and postpartum depression and anxiety, and healthy birth outcomes, and programs that help seniors and people with disabilities live as independently as possible in the Community.~~

“Programs that Address Community Based Health Care” means funding or in-kind programs or services that improve types of person-centered care delivered in the home and community. A variety of health and human services can be provided. Community Based Health Care addresses the needs of people with functional limitations who need assistance with everyday activities such as getting dressed or bathing. Programs that Address Community Based Health Care includes but are not limited to the following:

1. Adult day Services pursuant to 10 CCR 2505-10 section 8.491;
2. Case management and rehabilitative and behavioral therapies in the home or a community setting;
3. Physical, occupational and speech therapies;
4. Independent living training may include personal care, household services, infant and childcare (for parents who have a developmental disability), and communication skills;

5. Cognitive services may include training involving money management and personal finances, planning and decision making; and
6. Medical and health care services that are integral to meeting the daily needs of participants.

“Programs that Address the Social Determinants of Health” means funding or in-kind programs or services that improve social, economic, and environmental conditions that impact health in the Community. Social and economic conditions that impact health include education; employment; income; family and social support; and Community safety. Environmental conditions that impact health include air and water quality, housing, and transit. Programs that Address the Social Determinants of Health include but are not limited to the following:

1. Job training programs,
2. Support for early childhood and elementary, middle, junior-high, and high school education,
3. Programs that increase access to nutritious food and safe housing,
4. Medical Legal Partnerships, and
5. Community-building activities that could be included in Part II of Schedule H of the Form 990.

“Provider Recruitment, Education, Research and Training” means funding allocated within the IRS form 990 including:

1. “Workforce development” means the recruitment of physicians and other health professionals to medical shortage areas or other areas designated as underserved, and collaboration with educational institutions to train and recruit health professionals needed in the Community (other than the health professions education activities entered on Part I, line 7f).
2. “Health professions education” means educational programs that result in a degree, a certificate, or training necessary to be licensed to practice as a health professional, as required by C.R.S. 12-240-110, or continuing education necessary to retain state license or certification by a board in the individual's health profession specialty,
 - a. It does not include education or training programs available exclusively to the organization's employees and medical staff or scholarships provided to those individuals. However, it does include education programs if the primary purpose of such programs is to educate health professionals in the broader community. Costs for medical residents and interns can be included, even if they are considered “employees” for purposes of Form W-2, Wage and Tax Statement.
3. “Research” means any study or investigation the goal of which is to generate increased generalized knowledge made available to the public (for example, knowledge about underlying biological mechanisms of health and disease, natural processes, or principles affecting health or illness; evaluation of safety and efficacy of interventions for disease such as clinical trials and studies of therapeutic protocols; laboratory-based studies; epidemiology, health outcomes, and effectiveness; behavioral or sociological studies related to health, delivery of care, or prevention; studies related to changes in the health care delivery system; and communication of findings and observations, including publication in a medical journal). The organization can include the cost of internally funded research it conducts, as well as the cost of research it conducts funded by a tax-exempt or government entity.

“Reporting Hospital” means

1. A hospital licensed as a general hospital pursuant to Part 1 of Article 3 of Title 25 of the Colorado Revised Statutes and exempt from Federal taxation pursuant to Section 501(c)(3) of the Federal Internal Revenue code, but not including a general hospital that is federally certified or undergoing federal certification as a long-term care hospital pursuant to 42 CFR §

412.23(e) or that is federally certified or undergoing federal certification as a critical access hospital pursuant to 42 CFR § 485 Subpart F,

2. A hospital established pursuant to § 25-29-103 C.R.S., or
3. A hospital established pursuant to § 23-21-503 C.R.S.

“Safety Net Clinic” means a Community clinic licensed or certified by the Department of Public Health and Environment pursuant to Section § 25-1.5-103 (1)(a)(I) or (1)(a)(II), C.R.S.

8.5002 HOSPITAL REQUIREMENTS

8.5002.A PUBLIC MEETING REQUIREMENTS

1. Each Reporting Hospital shall convene a public meeting at least once per year to seek feedback regarding the hospital’s Community Benefit activities during the previous year and the hospital’s Community Benefit Implementation Plan for the upcoming year.
2. Reporting Hospitals may convene a joint public meeting with one or more other participating hospitals that share some or all of the hospital’s Community.
3. During the public meeting the Reporting Hospitals shall at minimum:
 - a. Present priority areas identified in the Reporting Hospital’s most recent Community Health Needs Assessment and any other Community Investment option recommended by the Reporting Hospital. Each priority recommendation presented must clearly identify the source of the recommendation.
 - b. Solicit public input for the Reporting Hospital’s recommendations and any additional Community Investment.
 - c. Reporting Hospital’s specific Community Benefit activities.
 - d. The amount funded for each specific Community Investment activity and if the activity was funded through a grant, and if so the grant source, and
 - e. A description of how the Community Investment activities and funding amounts align with the Community Identified Needs.
4. Reporting Hospitals may only add Community Benefit Priorities to the Reporting Hospital’s Community Benefit Implementation Plan if:
 - a. The Community Benefit Priorities were presented at the annual meeting.
 - b. The public was provided an opportunity to provide feedback through either public testimony which is to be recorded in the minutes of the public meeting or through correspondence including, but not limited to email, written letter, or phone call and has been recorded in a format to be submitted to HCPF as a component of the Reporting Hospital’s annual submission materials.
 - c. The Reporting Hospital shall maintain a submission period of 30 days following the Community public meeting to allow for additional comments and recommendations from Community members.
 - d. The Reporting Hospital shall inform all Community members of the feedback received, whether or not the recommendation was incorporated into the Reporting Hospital’s Community Benefit Implementation Plan, and if not why the recommendation was not included, and

- e. The Reporting Hospital must indicate that the implemented Community Benefit Priorities are a result of either community feedback or from the Reporting Hospital's recommendation.
5. Reporting Hospitals may conduct a public meeting that meets other purposes, such as the Community Health Needs Assessment requirements under 26 CFR § 1.501(r)-3 or other Community engagement efforts as long as the public meeting meets the minimum requirements in this section.
6. Each Reporting Hospital shall invite, at a minimum, representatives from the following entities to participate in the meeting if any such entities operate in the hospital's Community:
- a. Local public health agencies,
 - b. Local chambers of commerce and economic development organizations,
 - c. Local health care consumer organizations,
 - d. School districts,
 - e. County governments,
 - f. City and town governments,
 - g. Community Health Center,
 - h. Certified rural health clinics or primary care clinics located in a county that has been designated as a rural or frontier county,
 - i. Area agencies on aging,
 - j. Safety Net Clinics, ~~and~~
 - k. Health care consumer advocacy organizations,
 - l. General public,
 - m. A member of the tribal council or their designee for a hospital whose community includes one of Colorado's land-based tribes,
 - n. A member from the Urban Indian Organization for a hospital whose community includes a federally designated Urban Indian Health Center or Urban Indian Organizations, and
 - o. A member from an institution of higher learning for a hospital whose community includes such institutions.
7. Each Reporting Hospital shall invite, at a minimum, representatives from the following agencies to participate in the meeting:
- a. The Department of Health Care Policy and Financing,
 - b. The Department of Public Health and Environment,
 - c. The Department of Human Services,
 - d. The Colorado Commission on Higher Education,
 - e. The Office of Saving People Money on Health Care, and

- f. The Division of Insurance within the Department of Regulatory Agencies
8. Each Reporting Hospital shall ~~invite the general public to the annual meeting and shall~~ issue such invitation by:
- a. ~~Placing in an~~ advertisements ~~placed~~ in each major newspaper published in the hospital's Community at least 30 days prior to the scheduled meeting.
 - b. The following invites posted and/or sent at least 30 days prior to the meeting date including but not limited to:
 - i. Posting invitations on the Reporting Hospital's website and social media page(s).
 - ii. In the Reporting Hospital's e-newsletters, and
 - iii. Email lists dedicated to Community outreach and Community Benefit.
9. Reporting Hospitals shall request demographic information such race, ethnicity, and income from attendees. Reporting Hospitals shall inform meeting attendees that demographic data is voluntary and will not be publicly disclosed.
10. Reporting Hospitals shall undertake the following efforts to promote broad Community notification and participation in the public meetings and to make meetings accessible:
- a. Collaborate with Community ~~B~~ased ~~O~~rganizations and other Community partners to distribute invitations to the public,
 - b. When hosting in-person meetings ensure that locations are accessible to those with physical disabilities and those that utilize mobility aids.
 - c. Advertise that American Sign Language services and interpretation services for individuals with limited English proficiency are available upon request,
 - d. Upon request, provide American Sign Language services and, for individuals with limited English proficiency, provide language and interpretation services to ensure meaningful access such as those described in 45 C.F.R. § 92.201.
 - e. Reporting Hospitals may also undertake additional activities including but not limited to the following:
 - i. Advertise the public meeting in additional newspapers in the Community, including those that are published in languages other than English,
 - ii. Advertise the public meeting via radio stations broadcast in the Community, including radio stations that broadcast in languages other than English,
 - iii. Engage with organizations that specialize in the representation of under-served groups within the Reporting Hospital's Community.
 - iv. Use neutral or external facilitators to lead Community meetings. To the extent possible facilitators should represent demographics of the Community members being engaged.
 - v. Schedule the public meeting outside of the typical workday hours and consider hosting meeting(s) at locations based in the Community served instead of hospital campuses, and
 - vi. Provide multiple avenues for Community meetings by conducting hybrid meetings, with simultaneous in-person and virtual participation options. For

virtual meetings. Reporting Hospital staff should provide appropriate orientation, technical assistance, captioning, and other assistive services.

vii. Schedule multiple meeting times accommodate for participant's various schedules by scheduling at different times of the day, and

viii. Provide transportation and childcare for participants in the public meeting,

ix. Provide reimbursement for transportation and childcare expenses incurred for the purposes of participating in the public meeting.

11. Reporting Hospitals should ensure that Community engagement goals reflect partnerships and collaboration with the Community and not solely state or federal requirements.

8.5002.B HOSPITAL REPORTING REQUIREMENTS

1. Each Reporting Hospital shall complete a Community Health Needs Assessment ~~on or before July 1, 2020, and then on or before July 1~~ at least every three (3) years and shall submit a copy of the Community Health Needs Assessment to HCPF on or before September 1, 2024, and then on or before July 1 every year thereafter.

a. Acquired or new hospitals must complete their first Community Health Needs Assessment as described under 26 CFR § 1.501(r)-3(d).

2. Each Reporting Hospital shall complete a Community Benefit Implementation Plan that addresses the needs described in the Community Health Needs Assessment and shall submit to HCPF on or before September 1, 2024 ~~July 1, 2020~~, and then on or before July 1 every year thereafter.

a. Each Reporting Hospital is required to complete a Community Benefit Implementation Plan that:

i. Addresses the needs described by the Reporting Hospital's Community Health Needs Assessment,

ii. Includes an explanation of the Community served by the hospital facility, and

iii. Describes how the Community was determined pursuant to 26 CFR § 1.501(r)-(b)(3).

3. Each Reporting Hospital shall submit to HCPF on or before September 1, 2024, and then on or before July 1 every year thereafter ~~the Department on or before July 1, 2020~~ a report on its most recent public meeting held to satisfy its Community Health Needs Assessment requirements under 26 CFR § 1.501(r)-3.

4. ~~Beginning July 1, 2021 and then on or before July 1 every year thereafter~~ Each Reporting Hospital shall submit to HCPF ~~the Department~~ a report on the public meetings held during the previous reporting cycle on or before September 1, 2024, and then shall provide a report on the public meeting held after the submission date from the previous year on or before July 1 every year thereafter.

5. Each public meeting report shall include at minimum ~~but is not limited to the following:~~

a. Date, time, and location of the meeting,

b. Outreach efforts to ensure broad Community participation and accessibility,

c. Individuals and organizations, including the populations served by the organizations, invited to the meeting,

- d. To the extent this information is provided by attendees, a list of individual meeting attendees and organizations represented,
 - e. Meeting agenda,
 - f. A summary of the meeting discussion, ~~and~~
 - g. Actions taken as a result of feedback from meeting participants,
 - h. Content of meeting discussion including the Community Benefit Priorities discussed and the decisions made regarding those Community Benefit Priorities.
 - i. Community feedback received and how the Reporting Hospital plans to incorporate the feedback into the Reporting Hospital's Community Benefit Implementation Plan, and
 - j. Any demographic data collected voluntarily from attendees, such as data concerning race, ethnicity, and income.
6. Each Reporting Hospital shall submit to ~~HCPF the Department~~ on or before September 1, 2024, July 1, 2020 and then on or before July 1 every year thereafter a report on Community Benefits that must include the following:
- ~~a. The most recent Community Health Needs Assessment.~~
 - ~~b. The most recent Community Benefit Implementation Plan for the coming year.~~
 - a. A copy of the most recently submitted form 990 to the Federal Internal Revenue Service including Schedule H and associated worksheets.
 - i. Reporting Hospitals that are part of a Health System or other corporate structure that file a consolidated form 990 to the Federal Internal Revenue Service shall provide information that was included in Parts I, II, III, and V of Schedule H of form 990 and associated worksheets for each Reporting Hospital separately.
 - ii. Reporting Hospitals not required to submit Schedule H of the form 990 to the Federal Internal Revenue Service shall complete Parts I, II, III, and V of Schedule H of form 990 and associated worksheets available on the Federal Internal Revenue Service's website.
 - b. A description of investments made by the Reporting Hospital or a related entity that were included in Parts I, II, and III of Schedule H of form 990 that includes at a minimum the following:
 - i. Cost of the investment, and the amount funded for each activity and if the activity was funded through a grant, and, if so, the grant source.
 - ii. Indicate if the investment addressed a Community Identified Health Need.
 - iii. For any investment that addressed a Community Identified Health Need identify the Reporting Hospital shall provide each specific investment activity within the following applicable categories, and shall distinguish if the activity was funded through direct cash, philanthropic efforts, or cash expenditures from in-kind contributions:
 - 1. Free or Discounted Health Care Services,
 - 2. Programs that Address Behavioral Health, ~~Behaviors or Risk, and~~

3. Programs that Address the Social Determinants of Health,⁷
 4. Programs that Address Community Based Health Care,
 5. Provider Recruitment, Education, Research, and Training, and
 6. All services and programs that addressed Community Identified Health Needs.
- iv. For any investment that addressed a Community Identified Health Need provide describe available evidence that shows how the investment improves Community health outcomes and directly corresponds to Community Identified Needs.
- c. The Reporting Hospital's total expenses included in Line 18 of Section 1 of the submitted form 990. Reporting Hospitals not required to submit form 990 to the Federal Internal Revenue Service shall complete Line 18 of Section 1 of form 990 available on the Federal Internal Revenue Service's website.
 - d. The Reporting Hospital's revenue less expenses included in Line 19 of Section 1 of the submitted form 990. Reporting Hospitals not required to submit form 990 to the Federal Internal Revenue Service shall complete Line 19 of Section 1 of form 990 available on the Federal Internal Revenue Service's website.
7. In the event that the due date falls on a weekend or state holiday the due date shall fall on the next business day.
 8. Each Reporting Hospital shall post the report to their public website and submit to HCPF the Department the website address where the report has been posted.
 9. A hospital licensed as a general hospital pursuant to part 1 of Article 3 of Title 25 that is not a Reporting Hospital may report on Community Benefits, costs, and shortfalls consistent with this section.

8.5003 HCPF DEPARTMENT REQUIREMENTS

1. HCPF The Department shall develop a website or web-based reporting platform for each Reporting Hospital to submit their reports and ensure the reports are available to the public on HCPF's website.
2. HCPF shall review each Reporting Hospital's Community Health Needs Assessment and each Reporting Hospital's annual Community Benefit Implementation Plan before the release of the report authorized in Section 25.5-4-402.8, C.R.S to identify the highest priority areas reported by Reporting Hospital's Communities.
3. As part of the report authorized in Section 25.5-4-402.8, C.R.S., HCPF the Department shall submit to the General Assembly a summary report of the hospital reports submitted that includes the following:
 - a. Community Benefits as defined in Part I and Part II of the Schedule H as a percentage of total expenses.
 - b. The amount each Reporting Hospital invested in the following areas, including that amount as a percentage of total Community Benefit spending in Part I and II of Schedule H:
 - i. Free or Discounted Health Care Services that addressed Community identified health needs,
 - ii. Programs that Address Behavioral Health ~~Behaviors or Risks,~~

- iii. Programs that Address Social Determinants of Health, ~~and~~
 - iv. Programs that Address Community Based Health Care,
 - v. Provider Recruitment, Education, Research and Training, and
 - vi. All services and programs that addressed Community identified health needs.
- c. Community Benefits as defined in Part I and Part II of the Schedule H as a percentage of Reporting Hospital's patient revenues.
 - d. A summary of Community Benefits as defined in Part I and Part II of the Schedule H for each Reporting Hospitals compared to comparable categories expensed by For profit hospitals within Colorado.
 - e. Summary of Community Benefit legislation or activities being performed outside of Colorado.
 - f. Summary of each Reporting Hospital's investments and evidence that shows how the investment improves Community health outcomes.
 - g. Summary of each Reporting Hospital's compliance with Community Benefit requirements.
 - h. The highest priority areas as reported by the Communities as compared to the Reporting Hospital's reported spending.
 - i. Legislative recommendations for the General Assembly.
 - j. The estimated Federal and state income tax exemptions and the property tax exemptions received by each Reporting Hospital, which shall be calculated by the Colorado Department of Revenue.
 - k. Any other information HCPF determines will be useful for the General Assembly and members of the public to understand the effectiveness of Reporting Hospitals' Community Benefit and other financial implications to the Reporting Hospital like Medicaid Shortfall.
4. HCPF ~~The Department~~ shall post the reports submitted to the General Assembly to a public web page created solely for this purpose.

8.5004 HOSPITAL COMMUNITY BENEFIT ACCOUNTABILITY COMPLIANCE AND CORRECTIVE ACTION PROCESS

- 1. If HCPF finds that a reporting hospital is not in compliance with the state's Community Benefit requirements under Section 25.5-1-702-703, C.R.S., HCPF shall:
 - a. Notify the Reporting Hospital of its noncompliance and identify the information that needs to be provided,
 - b. Notify the non-compliant Reporting Hospital of the due date of requested information,
 - c. If the Reporting Hospital does not provide the requested information, HCPF shall require the Reporting Hospital to submit a corrective action plan to HCPF within 120 days for approval by HCPF,
 - d. If noncompliance continues or the Reporting Hospital fails to submit a corrective action plan, or if HCPF determines the Reporting Hospital's noncompliance is

knowing or willful or a repeated pattern of noncompliance exists HCPF shall consider the size of the hospital and the seriousness of the violation in setting a fine amount,

i. For Reporting Hospitals owned by or affiliated with a hospital system comprised of three or more hospitals, the fine must not be more than \$20,000 per week, per violation.

ii. For all other Reporting Hospitals, the fine must not be more than \$5,000 per week, per violation.

e. Reporting Hospitals shall expend the amount fined on Community Benefit Community Investment priorities described in the Reporting Hospital's current Community Benefit Implementation Plan within one year after the fine is imposed and each Reporting Hospital shall report on how the money collected through fines is expended in the Reporting Hospital's annual report to HCPF.

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