HEALTH ACCESS CALIFORNIA | SEIU California Stronger Together | AFSCME CALIFORNIA

Fact Sheet

Nonprofit Hospital Community Benefits: Accountability & Transparency

AB 666 (Arambula)

Background

Nonprofit hospitals across California receive billions of dollars a year in tax exemptions in exchange for providing community benefits to their communities.

Nonprofit hospitals are exempt from federal and state taxes, property taxes, sales tax, have special treatment for other taxes such as unemployment insurance, and may receive tax-deductible charitable contributions.[i] Nationally, the value of nonprofit hospital tax exemptions has been estimated to be $28 billion.[ii] In exchange for these generous tax exemptions nonprofit hospitals are expected to provide community benefits through services and resources to support and improve the health and wellbeing of the surrounding community where the hospital resides. In 2019, California nonprofit hospitals reported to the federal government a total of over $8 billion on community health benefits, with the majority being spent on unreimbursed Medicaid expenses, financial assistance at hospital-defined cost, and health professional education.[iii] However, the California figures are only estimates because there is no standardized reporting or definitions on what nonprofit hospitals must report. In addition, the term "community benefit" does not the same meaning to all non-profit hospitals.

Current Law

The Affordable Care Act (ACA) placed certain community benefit requirements on tax exempt hospitals. The ACA requirements for community benefits requires that for a nonprofit hospital to qualify for tax-exempt status they must do the following:[iv]

- Conduct a community health needs assessment with an accompanying implementation strategy every three years
- Establish a written financial assistance policy for medically necessary and emergency care
- Comply with specified limitations on hospital charges for those eligible for financial assistance
- Comply with specific billing and collections requirements

The IRS has further expanded guidance on hospital reporting and tax-exempt nonprofit hospitals are required to file IRS Form 990-H, which is publicly available.

Accountability in Benefits

Following federal guidance and under current California statute, tax-exempt hospitals can self-define key terms on their community benefits plan, terms such as "community," "stakeholder," and even what is considered a community "benefit." Such terminology has allowed nonprofit hospitals to self-define the community that they serve, what actual benefits are provided, and who the hospitals hold themselves accountable to. This allows hospitals, if they choose, to exclude communities in need, the stakeholders that represent those communities, and the benefits the community may actually need.

Lack of Transparency

At the federal level, there are no community benefit requirements that:[v]

- Ensure hospitals use the most accurate standards for reporting
- Hospitals spend community benefit dollars on identified needs
- Describe in detail the type of activities that qualify as a community benefit

Under California law, the reporting process has not in the past been standardized and there is a lack of transparency in the reporting of community benefits.

Solution

AB 666 (Arambula) would improve community benefit reporting, holding nonprofit hospitals more accountable for the community benefits they are providing in exchange for their tax exemption status. It would create transparency within the reporting process and bring equity into local communities served by hospitals.

The bill would shift responsibility of defining key terminology from hospitals to the Department of Health Care Access and Information (HCAI) using the rule-making process. HCAI would define "community" and provide further guidance on what is considered a "community benefit." The bill would align state law to federal law in not counting Medicare shortfalls as a community benefit. The bill would also align reporting of Medi-Cal shortfalls to what a hospital would reasonably expect Medicare to pay for the same service, which would improve transparency as currently hospitals are able to report using self-identified costs, which may be inflated.

The bill would also standardize the reporting of community benefits, as nonprofit hospitals would be required to submit a copy of their federal IRS form 990-H to HCAI and be required to align their community benefit plan categories with what was reported in the federal IRS form 990-H.

AB 666 would also make changes to the Community Health Needs Assessments to best reflect the needs of vulnerable populations and require it to be updated every two years.

Nonprofit hospitals receive valuable tax exemptions in exchange for providing community health benefits. As such, the bill increases the fine for not submitting a community benefits plan, from $5,000 to $25,000, and creates a fine of $50,000 for failing to implement the community benefits plan.

For more information, please contact:

Jose Torres Casillas jtorres@health-access.org with Health Access California
Matt Legé mlege@seiucal.org with SEIU State Council
Janice O'Malley jomalley@afscme.org with AFSCME

i. Trustee Compensation And Charity Care Provision In US Nonprofit Hospitals
ii. The Estimated Value of Tax Exemption for Nonprofit Hospitals Was About $28 Billion in 2020
iii. Community Benefit Spending, National, 2019
iv. Nonprofit Hospitals' Community Benefit Requirements
v. How States Can Hold Hospitals Accountable for Their Community Benefit Expenditures