The Sharks are Swarming-501 (R)
Understanding the Implications of 501r
Chief Healthcare Strategy Officer Capio Partners LLC
March 20, 2015
Agenda

- Background
- Governance: FAP Framework and EMC Policy
- Three “C”s: CHNA, Communications, and Charging
- 2014-2 and final dates
- Auditors and Compliance Roles

MANDATE DECEMBER 29, 2015
BACKGROUND

• The Internal Revenue Service has released proposed regulations on financial assistance policy and emergency medical care policy requirements under the Patient Protection and Affordable Care Act. These new requirements continue the IRS focus on the activities and policies of tax-exempt hospitals and the implication that tax-exempt hospitals must be required to "justify" their tax-exempt status, especially with regard to serving patients unable to pay for the costs of their medical care. Internal audit and compliance plans will need to include oversight of these new policies.
THREE REQUIREMENTS

Section 501(r) was added to the IRS code by the PPACA and imposes new requirements on 501(c)(3) organizations that operate one or more hospital facilities (a facility is determined by state or local licensing requirements). These rules are also mandatory for governmental hospitals that have applied for 501(c)(3) status. Each hospital is required to meet several general requirements on a facility-by-facility basis including:

Establish written financial assistance and emergency medical care policies;

Limit amounts charged for emergency or other medically necessary care to individuals eligible for assistance under the hospital's financial assistance policy;

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.
Under the proposed regulations, the financial assistance policy must be in writing and should apply to all emergency and other medically necessary care provided by the hospital.

The FAP MUST have a system owner.
FAP FRAMEWORK

- Eligibility criteria
- Basis for calculating amounts charged to patients
- Method of applying for financial assistance
- Actions that may be taken by hospital for nonpayment
- How the public may receive a written description on how the FAP is publicized
- Attempt to orally communicate the FAP P&P
- Adoption of the FAP by the authorized body of the hospital
- Consistent and ongoing utilization of the FAP
The emergency medical care policy is a written policy that must include:

- Requirement of hospital to provide care, without discrimination, for emergency medical conditions to individuals regardless of whether they are FAP-eligible; and
- Prohibits the hospital from engaging in actions that discourage individuals from seeking emergency medical care, such as demanding payment prior to service or permitting debt collection activities in the emergency department.
501R WILL INCLUDE:

• All financial assistance available, including all discounts or free care, and amounts such as gross charges to which any discount percentages are applied.
• Describe the method (either a look-back approach or a prospective Medicare based method) for the determination of the amount generally billed to individuals who have insurance for various services.
• Ensure an FAP-eligible individual is not charged more than amounts generally billed to individuals who have insurance for any medical service.
• Efforts that should be made and the time periods over which these efforts should be made to determine whether an individual is FAP-eligible before engaging in any extraordinary collection actions.
• Inform and notify residents of the community about the FAP.
THE THREE “C”S OF 501r

- Community Health Needs Assessment (CHNA)
- Communications
- Charging
CHNA

• Conduct a CHNA—Every three years

• Strategy

• Collaboration

• Six months post publication/adoPTION
Communications

• Written Policy and Procedures on financial assistance and emergency medical care
• Full disclosure of administrative treatment of the patient
• Thirty days notice on ECA
• Patient Portal or Website-both
• Patient Statement
• Tent Cards
• Financial Counselors, Schedulers, Billers, and Registrars, collections, and customer service
Charging

• Prohibit the use of gross charges with self pay.

• Charges associated with insured=lowest of three payers or lowest payer.

• Charity
2014-2

- 2012 addressed financial assistance
- 2013 addressed CHNA
- 2014-2—”Clarifies that hospital organizations, while not required, may rely on all the provisions of the 2012 and 2013 proposed regulations pending publication of final or temporary regulations or applicable guidance.”
- 2015 Mandated December 29, 2015
Auditors and Compliance Roles

Internal auditors should include in their work plan the need to determine if FAP and EMCP have been properly implemented and consistently followed and test the effectiveness of their hospital's controls such as:

Does the hospital have controls in place to assess patient FAP eligibility?
- Does the billing system track and maintain information on all patients with indications of FAP status?
- Was the patient billed the correct amount according to FAP?
- Does the hospital appropriately calculate the amounts generally billed to individuals who have insurance under the described policy method?
- Does the billing system have controls to ensure FAP-eligible patients do not receive extraordinary collection actions?
- Is there appropriate documentation to indicate FAP eligibility and communication with the patient?
- Are there effective monitoring controls over the FAP and the EMCP?
Auditors and Compliance Roles

In addition to testing the effectiveness of internal controls, compliance officers should be testing the organization's compliance with the statutory requirements including:

- Validate that patient eligibility is assessed as provided in the proposed regulations.
- Validate that the hospital has billed patients the amounts generally billed to individuals who have insurance or less for specific services.
- Assess the organization's use of referral to collection agencies in accordance with FAP.
- Validate that the written description of the measures taken to publicize the FAP is complete and in accordance with the requirements, including on the website and in multiple languages as applicable.
- Validate the organization is meeting the appropriate actions in the emergency department and other similar areas to ensure the hospital is not engaging in actions that discourage individuals from seeking emergency medical care.
• What are the three C’s of 501r
• CHNA
• Communications
• Charging
• What does 2014-2 state?
• Clarifies that hospitals, while not required, may rely on the provisions of the 2012 and 2013 proposed regulations pending publication of final or temporary regulations or applicable guidance.
• What is one of the first items that an auditor would most likely request upon arrival?

• The facilities FAP AND EMCP P&P
• What is the mandated date to adopt 501r?
• December 29, 2015