An update on the implications to the internal audit function in an era of health care reform: including the Form 990, Community Needs Assessment Requirements and Other Risk Areas

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Introductions

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Learning Objectives

- Understand the new requirements, deadlines and penalties that tax-exempt institutions now face; 501(r) and 4959, community health needs assessment, financial assistance policies, limitations on charges and billing and collection requirements, Form 990.
- Discuss how organizations are seeing their risk profiles evolve as a result of health care reform.
- Share ideas about how Internal Audit departments are integrating health care reform into their strategies in 2011 and beyond.
- Learn about the approach Kaiser is taking with their internal audit department
Overview

- Reforms will take place over a 10-year window
- Federal agencies will be required to issue numerous regulations as part of implementation – "The Secretary shall . . . "
- Technical fixes, legal wrangling, administrative pronouncements and additional legislation should be expected
- Reform is a process not a destination

This is just the beginning
First step, leadership support in a new continuum of change

*Best practices*

- Understanding and deciphering the provisions
- Educating leadership, the team, the employees
- Integration into your processes:
  - Audit process to risk assessments
  - Operations opportunities and implications
  - Testing new processes and controls
  - HC reform PMO
The current, mixed environment among hospitals and health systems...

- Varying levels of maturity/progression and best practices among hospitals and systems
- Attention from leadership is arbitrary
- Capability and availability of internal resources not equip to handle scope or length of effort
• New requirements for tax exempt hospitals
Health Care Update

*Patient Protection and Affordable Care Act. New IRC §501(r)*

New Internal Revenue Code section specific to Hospitals

Additional Requirements for certain hospitals to retain exempt status - §501(r)

- Financial assistance policy
- Limitation on charges
- Billing and collection requirements
- Community health needs assessment
Financial Assistance Policy 501(r)

• Must be Written and must Contain:
  ◦ Eligibility criteria for free or discounted care
  ◦ Basis for calculating amounts charged
  ◦ How to apply for assistance
  ◦ If no separate billing and collections policy
    • state actions organization may take in event of non-payment, including collections action and reporting to credit agencies
Financial Assistance Policy 501(r)

- Must be Widely Publicized
  - Posted throughout hospital premises?
  - Posted on Hospital's Website?
  - Or more?
Financial Assistance Policy

501(r)

Emergency Medical Care Policy

- Must be Written and:
  - Must be non-discriminatory
  - Must provide emergency care regardless of eligibility under Financial Assistance Policy
Billing and Collection Requirements

501(r)

No **extraordinary** collection actions permitted without **reasonable** effort to determine eligibility for Financial Assistance
Billing and Collection Requirements

501(r)

Committee Report Indicates:

• Reasonable effort: Written and oral communication of financial assistance policy
  ◦ Upon admission and before collection and credit agency reporting
• Extraordinary collection actions:
  ◦ Lawsuits, liens on residences, arrests, body attachments, other similar practices
Limitation on Charges
501(r)

- Medically necessary care
- Prohibits use of gross charges
- For patients eligible under Financial Assistance - charges cannot exceed those generally billed to those patients covered by insurance

- Committee Report: Intention – amounts billed based on average three best (lowest) negotiated commercial or Medicare rates
Ramifications for not meeting the requirements

- **EXCISE TAX FOR FAILURES TO MEET HOSPITAL EXEMPTION REQUIREMENTS - SEC. 4959. TAXES ON FAILURES BY HOSPITAL ORGANIZATIONS.** If a hospital organization to which section 501(r) applies fails to meet the requirement of section 501(r)(3) for any taxable year, there is imposed on the organization a tax equal to $50,000.

- Section 501(r) - A hospital organization to which this subsection applies **shall not be treated as described in subsection (c)(3)** unless the organization [meets the requirement previously discussed].
Form 990 Considerations

- The IRS announced on June 10, 2011 that completing Form 990, Part V, Section B is now optional for the 2010 reporting year. No penalties will be assessed against tax-exempt hospitals that leave Schedule H: Part V, Section B blank.

- Final regulations for Section 501(r) have not yet been issued, as of August 2011.
Effective for years beginning after 3/23/2012

- Conduct health needs assessment of the community
  - Every three years (current or preceding two)
  - No specific methodology
- Implementation strategy to meet identified needs
- Input from community representatives
  - Broad interests
  - Community served by hospital
  - Expertise in public health

- Must be widely available to the public
  - Website posting, other means?
- Who may gather the data:
  - Public health agency,
  - Other non-profit, or
  - Two or more hospitals jointly
    - Related or Unrelated
- Explain needs you met and
- Needs you did NOT fulfill (why not)
- Failure = Excise tax of $50,000 / facility exemption loss
• Preparing your Internal Audit department for the future

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How is Internal Audit positioned to address health care reform?

- Although significant resources are mobilized in most organizations to address health care reform, few have focused on how Internal Audit should evolve in its role.

- Internal Audit departments should be thinking of impacts to the entire functional continuum – risk assessments, internal audit planning, execution of the plan, remediation, and follow-up.

- Continuous awareness training of Internal Audit professionals is critical to successfully understand the implications of health care reform now and in the future.
What questions can Internal Audit help ask/answer

- Incorporate a reform legislation tracking question into your audits. *Challenge: how do you get pertinent information relative to health care reform?*

- What reform specific actions are impacting this function?

- What impact does reform have on your corporate function (e.g., added cost, benefit changes, recruitment/retention risk, etc.)?

- What other in-scope (or out of scope) processes or functions are impacted by reform related actions?

- Risk assessment for reform related actions (i.e., PMO, accounting policy changes, etc.)

- What governance and controls are in place to maintain compliance and responsiveness?
Areas of impact for providers

- Reimbursement changes (i.e., DSH, GME)
- Coverage expansion
- Care delivery changes (i.e., quality matters)
- Payment changes (i.e., reductions, bundling)
- Quality criteria and IT incentives (i.e., EHR)
- More government oversight
Areas of impact for payers

- Insurance reform (i.e., underwriting limitations)
- Coverage expansion (i.e., exchange roll out)
- Medicare Advantage program changes (i.e., payment reductions)
- Regulatory reporting requirements (i.e., MLR)
- Part D changes
How can Internal Audit proactively help?

CMS Medicare and Medicaid EHR Incentive Programs
Milestone Timeline

- **Fall 2010**: Certified EHR technology available and listed on ONC website
- **Winter 2011**: Registration for the EHR Incentive Programs begins
- **Spring 2011**: Attestation for the Medicare EHR Incentive Program begins
- **Fall 2011**: Last day for EPs to register and attest to receive an Incentive Payment for CY 2011
- **January 2011**: Last year to receive Medicaid EHR Incentive Payment
- **Winter 2012**: Medicare payment adjustments begin for EPs and eligible hospitals that are not meaningful users of EHR technology
- **February 29, 2012**: EHR Incentive Payments begin
- **May 2011**: Last year to initiate participation in the Medicare EHR Incentive Program
- **November 30, 2011**: Last year to receive a Medicare EHR Incentive Payment
- **2014**: Medicaid providers, States may launch their programs if they so choose
- **2015**: Last year to initiate participation in Medicaid EHR Incentive Program
- **2016**: ...
- **2021**: ...

2011 AHIA Annual Conference - www.ahia.org
How can Internal Audit proactively help?
Many Internal Audit functions also perform SOX-like functions

SOX activities should incorporate reform related financial reporting and IT initiatives. Examples include:

- MLR reporting
- P4P and quality incentive payment programs
- Meaningful use - EHR
- ICD-10
- 5010
- ACO infrastructure development
- Claims reporting – eligibility processing
- Hospital/physician practice patient accounting systems (particularly with the dramatic changes at KP in the provider revenue cycle areas)
Internal Audit can help prepare your hospital/health system for the future

- **Proactive and effective planning**
  - Eye on 'reimbursements and incentives'

- **Perform a thorough risk assessment**
  - Modification of internal audit plans
  - Added resource; sustainable work plan
  - Dissect the impact in manageable steps
  - Consider enterprise wide risk assessment (ERM)

- **Reveal process improvement opportunities**
  - Ensure overall compliance
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The fine print...

- Co-sourcing arrangement with Grant Thornton since 2006
- Small, but important, part of our overall internal audit resources
- Strategic focus of co-sourcing on consultation vs. staff augmentation
- Successful co-sourcing relationship - not an endorsement
Kaiser Permanente (KP) at a glance

- Nation’s largest not-for-profit health care system in the US, serving approximately 8.8 million members
- KP has 45,000 nurses, 35 hospitals, and 454 medical office buildings
- KP gives almost $1 billion a year to the community through programs, grants, and donations
- KP’s electronic health record connects its members to their health care teams, personal information, and latest medical information
- KP has one of the nation’s largest research institutions, and it makes its results widely available to improve health care
- To serve its members, KP has more than 164,000 employees and more than 15,000 physicians
KP Internal Audit Services (IAS) at a glance

- Department of approximately 90 people – located in all KP regions
- Organized by Practice Area Teams
- Strong internal Quality Assurance program and recent external Quality Assurance Review
- Functionally reports to Audit and Compliance Committee of Kaiser Board of Directors and administratively to the CEO
- Charter and scope encompass risk management, control and governance processes
- Close coordination with other audit and monitoring functions
KP’s Process for Health Care Reform (HCR) Implementation

- Intake of HCR regulations and requirements
- Interpretation and applicability to KP
- Translate into operational changes to be implemented
- Senior Leadership focuses on governance and direction
- Project Management Office oversees operational implementation
HCR - High Level Considerations for Internal Auditors

- Effectiveness of intake & interpretation of changes
- Speed and effectiveness of implementation
- Projects that might be at cross purposes
- Adequate monitoring and tracking
KP IAS Approach to HCR
What Has Changed?

- IAS Health Care Reform Coordination Team
- Hours set aside in audit plan to focus on HCR impact
- Identified HCR component in existing audits
- May audit the design or effectiveness of PMO and intake processes
KP IAS Approach to HCR
What has NOT changed?

- Ongoing interactions with senior leadership, operational management, regional management, and other governance groups
- Discuss how HCR may impact their operations, initiatives, priorities, and processes
- Determine the impact this has on our risk assessments, audit plans, and scope and timing of audits
Questions?
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Save the Date:
August 26-29, 2012

31st Annual Conference in Philadelphia Pennsylvania

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