



Association of
American Medical Colleges
2450 N Street, N.W., Washington, D.C. 20037-1127
T 202 828 0400 F 202 828 1125
www.aamc.org

May 29, 2008

By Electronic Filing

Internal Revenue Service
Draft 2008 Form 990 Instructions, SE:T:EO
1111 Constitution Avenue, NW
Washington, DC 20224

The Association of American Medical Colleges is a not-for-profit association representing all 129 accredited U.S. and 17 accredited Canadian medical schools; nearly 400 major teaching hospitals and health systems; and 94 academic and scientific societies. Through these institutions and organizations, the AAMC represents 109,000 faculty members, 67,000 medical students, and 104,000 resident physicians. The Association appreciates the opportunity to submit comments on the draft instructions and worksheets for Form 990, Schedule H.

The Internal Revenue Service (IRS) has made an extraordinary effort to work with stakeholders in the development of instructions and worksheets to accompany Schedule H which, for the first time, allows hospitals to report to the Federal government on their community benefit activities. Due to the complexity of the information that hospitals must report, and a desire by all that the information be accurate, the AAMC hopes that even after the current set of comments are considered, the Service will continue to make refinements in the instructions. Because only one section of Schedule H must be completed for the 2008 tax filing year, there should be sufficient opportunity to clarify any issues that cannot be resolved by the time that the instructions and worksheets are printed for the 2008 returns, or that become apparent later.

Who Must File—Definition of a Hospital

The AAMC suggests that the definition of a hospital should be revised to read:

A “hospital” is a facility that is licensed or certified as a hospital under state licensing or certification laws.

Part II—Community Building Activities

The AAMC appreciates that the IRS is collecting information on community building activities. These are vital activities in which hospitals frequently engage, often devoting considerable financial and staff resources, and upon which their communities rely. The AAMC hopes that in the future the IRS will allow community building activities to count as community benefit, and will move this information to the *Charity Care and Certain Other Community Benefits* table found under Part I of Schedule H.

Part III—Bad Debt, Medicare, & Collection Practices

The AAMC is concerned that Worksheet B (p. 11 of 23 of the draft instructions) for reporting Medicare bad debt will be confusing if finalized as proposed. For example, what is included in a “Medicare allowable costs” from the cost report? There is no single line in the cost report that represents allowable costs. For accuracy and consistency of reporting, hospitals should be advised as to which lines in the cost report should be used to determine this number. Hospitals also should be advised about how to handle physicians and/or mid-level practitioners (e.g., ARNPs or PAs) who are employed or under contract. These costs are not permitted to become Medicare allowable costs. Yet, if they are not included in the bad debt calculation, the amount will be understated on Worksheet B.

A further concern is that for many hospitals, cost reports will be completed after the Form 990 is submitted to the IRS, making accuracy even more challenging, and increasing the likelihood that hospitals will need extensions for filing the 990.

The AAMC would be pleased to work with the IRS to resolve these and other issues.

Definition of Research (found under Part V—Facility Information and Worksheet 7: Research)

As the IRS has worked to finalize the draft instructions and worksheets for Schedule H, the AAMC has continued to discuss issues with members, especially issues related to research and education. These discussions have lead us to conclude that when considering how to define research that should be counted for purposes of community benefit, the important factor is not the funding source, but whether the goal is to generate generalizable knowledge and communicate the findings and observations. Therefore, we strongly suggest that the definition of research be modified so that the first two lines read as follows:

“Research” means any study or investigation of which the goal is to generate generalizable knowledge . . .”

Worksheet 5: Health Professions Education

The AAMC is very concerned that the instructions for this worksheet are confusing and contradictory. For example, the instructions state “not to include education or training programs available only to the organization’s employees . . .” Later in the instructions, entities are directed to include costs that relate to medical residents. Though enrolled in an educational program and considered to be students, medical residents often are W-2 employees of a hospital. Further, the program in which they are enrolled is available only to the organization’s employees (i.e., other medical residents). The IRS should state clearly that for purposes of this worksheet, medical residents are not considered to be the organization’s employees.

Worksheet 5 also instructs entities that “ if education and training is not restricted to the organization’s employees and medical staff, use a **reasonable allocation** to report only the expenses related to providing the education or training to persons who are not employees of the organization or not on the organization’s medical staff.” (emphasis added). The IRS should allow entities to count the full cost of education and training that is open to all qualified individuals in the community. Allocating costs will be extremely burdensome and seems to be unnecessary. An individual who is currently an employee of an organization may receive training through one of these programs. If that individual then changes employers, as frequently happens, he/she will bring the knowledge gained through this training to the new employer, thus benefitting a wider community.

Line 8 of Worksheet 5 calls for “Medicare reimbursement for direct GME.” The instructions should be more explicit about what this means: the amount claimed in the cost report (which generally is determined after the fiscal year end); the amount paid during the fiscal year as a pass through cost; or the amount recognized as income during the fiscal year? Also, should hospitals include Medicare reimbursement from participating HMO plans? Finally, how should they hand current year settlements received for prior year DGME expenses? The AAMC would welcome the opportunity to continue to work with the IRS to answer these questions.

Form 990: Definition of “Key Employee”

The AAMC is concerned that the IRS definition of “key employee” will encompass many more individuals than is appropriate. Part of the definition in the draft is that a key employee “manages a discrete segment or activity of the organization that represents 5% or more of the activities, assets, income, or expenses of the organization.” The AAMC believes that 5% is too low a threshold. The Association suggests that the IRS consider a much higher threshold--perhaps 20%--and focus on the activities in which these individuals are engaged, so that key employees must have “responsibilities, powers or influence over the organization.” Without these changes, it is conceivable that individuals who head the human resources department or manage building services could be classified as “key employees.” There also should be a limit on the number of employees to be reported.

Thank you for your consideration of these comments. If you have further questions, please contact me or Ivy Baer of my staff. We both may be reached at 202-828-0490.

Sincerely yours,



Robert M. Dickler
Chief Health Care Officer