



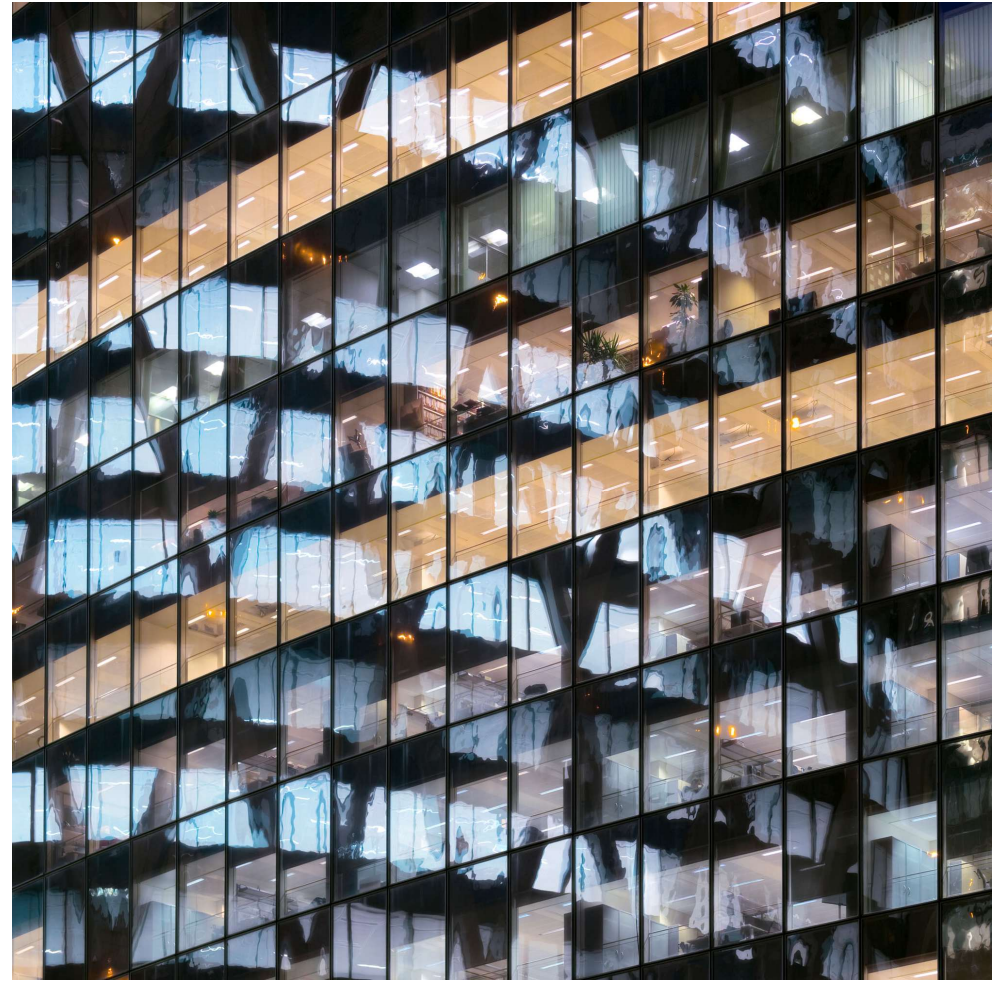
# Navigating IRS Scrutiny and Legislative Changes: Compliance Strategies for Nonprofit Healthcare

Andrew Gray

**forv/s**  
**mazars**

# Agenda

1. Tax Outlook: 2026 & the One Big Beautiful Bill Act (OBBBA)
2. Community Benefit
3. 501(r) Reminders & Red Flags
4. Recap & Takeaways





# 01

## Tax Outlook: 2026 and the One Big Beautiful Bill Act



# 2026 Tax Outlook – Where are we Today?

- Internal Revenue Service Staffing
- 501(r) Priority
- 2026 Tax Legislation Outlook

# Uncertainty in DC – Do Past Proposals Indicate the Future?

## Eliminate Nonprofit Status for Hospitals

- **\$260 billion in 10-year savings**
- *More than half of all income by 501(c)(3) nonprofits is generated by nonprofit hospitals and healthcare firms. This option would tax hospitals as ordinary for-profit businesses. This is a CRFB score.*

## Eliminate Deduction for Charitable Contributions to Health Organizations

- **\$83 billion in 10-year savings**
- Taxpayers can deduct contributions to qualifying health organizations (patient advocacy groups, professional medical associations, and other U.S.-based charitable organizations with 501(c)(3) tax status) from their taxable income. This option would remove the deduction for contributions to health organizations, generating \$83 billion in savings over 10 years.

# 2025 OBBBA - Impact to Healthcare Sector

## OBBBA Tax Provision

- Executive Compensation Excise Tax (Internal Revenue Code Section 4960)
  - OBBBA expanded the 21% excise tax for tax-exempt entities
  - Any employee earning over \$1M versus the top 5 (covered persons)
  - Medical services compensation still excluded
  - Tax years beginning after December 31, 2025
- Charitable contribution deduction changes (expansion for middle class taxpayers, limitations for high earning taxpayers and C Corporations)
- Inflation Reduction Act Changes – Timing!

[Impact of OBBBA on IRA Clean Energy Credits | Forvis Mazars](#)

## OBBBA Other Provision

- Medicaid and coverage changes
  - The CBO projects these policies will result in about **16.5 million fewer people insured** (mostly dropping Medicaid or marketplace coverage).
- OBBBA reduces federal support for hospitals in other ways – i.e., phasing down Medicaid DSH payments and limiting provider taxes and state-directed payments – potentially squeezing hospital revenue.
- **\$50 billion Rural Hospital Transformation Fund**, cuts to **340B drug program reimbursements**, and promoting **site-neutral payment policies** for Medicare outpatient services.

# IRS Priority Guidance Plan

- Released: September 30, 2025
- Changes in Priorities
- Exempt Organizations: Excise Tax on Excess Compensation (i.e., expanded definition of covered employee)
- Statutory prohibition in IRC 501(c)(3) against participation in political campaigns
- [2025-2026 Initial PGP](#)

# Poll #1: What is Your Biggest Concern about Tax?

1. Complying with IRC 501(r)
2. IRS Exam
3. Future Tax Legislation





# 02

## Community Benefit



# Most Recent Community Benefit Scrutiny

***"What sort of excuses do these tax-exempt hospitals make to justify the massive deficit between the charity care they provide and the tax benefits that they receive? How has this imbalance been able to grow so substantially in recent years? What should be done to flip the equation here?"***

— Rep. Jason Smith (R-MO), Chairman of the House Ways and Means Committee

Source: House Ways and Means Committee Hearing Opening Statement, September 16, 2025

***"Hospitals that fall short [of providing charity care] should lose their tax-exempt status."***

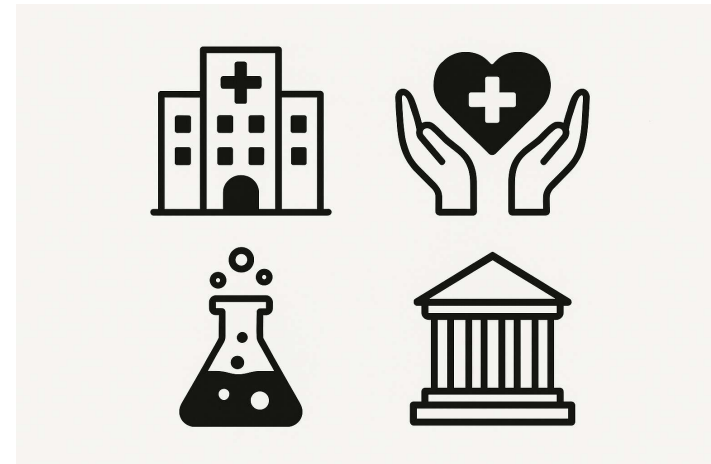
— Sen. Bernie Sanders (I-VT)

Source: Referenced in Chief Healthcare Executive reporting on renewed calls for oversight, November 21, 2025 (stated as part of a 2023 Report by the U.S. Senate Health, Education, Labor, and Pensions Committee).

***"These numbers tell a powerful story about the role hospitals play beyond their walls. Hospitals are the heartbeat of healthier communities. [...]"***

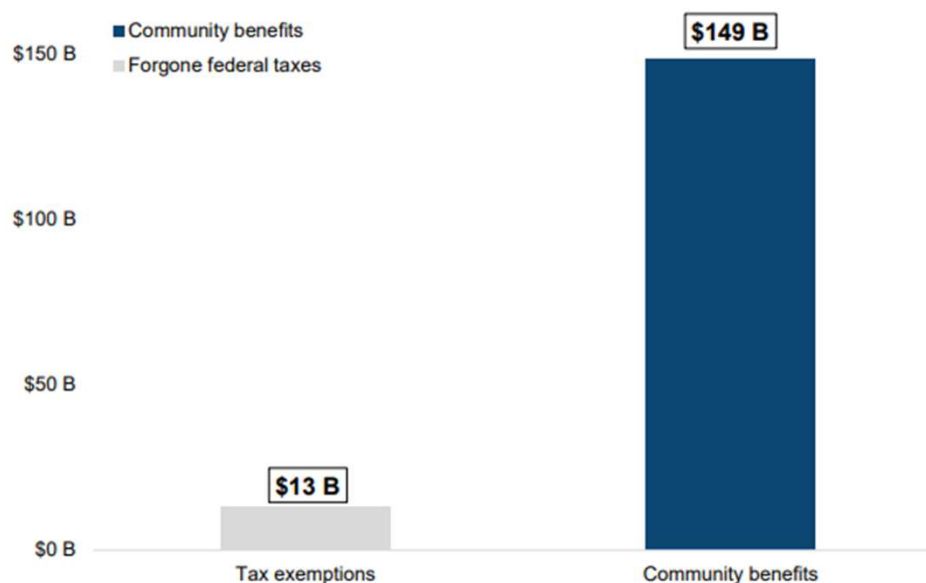
— Rick Pollack, President and CEO, American Hospital Association (AHA)

Source: Press release accompanying the EY/AHA report, November 17, 2025



# American Hospital Association Report – November 2025

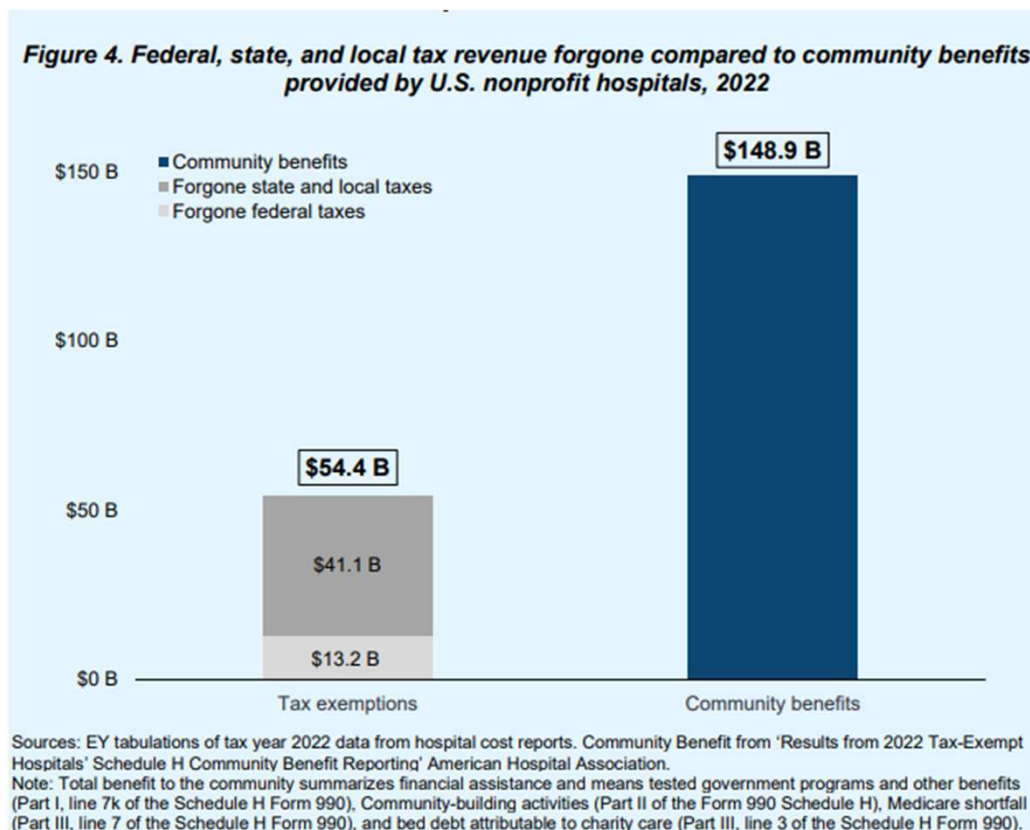
**Figure 1. Federal tax revenue forgone compared to community benefits provided by U.S. nonprofit hospitals, 2022**



Sources: EY tabulations of tax year 2022 data from hospital cost reports. Community Benefit from 'Results from 2022 Tax-Exempt Hospitals' Schedule H Community Benefit Reporting' American Hospital Association, September 2025.  
Note: Total community benefits summarize financial assistance and means tested government programs and other benefits (Part I, line 7k of the Schedule H Form 990), Community-building activities (Part II of the Form 990 Schedule H), Medicare shortfall (Part III, line 7 of the Schedule H Form 990), and bed debt attributable to charity care (Part III, line 3 of the Schedule H Form 990).

[Source: AHA-EY Benefit of Tax Exemption Report TY2022](#)

# American Hospital Association Report – November 2025



[Source: AHA-EY Benefit of Tax Exemption Report TY2022](#)

# General Reporting Criteria

## Program/activity must be a community health need



Improving access  
to health services



Enhancing  
public health



Advancing increased  
general knowledge



Relief of a government  
burden to improve health

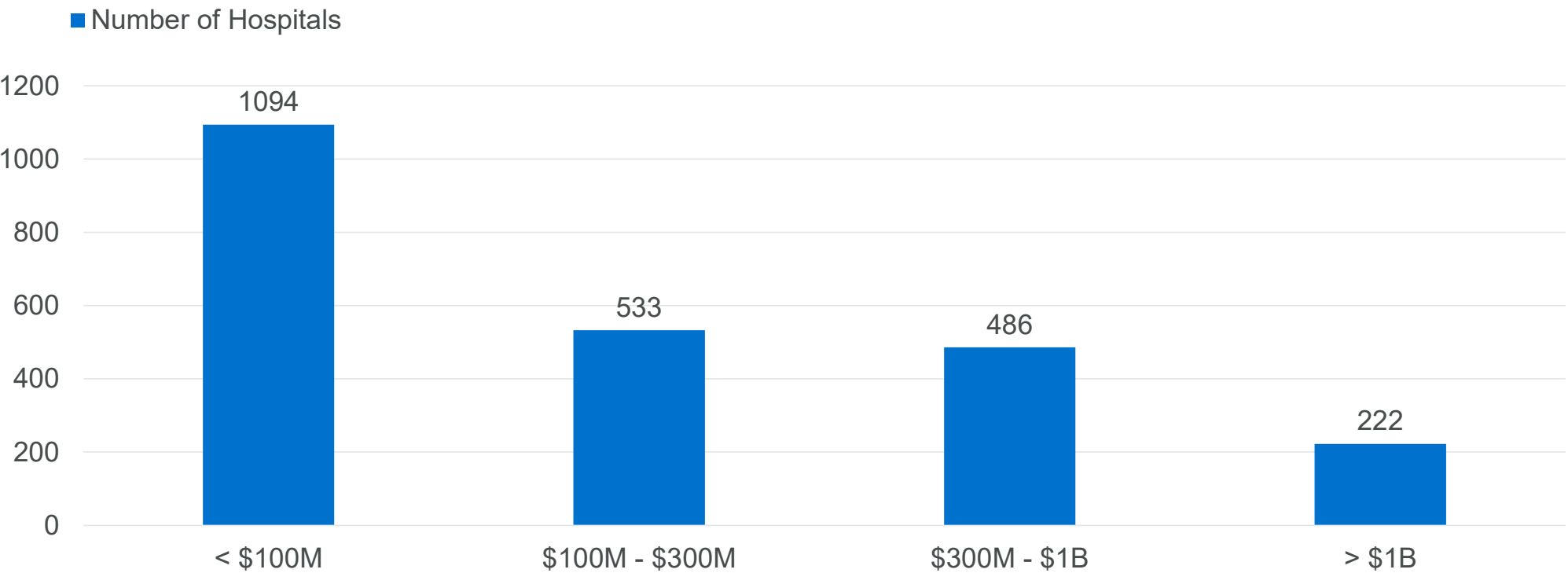
*"It's important to get a better definition on what constitutes a community benefit, since it helps determine if hospitals qualify for tax-exempt status." — Rep. Beth Van Duyne (R-TX)*

Source: Remarks during House Ways and Means Committee Hearing, September 16, 2025



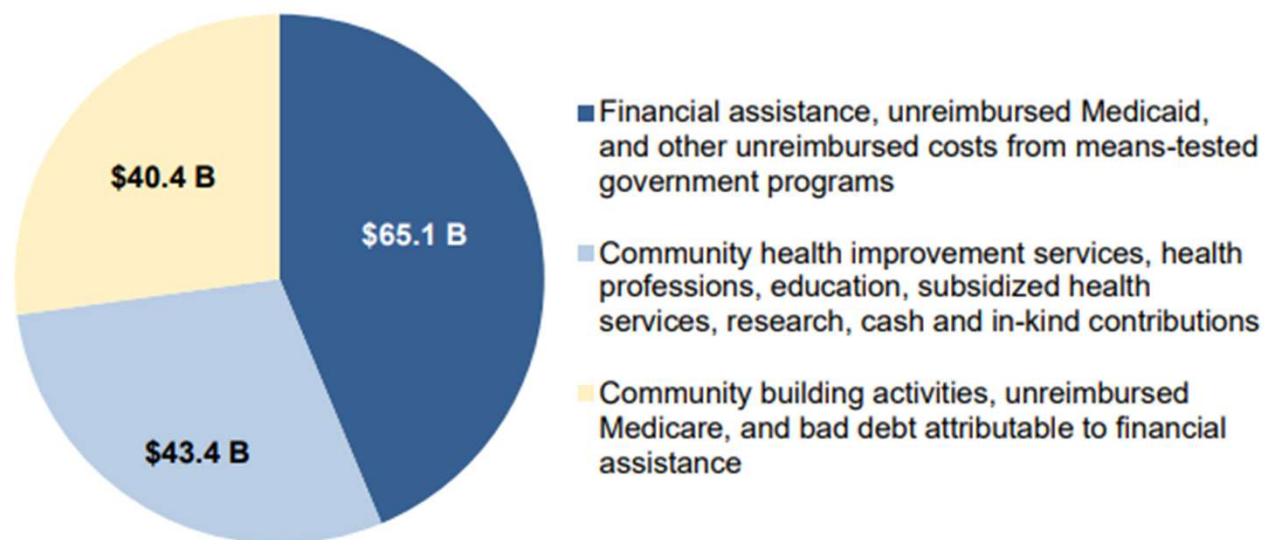
# Benchmarking Overview

Hospital Organizations Included by Program Service Revenue



# American Hospital Association Report – November 2025

**Figure 3. Community benefits provided by U.S. nonprofit hospitals, 2022**



Sources: EY tabulations of tax year 2022 data from hospital cost reports. Community Benefit from 'Results from 2022 Tax-Exempt Hospitals' Schedule H Community Benefit Reporting' American Hospital Association, September 2025

Note: Total community benefits summarize financial assistance and means tested government programs and other benefits (Part I, line 7k of the Schedule H Form 990), Community-building activities (Part II of the Form 990 Schedule H), Medicare shortfall (Part III, line 7 of the Schedule H Form 990), and bad debt attributable to charity care (Part III, line 3 of the Schedule H Form 990).

[Source: AHA-EY Benefit of Tax Exemption Report TY2022](#)

# Financial Assistance at Cost



Free and/or discounted care included in the FAP



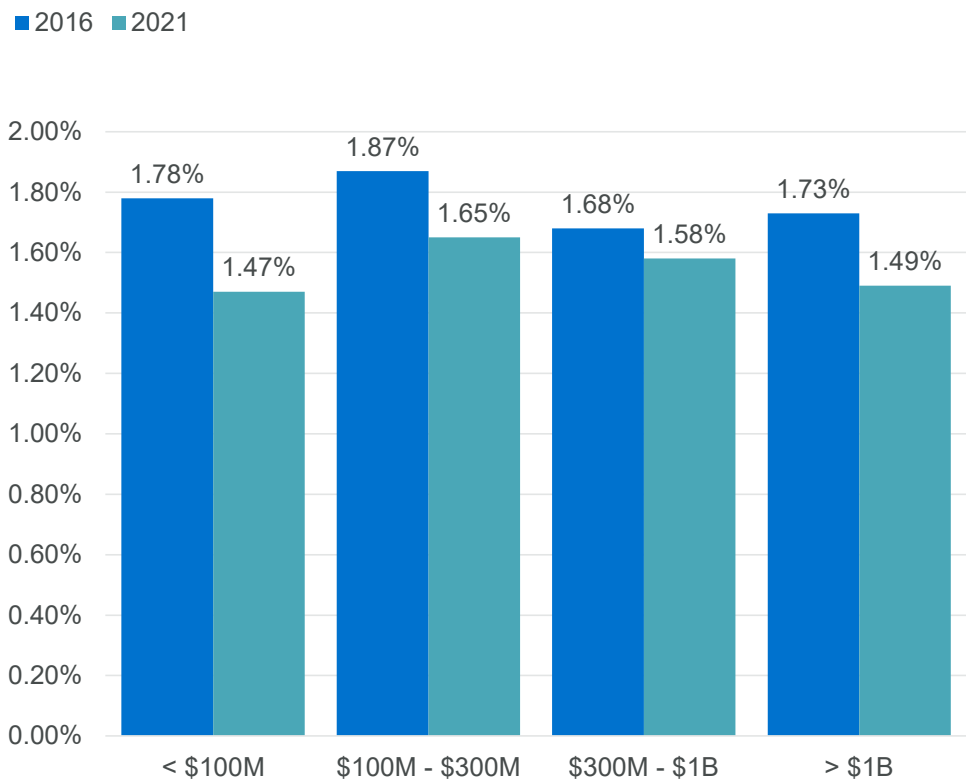
Reported based on cost not charges



Do not include:

- Bad debt
- Medicaid or Medicare losses (reported elsewhere)
- Self-pay or prompt pay discounts
- Contractual adjustments with third-party payers

Average Financial Assistance % of Total Expense



# Government-Sponsored Means-Tested



Losses incurred for Medicaid recipients & low-income patients participating in other government-sponsored means-tested insurance program



Reported based on losses



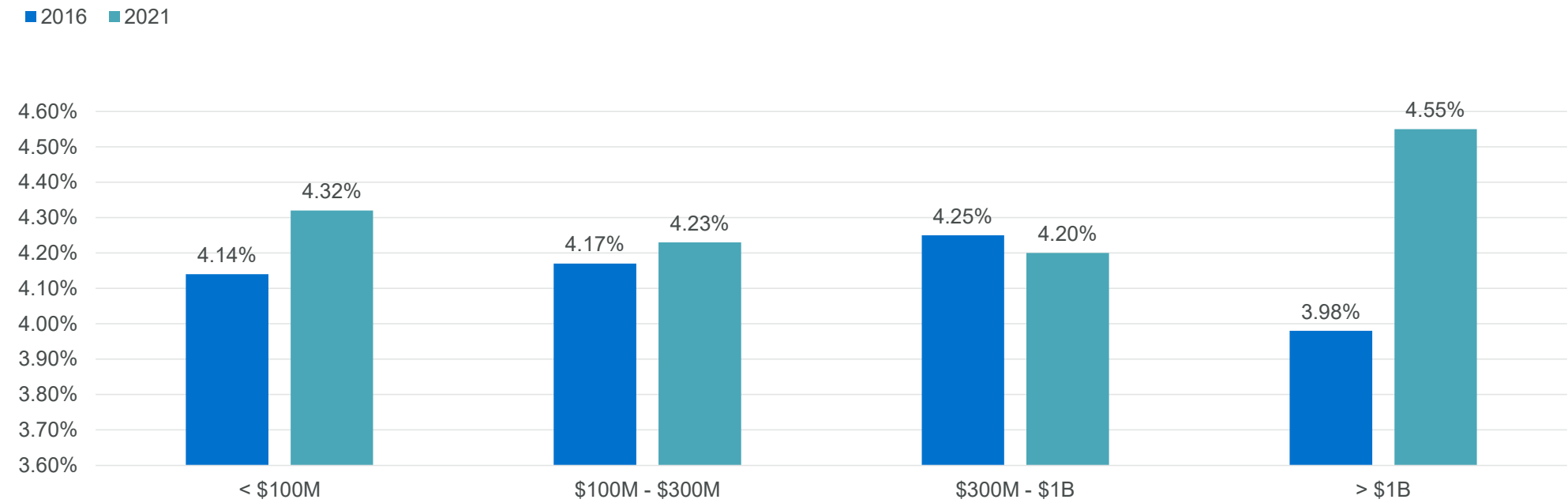
Do not include:

- Medicare shortfalls
- Government programs that are not means-tested, *e.g.*, Veterans



# Medicaid Shortfall

Average Medicaid Shortfall % of Total Expense



# Other Community Benefit Programs

Examples include:



## Community Health Improvement Services

- Community health education, support groups, health screenings (uninsured/underinsured), self-help programs



## Health Professionals Education

- Lectures, presentations, programs, materials focused on prevention & health behaviors



## Subsidized Health Services

- Clinical services provided at a financial loss (meets a need identified by the community)



## Research

- Goal is to generate increased knowledge made available to the public



## Cash & In-Kind Contributions for Community Benefit

- To healthcare organizations & other community groups (restricted for use for community benefits); hours contributed by staff to the community while on hospital's work time; donations of food, equipment, & supplies



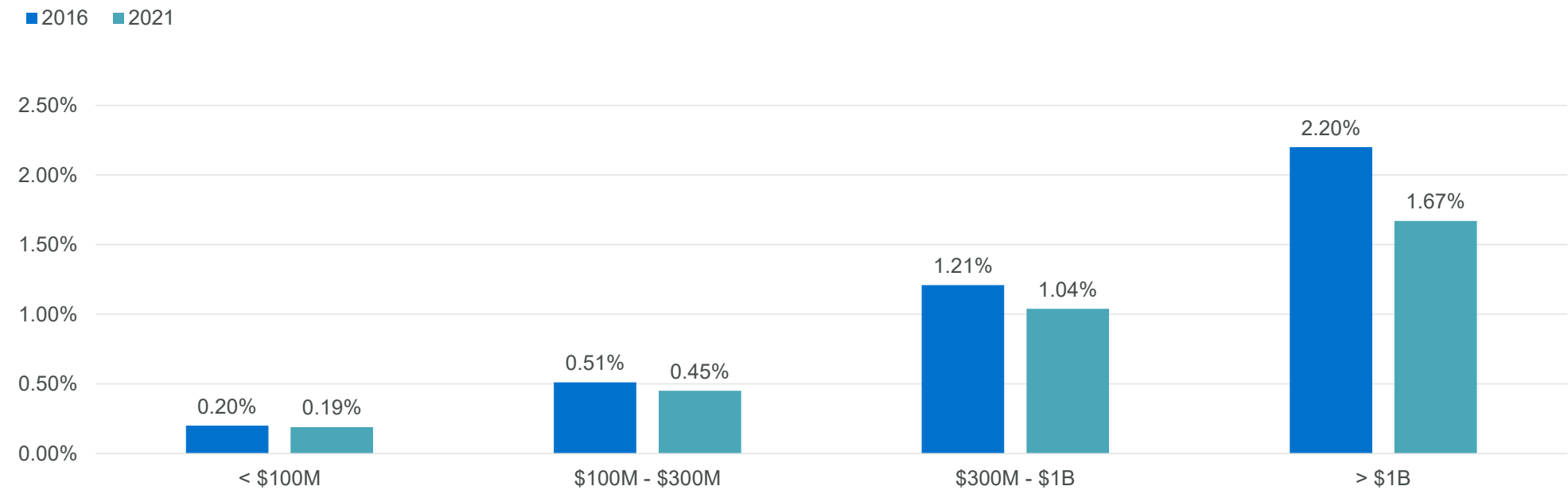
# Community Health Improvement Services

Average Community Health Improvement Services % of Total Expense



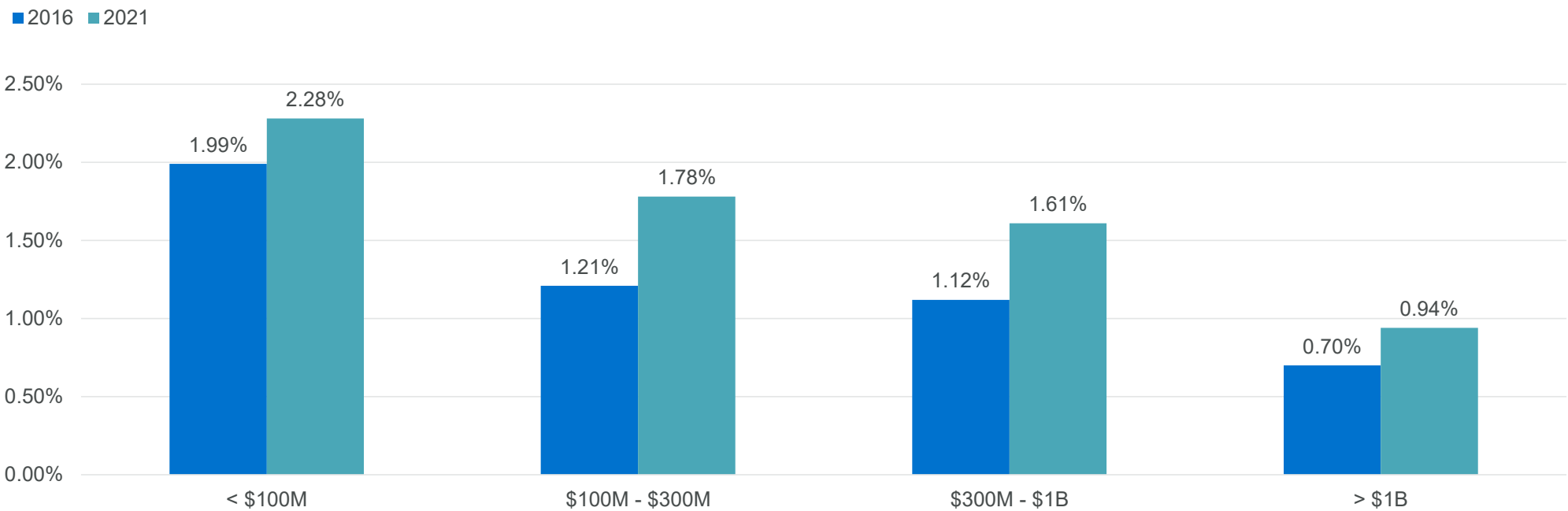
# Health Professionals Education

Average Health Professions Education % of Total Expense



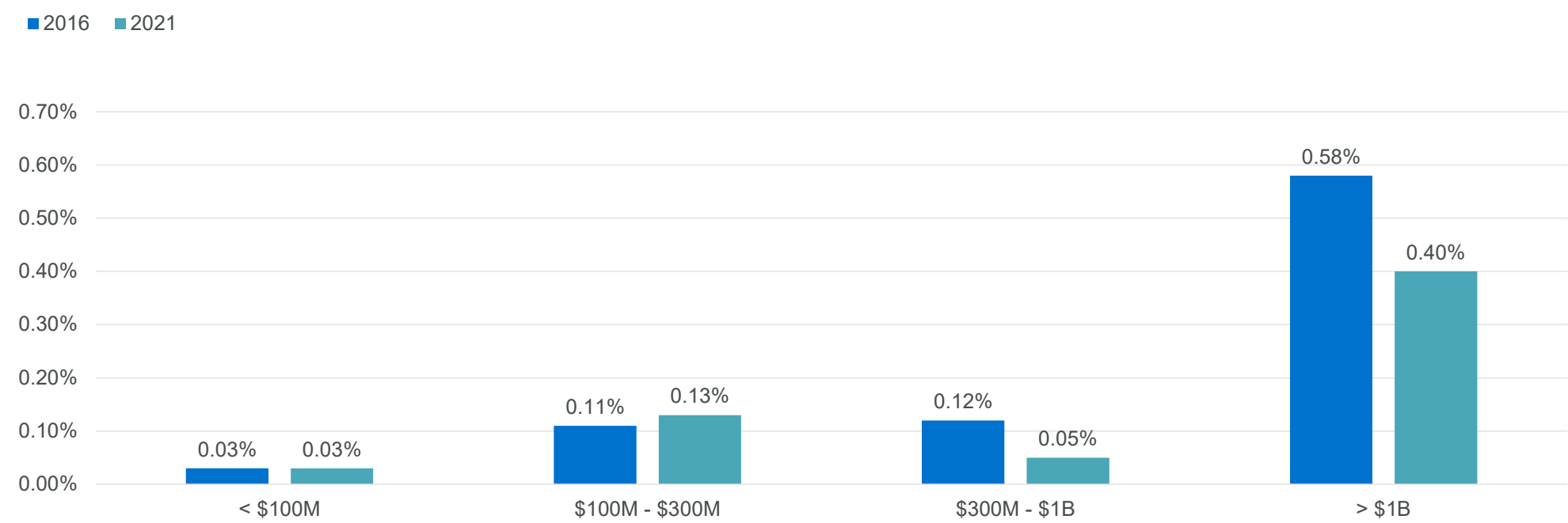
# Subsidized Health Services

Average Subsidized Health Services % of Total Expense



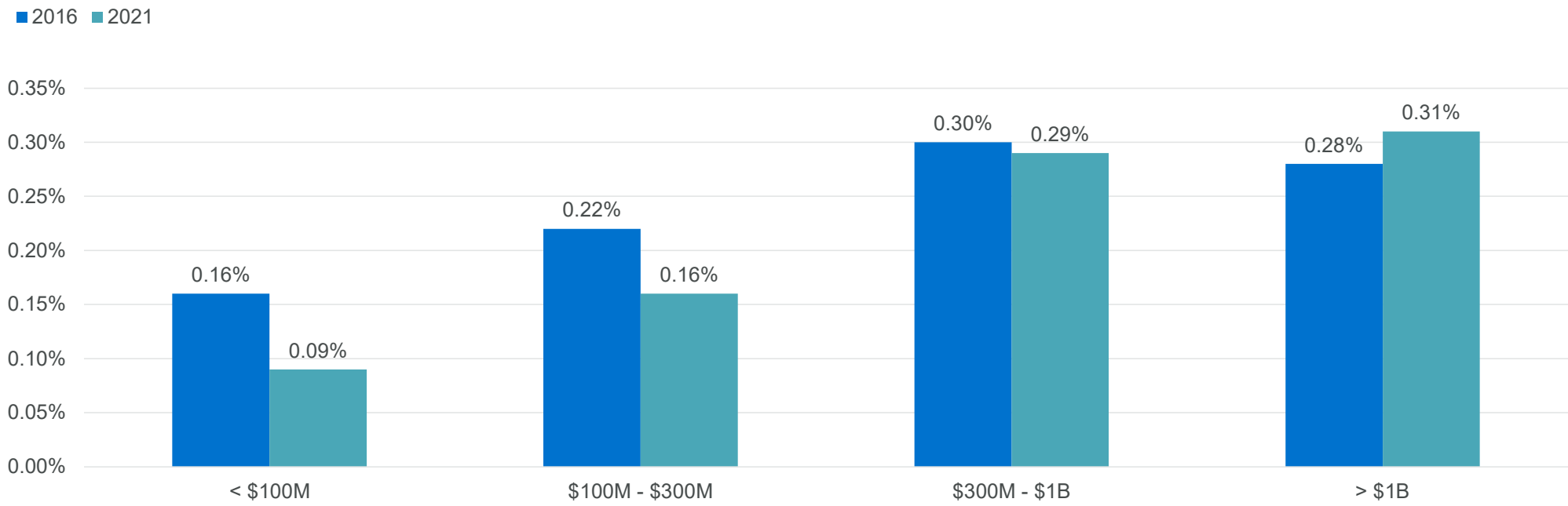
# Research

Average Research % of Total Expense



# Cash & In-Kind Contributions

Average Cash and In-Kind Contributions % of Total Expense



# Other Community Benefit Programs



## Community Building Activities

- Activities to protect or improve the health & safety of its residents



## Community Benefit Operations

- Staff costs for managing & overseeing community benefit program activities that are not included in other categories; staff cost for internal tracking & reporting community benefit



## Do not include:

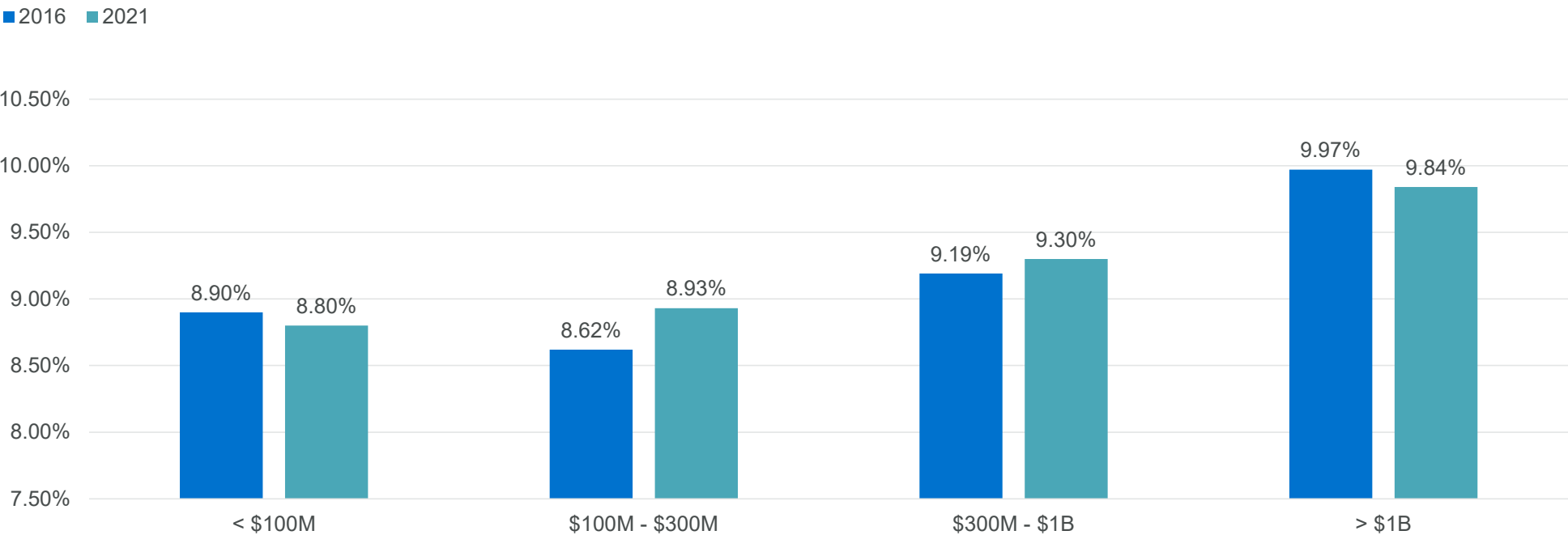
- Programs intended primarily for marketing purposes
- Activities that don't generate expense to the hospital, e.g., volunteers
- Routine or required care & services
- Activities or programs required for licensure or accreditation





# Total Community Benefit Percentage

Average Community Benefit % of Total Expense



## Poll #2: What area is the biggest opportunity for your hospital to increase its community benefit percentage?

1. Financial Assistance at Cost
2. Community Health Improvement Services
3. Health Professions Education
4. Subsidized Health Services
5. Research
6. Cash and In-Kind Contributions



# Community Benefit Standard



- Renewed focus by Congress, the media, & other stakeholders
- Value of tax-exemption compared to the amount of community benefit provided
- Calling for enhancements to Schedule H of Form 990
- Scrutinized executive compensation

# How to Value Tax-Exemption

- Not an exact science
- Items impacted
  - Federal income tax
  - State income tax
  - Preferred interest rates on exempt bond financing
  - Sales tax exemption for some purchases
  - Property tax exemptions for property used in furtherance of the hospital's mission
  - Charitable contributions received



# Poll #3: Has your hospital valued its tax exemption?

1. Yes
2. No





# 03

## 501(r) Reminders & Red Flags



# Reminders Website

Are the following items still  
on the hospital's website?

- Plain Language Summary
- Financial Assistance Policy
  - Provider Lists (Covered & Noncovered)
  - AGB Calculation (If Applicable)
- FAP Application
- CHNA (Most Recent One)
- CHNA (Prior One)



# Reminders

## Update Documents

- Update AGB calculation yearly (if using look-back method)
  - Must be completed by the 120th day after year-end
- Update covered & noncovered provider lists
  - At least quarterly (include date stamp)
- Complete CHNA & have it adopted by the board
  - Every 3 years by tax year-end
  - Save board minutes with the documentation of approval
- Complete implementation strategy & have it adopted by board



# Reminders Translation

- FAP, FAP Application, & PLS must be translated to accommodate limited English proficient (LEP) individuals, for any language spoken by each LEP group that constitutes the lesser of 1,000 individuals or 5% of the community served by the hospital
- Retain documentation for this analysis
- PLS needs to state the availability of translations
- Translated documents need to be on the website





# Schedule H Red Flags

- 5
In conducting its most recent CHNA, did the hospital facility take into account input from persons who represent the broad interests of the community served by the hospital facility, including those with special knowledge of or expertise in public health? If "Yes," describe in Section C how the hospital facility took into account input from persons who represent the community, and identify the persons the hospital facility consulted

5
- 6 a
Was the hospital facility's CHNA conducted with one or more other hospital facilities? If "Yes," list the other hospital facilities in Section C

6a
- b
Was the hospital facility's CHNA conducted with one or more organizations other than hospital facilities? If "Yes," list the other organizations in Section C

6b
- 7
Did the hospital facility make its CHNA report widely available to the public?  
If "Yes," indicate how the CHNA report was made widely available (check all that apply):

7
- a
☒ Hospital facility's website (list url):

b
☐ Other website (list url):

c
☒ Made a paper copy available for public inspection without charge at the hospital facility

d
☐ Other (describe in Section C)

5		RB
6a		
6b		
7		RB

# Schedule H Red Flags

- 8 Did the hospital facility adopt an implementation strategy to meet the significant community health needs identified through its most recently conducted CHNA? If "No," skip to line 11 . . . . .
- 9 Indicate the tax year the hospital facility last adopted an implementation strategy: 20\_\_\_\_
- 10 Is the hospital facility's most recently adopted implementation strategy posted on a website? . . . . .
- a If "Yes," (list url).
- b If "No," is the hospital facility's most recently adopted implementation strategy attached to this return? . . . . .
- 11 Describe in Section C how the hospital facility is addressing the significant needs identified in its most recently conducted CHNA and any such needs that are not being addressed together with the reasons why such needs are not being addressed.
- 12 a Did the organization incur an excise tax under section 4959 for the hospital facility's failure to conduct a CHNA as required by section 501(r)(3)? . . . . .
- b If "Yes" to line 12a, did the organization file Form 4720 to report the section 4959 excise tax? . . . . .
- c If "Yes" to line 12b, what is the total amount of section 4959 excise tax the organization reported on Form 4720 for all of its hospital facilities? \$

8		fb
9		
10		
10a		
10b		fb
11		
12a	fb	
12b		fb
12c		

# Schedule H Red Flags

- 15
- Explained the method for applying for financial assistance? . . . . .
- If "Yes," indicate how the hospital facility's FAP or FAP application form (including accompanying instructions) explained the method for applying for financial assistance (check all that apply):
- a

☒

Described the information the hospital facility may require an individual to provide as part of his or her application
- b

☒

Described the supporting documentation the hospital facility may require an individual to submit as part of his or her application
- c

☐


Provided the contact information of hospital facility staff who can provide an individual with information about the FAP and FAP application process
- d

☐

Provided the contact information of nonprofit organizations or government agencies that may be sources of assistance with FAP applications
- e

☐

Other (describe in Section C)

15		
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# Schedule H Red Flags

16	Was widely publicized within the community served by the hospital facility? . . . . .	16		16
	If "Yes," indicate how the hospital facility publicized the policy (check all that apply):			
a	<input type="checkbox"/> The FAP was widely available on a website (list url): _____			
b	<input type="checkbox"/> The FAP application form was widely available on a website (list url): _____			
c	<input type="checkbox"/> A plain language summary of the FAP was widely available on a website (list url): _____			
d	<input type="checkbox"/> The FAP was available upon request and without charge (in public locations in the hospital facility and by mail)			
e	<input type="checkbox"/> The FAP application form was available upon request and without charge (in public locations in the hospital facility and by mail)			
f	<input type="checkbox"/> A plain language summary of the FAP was available upon request and without charge (in public locations in the hospital facility and by mail)			
g	<input type="checkbox"/> Individuals were notified about the FAP by being offered a paper copy of the plain language summary of the FAP, by receiving a conspicuous written notice about the FAP on their billing statements, and via conspicuous public displays or other measures reasonably calculated to attract patients' attention			
h	<input type="checkbox"/> Notified members of the community who are most likely to require financial assistance about availability of the FAP			
i	<input type="checkbox"/> The FAP, FAP application form, and plain language summary of the FAP were translated into the primary language(s) spoken by LEP populations			
j	<input type="checkbox"/> Other (describe in Section C)			

# Schedule H Red Flags

- 17

Did the hospital facility have in place during the tax year a separate billing and collections policy, or a written financial assistance policy (FAP) that explained all of the actions the hospital facility or other authorized party may take upon nonpayment?
- 18

Check all of the following actions against an individual that were permitted under the hospital facility's policies during the tax year before making reasonable efforts to determine the individual's eligibility under the facility's FAP:

a

☒

Reporting to credit agency(ies)

b

☐

Selling an individual's debt to another party

c

☐

Deferring, denying, or requiring a payment before providing medically necessary care due to nonpayment of a previous bill for care covered under the hospital facility's FAP

d

☐

Actions that require a legal or judicial process

e

☐

Other similar actions (describe in Section C)

f

☐

None of these actions or other similar actions were permitted

17		Ro

# Schedule H Red Flags

19	Did the hospital facility or other authorized party perform any of the following actions during the tax year before making reasonable efforts to determine the individual's eligibility under the facility's FAP? . . . . .	19	<input checked="" type="checkbox"/>	
If "Yes," check all actions in which the hospital facility or a third party engaged:				
a	<input type="checkbox"/> Reporting to credit agency(ies)			
b	<input type="checkbox"/> Selling an individual's debt to another party			
c	<input type="checkbox"/> Deferring, denying, or requiring a payment before providing medically necessary care due to nonpayment of a previous bill for care covered under the hospital facility's FAP			
d	<input type="checkbox"/> Actions that require a legal or judicial process			
e	<input type="checkbox"/> Other similar actions (describe in <u>Section C</u> )			
20	Indicate which efforts the hospital facility or other authorized party made before initiating any of the actions listed (whether or not checked) in line 19 (check all that apply): <u>If not checked, describe in Section C.</u>			
a	<input type="checkbox"/> Provided a written notice about upcoming ECAs (Extraordinary Collection Action) and a plain language summary of the FAP at least 30 days before initiating those ECAs			
b	<input type="checkbox"/> Made a reasonable effort to orally notify individuals about the FAP and FAP application process			
c	<input type="checkbox"/> Processed incomplete and complete FAP applications			
d	<input type="checkbox"/> Made presumptive eligibility determinations			
e	<input type="checkbox"/> Other (describe in <u>Section C</u> )			
f	<input checked="" type="checkbox"/> None of these efforts were made			

# Schedule H Red Flags

Policy Relating to Emergency Medical Care		
21	Did the hospital facility have in place during the tax year a written policy relating to emergency medical care that required the hospital facility to provide, without discrimination, care for emergency medical conditions to individuals regardless of their eligibility under the hospital facility's financial assistance policy?	21
If "No," indicate why:		
a	<input type="checkbox"/> The hospital facility did not provide care for any emergency medical conditions	
b	<input type="checkbox"/> The hospital facility's policy was not in writing	
c	<input type="checkbox"/> The hospital facility limited who was eligible to receive care for emergency medical conditions (describe in Section C)	
d	<input type="checkbox"/> Other (describe in Section C)	

Schedule H (Form 990) 2016

# Schedule H Red Flags

	Yes	No
<b>22</b> Indicate how the hospital facility determined, during the tax year, the maximum amounts that can be charged to FAP-eligible individuals for emergency or other medically necessary care.		
<b>a</b> <input type="checkbox"/> The hospital facility used a look-back method based on claims allowed by Medicare fee-for-service during a prior 12-month period		
<b>b</b> <input type="checkbox"/> The hospital facility used a look-back method based on claims allowed by Medicare fee-for-service and all private health insurers that pay claims to the hospital facility during a prior 12-month period		
<b>c</b> <input type="checkbox"/> The hospital facility used a look-back method based on claims allowed by Medicaid, either alone or in combination with Medicare fee-for-service and all private health insurers that pay claims to the hospital facility during a prior 12-month period		
<b>d</b> <input type="checkbox"/> The hospital facility used a prospective Medicare or Medicaid method		
<b>23</b> During the tax year, did the hospital facility charge any FAP-eligible individual to whom the hospital facility provided emergency or other medically necessary services more than the amounts generally billed to individuals who had insurance covering such care? . . . . .	Ro	
If "Yes," explain in <span style="border: 1px solid red; padding: 2px;">Section C</span>		
<b>24</b> During the tax year, did the hospital facility charge any FAP-eligible individual an amount equal to the gross charge for any service provided to that individual? . . . . .	Ro	
If "Yes," explain in <span style="border: 1px solid red; padding: 2px;">Section C</span>		

Schedule H (Form 990) 2016

## Poll #4: Which Role Best Describes Your Interaction with Schedule H?

1. I review one or more parts of Schedule H
2. I provide information for one or more parts of Schedule H
3. I am aware of Schedule H being filed but have no role in the process.
4. Both a and b
5. None of the above





# Sample IDR Questions

## 501(r)(3)

- Provide the dates that each CHNA was adopted by an authorized body of the hospital facility & evidence of adoption, i.e., copies of board meeting minutes or resolutions
- We could not locate any CHNA's posted on the hospital's website. Please provide the exact website address where the CHNA was posted on this website or explain how you otherwise made it widely available.
- Same questions for Implementation Strategy
- Identify a person who has knowledge of the actions taken to solicit public input from persons who represent the broad interest of your community & who was responsible for the content of the CHNA & Implementation Strategy



# Sample IDR Questions

## 501(r)(4)(A)

- Provide a sample application & instructions for applying for financial assistance
- Provide the basis for calculation the amounts charged to patients under FAP
- Provide committee minutes describing the hospital's actions in regard to widely publicizing the FAP & documentation supporting the publicity & PLS
- Provide written documentation supporting what actions the hospital may take in event of nonpayment
- Describe how hospital notifies & informs patients of the availability of the FAP
- Provide a copy of a representative billing statement provided to a patient after discharge
- Copies of any complaints in which a patient alleged the hospital failed to comply with its FAP or did not comply with the requirements of the regulations
- Make available for interview a person with knowledge of billing & collection policies
- On-site tour of all signage and publications that are present in all hospital facilities regarding the FAP

# Sample IDR Questions

## 501(r)(4)(B)

- Provide a copy of each hospital's written policy with respect to their provision of emergency medical care
- Provide a copy of the resolution or other memorization for the authorized body of the hospital that establishes that each EMCP was adopted
- Person for interview
- Complaints

# Sample IDR Questions

## 501(r)(5)

- Provide workpapers that show calculations for purposes of determining the AGB
- List of **FAP-eligible emergency care** that the hospital provided that shows the prices to be charged for FAP-eligible individuals & your gross charges for these services
- List of **FAP-eligible, non-emergency but medically-necessary care** provided that shows the prices to be charged for FAP-eligible individuals & your gross charges for these services
- List of all other **FAP-eligible, non-emergency & non-medically-necessary** care provided that shows the prices to be charged for FAP-eligible individuals & your gross charges for these services
- Person for interview
- Complaints

# Sample IDR Questions

## 501(r)(6)

- Please provide a copy of billing & collections policy if separate from FAP
- Identify if the following situations applied to your organization & explain specific details of these actions. Also, explain if these actions are not ECAs that would result in your failure to meet the requirements of 501(r)(6)
  - Sold an individual's debt to another party
  - Engaged in actions that required a legal or judicial process
- Explain how the hospital made reasonable efforts to determine if individuals were FAP-eligible for care before engaging in ECAs
- Select three representative individuals against whom ECA's were initiated and:
  - Identify which type of ECA & the specific date it began
  - Provide a copy of the written notice provided to the individual before the ECA was begun against them
- Person for interview
- Complaints

# Poll #5: How Prepared is Your Hospital for an IRS Examination of Form 990, Schedule H?

1. Very prepared
2. Somewhat prepared
3. Neither prepared or unprepared
4. Somewhat unprepared
5. Very unprepared
6. I don't know



# 04

## Recap & Takeaways



# Recap & Takeaways

## Evolving Definition of Community Benefit

- Debates over Community Benefit Scope
- Calls for Clearer IRS Guidance (Omitted from most recent PGP)
- Proactive Documentation and Narrative
- Heightened IRS Scrutiny

## Heightened Federal Oversight of Hospital Tax Exemption

- Intensified Congressional Oversight
- Threat of Losing Nonprofit Status
- TIGTA's Recommendations-
  - Clarify and modernize community benefit standard
  - Baseline criteria for FAP eligibility
  - Accuracy of selection procedures for IRS reviews
  - Exclusion of certain governmental and church affiliated hospitals



# Recap & Takeaways

## Tax Impact of the One Big Beautiful Bill

- IRC 4960 Excise Tax on Excess Compensation
- Charitable Contributions
- Medicaid and Other Changes

## Strengthening Compliance with 501(r)

- CHNA
- FAP
- AGB
- Billing & Collections
- Schedule H Accuracy

# Recap & Takeaways

## Real-World Application

- IRS Exam Readiness
- Conduct Mock Audits and Close Gaps
- Stakeholder Communication / Education
- Leverage Lessons Learned
- Documentation

# HFMA Arkansas – Forvis Mazars One-Time Offering

For Fridays in January only, we are offering an initial 501(r) assessment. We will provide you with 3-5 action steps to consider after our discussion and a review of your hospital's website. This is not available to anyone other than HFMA Arkansas Attendees!

## [HFMA Arkansas - 501\(r\) Assessment Meeting](#)

# Contact

## Forvis Mazars

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