Lead Poisoning Prevention:
The Role of Local Health Departments and Changes in the 2019-20 State Budget

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**Introduction** | Protecting children from exposure to lead is a key public health priority. Even low levels of lead in blood have been shown to affect IQ, ability to pay attention, and academic achievement. This white paper describes the important role local health departments play in protecting residents from lead exposure and explains how new regulations in the 2019-20 State Budget will affect this work.

**Sources of Lead Exposure**

Lead is a naturally-occurring heavy metal that can be found throughout our environment. The most common sources of lead exposure are lead-based paint and lead-contaminated water, dust, air, and soil. Human activities like mining, burning fossil fuels, and manufacturing have caused lead to be more widespread. Until 1978, lead-based paint was used for homes, children’s toys, and furniture. It is still used in batteries, solder, pipes, pottery, roofing materials, and some cosmetics. The most common source of lead poisoning is housing-related exposure, typically from paint hazards. New York State has the highest percentages of pre-1978 and pre-1940 housing stock in the nation.

Certain occupations and hobbies put people at higher risk of lead exposure. These include occupations like auto repair, mining, construction, and manufacturing and hobbies like home renovation, target shooting, and jewelry making.

**Health Risks of Lead Exposure**

Lead is a cumulative toxicant, meaning it is stored in the body and accumulates over time. Once in the body, lead can damage many of our organs and internal systems, including the heart, bones, kidneys, teeth, intestines, reproductive organs, and the nervous and immune systems. During pregnancy, lead stored in bone may enter the blood and expose the developing fetus.

People of all ages are susceptible to lead poisoning. Children under six-years-old and fetuses have the greatest risk of health effects from lead poisoning because their brains and nervous systems are still developing. Additionally, children are prone to hand-mouth behavior and can absorb 4-5 times as much lead as adults from a given source. Undernourished children are at heightened risk because their bodies absorb more lead if other nutrients, such as calcium or iron, are lacking.

The following table shows the symptoms of lead exposure specific to children, newborns, and adults. The neurological and behavioral effects of lead are believed to be irreversible.

<table>
<thead>
<tr>
<th>Symptoms in Newborns</th>
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<tbody>
<tr>
<td>Premature birth</td>
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<tr>
<td>Lower birth weight</td>
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<td>Slowed growth</td>
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Children suffering from the effects of lead poisoning often require more intensive special education and health services throughout their lifetime.

**Prevention**

The best approach to reducing the incidence of lead poisoning is through primary prevention to remediate and mitigate lead hazards before exposure can occur. This section describes the important role local health departments play in preventing and treating lead poisoning. You can also play a role in protecting yourself and your family from lead exposure by washing your hands and toys, cleaning dusty surfaces, removing shoes before entering the house, having good nutrition, and keeping your home well-maintained.

**Role of Local Health Departments**

The roles and responsibilities of local health department in lead poisoning prevention are defined in Title 10, Subpart 67-1 of New York Codes, Rules, and Regulations (NYCRR) and are further delineated in guidelines issued by the New York State Department of Health (NYDOH). Local health departments are required to provide the following services:

- Identify risk factors for childhood lead poisoning, including locations where exposure to lead is more likely.
- Educate the community on the dangers of lead exposure. This can include community-based organizations, preschool/day care programs, and local health care providers.
- Ensure that children ages one and two years, or other children at risk, receive access to blood lead testing services, and, if needed, case coordination and environmental management.

To provide these services, local health departments conduct home visits and provide education on risk reduction, nutritional counseling, medical treatment, and case management. When necessary, they also perform environmental management activities to assess potential environmental exposure sources. This includes investigating sites where a child with an elevated blood lead level spends significant time and issuing notices requiring abatement or remediation of those conditions.
The environmental management activities typically require equipment and supplies, such as monitoring laboratory equipment and spectrometers used to quickly test paint and other materials for lead. Local health departments are responsible for tracking and documenting required interventions. If an owner is non-compliant, enforcement actions may also be required.

Monitoring and responding to elevated blood lead levels involves coordination with parents/guardians, resident owners, health care providers, other local health department program staff, and, in partial service counties, NYSDOH District Office Environmental Health staff. The goal is to reduce a child’s blood lead level below the level set in statute.

These activities are eligible for state aid reimbursement under Article Six of the Public Health Law, as well as lead poisoning prevention grant funding. Some counties also receive additional grant funding to support primary prevention activities that work to identify and reduce or eliminate potential sources of lead exposure before children become poisoned.

**Policy Changes**

There is no safe level of lead exposure; even small amounts can adversely affect health, learning, and behavior. In recognition of the health risks posed by lead poisoning, the 2019-20 State Budget included statutory changes that reduced the elevated blood lead level from 10 micrograms per deciliter (µg/dL) to 5 µg/dL. Some parts of the state, such as New York City, have already adopted the five-microgram standard. This reduced blood lead level brings New York State statute in line with both Centers for Disease Control and Prevention (CDC) guidance regarding blood lead levels and the U.S. Housing and Urban Development (HUD) Lead Safe Housing requirements regarding elevated blood lead levels.

While the required interventions are eligible for reimbursement under Article Six of the Public Health Law, local resources will also be needed to address the expanded number of children needing services. Many counties will need to purchase additional equipment and hire new staff to carry out these tests. County leaders will want to discuss resource needs and potential liability risks associated with the implementation of the lower blood lead level with their local health officials in order to assure compliance with the statute. This section provides an overview of these considerations.

**Increased Workload**

Stricter limits mean more children’s blood tests will necessitate interventions. More cases will need to be monitored and managed for longer periods of time, and more home inspections will need to be conducted to identify sources of lead. A 2019 survey conducted by NYSACHO found that an actionable blood lead level of 5 µg/dL represents a 203% increase for counties outside of New York City in the number of children served.

As an example, in 2018, Niagara County had 13 children whose blood lead levels were over 15 micrograms (the previous action level for environmental inspection), and the county visited 17 homes associated with those cases. The county’s Public Health Director, Daniel Stapleton, estimates they would have had to visit roughly 215 homes under the new standard.
Similarly, Broome County anticipates a jump from 15 to 85 cases annually. Jefferson County projects 175 cases above 5 micrograms this year and expects the number of cases to continue to increase in future years.

**Funding Concerns**

During budget negotiations, NYSAC and NYSACHO sought roughly $34.5 million to help counties pay for costs incurred by this change; however, the final budget included only a modest increase in state aid reimbursement to municipalities. According to the NYSDOH, there is $9.4 million in Article Six funding and $4.4 million in state appropriations to support the expanded workload in district offices serving the partial service counties. This small increase in state aid falls short of the $36.6 million that NYSDOH now projects will likely be needed to carry out this new mandate.

**County Civil Liability - Potential Fiscal Risk**

The new and expanded duties placed on local health departments may result in increased civil liability for our county governments. Due to the severity and lifelong damage lead poisoning causes, awards in lead paint poisoning/abatement lawsuits are considerable, reaching in the billions nationwide. Those sued are typically paint manufactures or building owners/landlords. However, with the expanded role that New York counties must take on in this field, as well as the State’s underfunding of the program, this issue has become an increased risk for county civil liability.

As a general rule in New York State, for a municipality to be held liable against a claimant, a “special relationship” must be established (De Long v. County of Erie, 60 N.Y.2d 296, 304, 469 N.Y.S.2d 611, 457 N.E.2d 717). The elements of this “special relationship” are: (1) an assumption by the municipality, through promises or actions, of an affirmative duty to act on behalf of the party who was injured; (2) knowledge on the part of the municipality’s agents that inaction could lead to harm; (3) some form of direct contact between the municipality’s agents and the injured party; and (4) that party’s justifiable reliance on the municipality’s affirmative undertaking. These elements may be more commonly found with the county health department’s expanded role in this field, thereby increasing liability.

**Conclusion**

Local health departments play an important role in preventing and treating lead poisoning. NYSAC and NYSACHO will continue to track changes and advocate for the resources needed to expand the new lead testing mandate included in the FY 2019-20 State Budget. We will also urge the State Legislature to adopt language to protect local governments so that no governmental unit or agency shall be subjected to civil liability arising from the expanded workload demands.

We encourage county leaders to work with NYSAC and their local health departments to communicate the unsustainable impact of this mandate to state lawmakers. Additional legal protections and sufficient and flexible funding are necessary to successfully implement the expanded work this will require on the local level.