



Department of Health

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Executive Deputy Commissioner

November 6, 2019

Mr. Kenneth Shulman
Assistant Comptroller
Division of State Government Accountability
NYS Office of the State Comptroller
110 State Street, 10th Floor
Albany, New York 12236

Dear Mr. Shulman:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2018-S-12 entitled, "Lead Poisoning Prevention Program."

Please feel free to contact Estibaliz Alonso, Assistant Commissioner, Office of Governmental and External Affairs at (518) 473-1124 with any questions.

Sincerely,

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

cc: Estibaliz Alonso

**New York State Department of Health
Comments on the
Office of the State Comptroller's
Final Audit Report 2018-S-12 entitled,
"Lead Poisoning Prevention Program"**

The following are the New York State (NYS) Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2018-S-12 entitled, "Lead Poisoning Prevention Program" dated August 2019.

The Department manages several comprehensive and progressive programs to combat lead exposure to children and prevent lead poisoning in NYS. The programs include the Lead Poisoning Prevention Program, the Childhood Lead Poisoning Prevention Primary Prevention Program, and the Healthy Neighborhoods Program. The Department provides funding to support Regional Lead Resource Centers across the State and manages the Statewide Lead Testing in School Drinking Water program, the Lead Service Line Replacement program, and the free-lead testing in drinking water program. Collectively, these programs provide numerous services, resources, statutory requirements, and technical assistance to address lead sources in and around homes, buildings including schools and daycares, and other infrastructure (drinking water service lines) to reduce exposures to lead. Several of these programs, including the Childhood Lead Poisoning Primary Prevention Program, focus on preventing lead exposures by targeting high risk communities/housing to perform environmental inspections and recommend lead abatement and remediation activities to address exposures where sources of lead are identified.

For the purposes of this audit, OSC focused on one of the Department's lead programs, the Lead Poisoning Prevention Program. The Lead Poisoning Prevention Program is performed by the Department's District Offices and local county health departments with Department oversight.

Since the audit was performed, amendments to Title 10 of the New York Codes, Rules, and Regulations (10 NYCRR) Part 67 (Lead Poisoning Prevention and Control) were promulgated and changed the definition of an elevated blood lead level from a confirmed blood lead test result of 10 micrograms per deciliter ($\mu\text{g}/\text{dL}$) to 5 $\mu\text{g}/\text{dL}$ and lowered the levels that trigger care coordination and environmental management to 5 $\mu\text{g}/\text{dL}$. These changes conform with amendments to the Public Health Law §1370 that were part of the New York State Fiscal Year 2020 Enacted Budget. The amendments to Part 67 became effective on October 1, 2019 and require District Offices and local health departments to perform care coordination and environmental management for all children with blood lead levels equal to or greater than 5 $\mu\text{g}/\text{dL}$. As such, these amendments significantly increase the number of children receiving services from primary health care providers, the Department including District Offices, and local health departments to address lead sources and reduce risk.

During the audit period and prior to these regulatory amendments, the District Offices and local health departments closely monitored all blood lead test results for children reported to the Department and responded to all children with elevated blood lead levels equal to or greater than 10 micrograms per deciliter ($\mu\text{g}/\text{dL}$). Specifically, the District Offices and local health departments responded to elevated blood lead levels (equal to or greater than 10 $\mu\text{g}/\text{dL}$) through coordination with health care providers to ensure risk reduction, nutrition counseling, confirmatory blood testing, and follow-up blood lead testing. In cases where the health care provider did not provide such services, following repeated reminders, the local health departments worked to provide such services including risk reduction, nutrition counseling, and sharing recommendations with the parent or guardian to seek confirmatory blood testing and follow-up blood lead testing for their

child. For children with confirmed elevated blood lead levels equal to or greater than 15 µg/dL, District Offices and local health departments worked to ensure health care providers performed a complete diagnostic evaluation; provided medical treatment, as necessary; and made referrals to the Department or local health department for environmental management. The District Offices and local health departments performed environmental management activities including inspection of residences and other environments and buildings where a child spent significant time. In addition to these services, the District Offices and local health departments provided general and targeted guidance, technical assistance, and outreach to educate health care providers, parents and guardians, and the public of lead statutory requirements, lead risks, and lead risk reduction.

The Department asserts that the audit finding that 37 children did not receive, and 6 children may not have received, follow-up services is incorrect. It is the role of the child's primary health care provider to provide follow-up services, with local health departments responsible for assuring that appropriate follow-up services were provided. The Department requested information from the five counties identified in the report and follow-up documentation was provided for 38 of the 43 children in question. On August 29, 2019, the Department and OSC visited the Albany County Department of Health where the audit report identified 31 children as receiving no follow-up services or it was unclear whether services were provided. Department and OSC staff reviewed the paper files of the 31 children and found documentation that follow-up services were completed and performed in a timely manner. The documentation consisted of forms completed by the children's health care provider offices attesting services had been completed. The forms were either faxed or mailed from the health care provider offices to the Albany County Health Department. The Department's review indicated that the assurance of follow-up care was noted in the paper files but had not been entered in LeadWeb. The Department is working with the local health department to correct this oversight. The Department asserts that the issue is a matter of documentation, rather than a lack of service to the children.

Further, the Department disagrees with the statement provided in the report suggesting the Department acknowledged OSC's findings but offered no explanation for why services were not provided or sufficiently documented for the reported 43 cases. On March 19, 2019, the Department met with OSC to review information in LeadWeb for 63 cases (included the 43 cases reported) to show documentation and/or explain the various reasons why some documentation was not available in LeadWeb. Additional follow-up and coordination with OSC occurred in following the release of the Draft and Final Audit Reports.

In 2019, the Department instituted an oversight and on-site review tool called the Program Review Tool for the Department's Regional Office environmental health staff to use to review District Offices and local health departments in the implementation of several environmental health programs. The 2019 Program Review Tool included review of the Lead Poisoning Prevention Program. These reviews are underway and will continue through 2020.

Recommendation #1

Ensure that the risk of exposure to lead is minimized through compliance with Program monitoring requirements that, at a minimum, includes:

- Working with Regional Office staff to ensure on-site reviews are completed within the specified time frames and reports are provided as required; and
- Ensuring that local health departments are using all means available to them to ensure follow-up services are provided and tracked when elevated BLLs are detected.

Response #1

The Department strives to reduce the risk of lead exposure to children in NYS. The Lead Poisoning Prevention Program is funded via contracts with local health departments and the Department provides detailed oversight through contract management activities including but not limited to review of contract work plans submitted by the local health departments annually, review of contract quarterly reports, daily review of blood lead results reported by laboratories to the Department, and routine coordination with District Office and local health department staff implementing the program. Contract management also includes performing on-site reviews. In addition, the Department's Regional Offices are performing on-site reviews of District Offices and local health departments using the Program Review Tool to evaluate implementation of the Lead Poisoning Prevention Program. These reviews are underway and will continue through 2020.

Recommendation #2

Implement the proper internal controls and quality assurance measures to provide adequate assurance that LeadWeb data is complete and accurate.

Response #2

The Department has undertaken a significant effort to upgrade Leadweb. First released in 2004, LeadWeb contains a large volume of individual blood test results including blood lead legacy data from the early 1990's. LeadWeb functions as NYS's childhood blood lead registry and provides coordination features for both the medical and environmental management of blood lead results. The program has undergone many upgrades since its inception.

In 2017, the NYS Office of Information Technology Services (NYS OITS) identified LeadWeb as an application that required re-write into the JAVA programming language, as the NYS OITS could no longer support its previous platform (Perl/CGI application). The LeadWeb upgrades are being addressed in two phases. The LeadWeb re-write to JAVA was considered Phase 1 and was completed in March 2019. On October 1, 2019 additional amendments were completed to change the definition of an elevated blood lead level to equal to or greater than 5 µg/dL and to lower the blood lead levels that trigger care coordination and environmental management activities to equal to or greater than 5 µg/dL. Phase 2 includes significant performance enhancements for improved case matching and reporting. The Phase 2 enhancements will include a new administrative function to generate automated local health department Performance Monitoring Reports to easily identify if local health departments have documented completion of appropriate follow-up services (including environmental assessments), and if activities have been initiated in a timely manner (per guidance). Once available, the Performance Monitoring Reports will be used as a tool during on-site reviews of District Offices and local health departments. Phase 2 enhancements are aimed to be completed in four releases with a final completion date of March 31, 2021 and will provide another tool to monitor District Offices and local health departments performing the Lead Poisoning Prevention Program to ensure timely compliance with the Department's requirements.

In the interim and prior to completion of Phase 2, the Department has developed a new quality assurance procedure to monitor District Office and local health department data entry of follow-up services in LeadWeb for children with confirmed elevated blood lead levels. The Department will begin performing the new quality assurance procedure in June 2019 and will review data entered in LeadWeb for children with confirmed elevated blood lead levels reported in the previous quarter. The Department will follow-up with any District Office or local health department

when data is missing in LeadWeb. This procedure will be continued quarterly until the Performance Monitoring Reports can be created in LeadWeb to automate this activity.

Recommendation #3

Develop and enforce the regulations requiring LHDs to perform follow-up services for all children with BLLs of 5 µg/dL and above as required by the amended Law.

Response #3

Since the amendments to Public Health Law §1370, the Department published proposed rulemaking on May 1, 2019 in the State Register to amend 10 NYCRR Part 67 to change the definition of an elevated blood lead level to equal to or greater than 5 µg/dL and to lower the blood lead levels that trigger care coordination and environmental management activities. The proposed rulemaking was subject to a 60-day public comment period that ended on June 30, 2019. Over 20 comment letters were received from local health departments, advocacy organizations, elected officials, and other stakeholders. In addition, the Department engaged stakeholders including the Advisory Council on Lead Poisoning Prevention, local health departments, the New York State Association of County Health Officials and others through open meetings, webinars, and conference calls to seek input on the proposed regulation. On September 25, 2019, a Notice of Adoption and the Assessment of Public Comments were published in the State Register, and the amendments to Part 67 became effective on October 1, 2019. In preparation for the October 1, 2019 implementation, the Department updated guidance for health care providers, local health departments, parents and guardians, and the public. In addition, the Department is working to secure needed resources (field equipment and laboratory capacity), developing training, and preparing other tools to support implementation of the expanded Lead Poisoning Prevention Program across NYS to ensure children with blood lead levels equal to or greater than 5 µg/dL are provided services to address lead sources and reduce risk.