

LEAD TESTING IN CALIFORNIA AND RELATED LEGISLATION

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HISTORY OF BL TESTING

- 1990- Class action lawsuit (NRDC/others) against state for failure to ensure that Medi-Cal children were blood lead tested, per federal requirements.
- 1991 – Settlement agreement reached – State agreed to require BL testing for all Medi-Cal children, and to report lead testing data.
- Early – Mid 1990s - CLPP Program expanded – Broad authority; fee; statutory requirements for BL testing and reporting.
- 1999 State Auditor report – state not meeting statutory goals or ensuring that all at risk children were lead tested.
- Where are we now?

CURRENT CHILDHOOD BLOOD LEAD TESTING REQUIREMENTS

FEDERAL CHILDHOOD BLOOD LEAD TEST REQUIREMENTS

Federal Medicaid Regulations --

- All children enrolled in Medicaid shall receive blood lead tests:
 - ◆ **At 12 and 24 months (2x)**
 - ◆ Or if not tested before 36 months, at least once before the age of 6 years

CALIFORNIA CHILDHOOD BLOOD LEAD TEST REQUIREMENTS

- CDPH Regulations – All children enrolled in public assistance programs (such as Medi-Cal) are at risk, and shall receive blood lead tests:
 - ◆ **At 12 and 24 months (2x)**
 - ◆ Or if not tested before 36 months, at least once before the age of 6 years.

All other children shall be evaluated for lead exposure risk, and if determined to be at risk of lead exposure, tested.

**CDPH REGULATIONS--
WHEN DETERMINING RISK OF
CHILDREN NOT ON PUBLIC
ASSISTANCE, PROVIDERS ARE TO:**

- Ask the parent/guardian: “Does your child live in, or spend a lot of time in, a place built before 1978 that has peeling or chipped paint or that has been recently renovated?”
 - If the parent or guardian answers “yes” or “don't know” to the question, the doctor is to order the child screened for lead poisoning.
- If, in the professional judgment of the health care provider, a change in circumstances has put the child at risk of lead poisoning, the provider is to test the child.

CDPH GUIDELINES:

- Other indications of lead exposure include:
 - Parent requested lead test
 - History of living in, or visiting a country with high lead levels
 - Other suspected lead exposure:
 - Dirt outside home
 - Spices, candy, home remedies, make-up
 - Parent is exposed to occupational lead
 - Leaded pottery/dishes

CALIFORNIA ENVIRONMENTAL HEALTH TRACKING PROGRAM

- DHCS data supports the Environmental Health Tracking Program's 2017 report, published in the journal *Pediatrics*.
- CEHTP Analysis: More than 63 percent of California's 1-5 year old children with elevated blood lead levels above 10 mcg/dL are not identified. (1999-2010 NHANES data)

MEDICAID (MEDI-CAL) BLOOD LEAD TEST RATES

NATIONWIDE

- On average, only 38% of children enrolled in Medicaid throughout the United States receive required blood lead tests.

CALIFORNIA



- No tracking

CDPH – 88% OF CALIFORNIA'S
LEAD-POISONED CHILDREN ARE
ENROLLED IN MEDI-CAL*

- * In response to a 2017 Public Records Act request, CDPH stated that between 2013 and 2015, **88 percent** of California children with highly elevated blood lead levels – greater than 14.5 to 19 micrograms per deciliter – were enrolled in Medi-Cal.
- In 2013, most other government funded public health insurance programs for children merged with Medi-Cal.

**ONLY 28% OF CALIFORNIA'S MEDI-
CAL I&2 YEAR OLDS GET BLOOD
LEAD TESTS – PER DHCS BILLING
DATA**

	Numerator	Denominator	
Federal Fiscal Year	Total 1 & 2 Year Old Children (Who Were Enrolled in MediCal for One Continuous Year) Who Received Blood Lead Tests	Total Children Aged 1 and 2 Years Who Were Enrolled in MediCal for One Continuous Year	Rate
FFY 12	192,399	682,330	28.2%
FFY 13	199,793	702,736	28.4%
FFY 14	206,113	728,158	28.3%
FFY 15	212,770	774,933	27.5%
FFY 16	221,194	787,506	28.1%

2017 ENACTED LEGISLATION

- AB 1316 (Quirk) --
- Requires the CDPH, by July 1, 2019, to to revise its regulations that determine how doctors evaluate and test children for lead poisoning.
 - When revising the regulations, CDPH must consider the most significant environmental risk factors for lead poisoning. These factors must include, but not be limited to, a child's time spent in any older building, and a child's proximity to a former steel or lead smelter, or to a freeway.
 - Requires CDPH use its blood lead level data to identify potential “hot spots” of lead exposure.
 - ***CDPH states that revision of its BL testing regulations will cause another 300,000 children to be BL tested each year – a 50% increase!***
 - CDPH has not yet begun the stakeholder process required to develop the regulations, but has indicated its intent to do so in the near future.

2018 VETOED LEGISLATION

- AB 2122 (Reyes) –
 - Required the Department of Health Care Services, which manages the Medi-Cal program, to ensure that Medi-Cal children receive lead tests, as required by state and federal law and regulations.
 - Required DHCS to require Medi-Cal providers to BL children, per CA/Federal requirements, and required DHCS to notify Medi-Cal providers when their BL testing rates fell below 80% of required tests. Required DHCS to educate providers regarding BL testing requirements.
 - Required DHCS to give parents information about lead risks/lead testing, and to notify a child's parent/guardian, as well as the child's health care provider, if a child misses a required blood lead test.
 - Required DHCS to report, in its annual External Accountability Set (a federal report) on its progress in ensuring children are blood lead tested.
 - ***Governor's veto message stated that he believed the department should continue its current efforts working with managed care plans, etc., to determine what may be necessary to improve screening rates.***

2018 ENACTED LEGISLATION

- SB 1041 (Leyva) –
 - States that it is the goal of the state that all children at risk of lead exposure be tested for lead exposure.
 - Requires DPH's revised blood lead testing regulations to comply with this goal.
 - Requires DPH to notify health care providers about, and requires those providers to inform parents about, the risks and effects of lead exposure and requirements for child blood lead testing.
 - Requires DPH to post on its website information about its progress in meeting the goal. This information must include the total number of children enrolled in Medi-Cal, and not enrolled in Medi-Cal, broken down by county and by year of age, who have received and who have not received blood lead screening tests.

2018 ENACTED LEGISLATION

SB 1097 (Hueso) --

- SB 1097 requires CDPH to include in its required biennial report regarding the effectiveness of lead poisoning case management efforts to include, for each county:
 - The total number of children tested for lead exposure;
 - The results of blood lead testing by range of lead levels;
 - The number of children, by blood lead level, who were referred for case management and who received a home visit and environmental investigation;
 - And the identified sources of lead exposure for those children having lead poisoning.

Requires DPH's biennial report indicate whether the sources of lead exposure associated with a child with lead poisoning have been removed, remediated, or abated.

Requires CDPH to post the report on its website, and to provide the data collected to the Healthy Communities Data and Indicators Project.

2018 ENACTED LEGISLATION

- AB 2370 (Holden) –
 - Requires licensed child care centers located in buildings built before 2010 to test their drinking water for lead contamination by 2023, and every five years thereafter.
 - Fixtures with elevated lead levels must be shut down and alternative water sources are to be provided to the children.
 - Centers are to notify parents of the lead testing, and the Water Resources Control Board is to post all test results.
 - Requires the Department of Social Services, in conjunction with the State Water Resources Control Board, to adopt drinking water testing requirements for licensed child care centers by January 2021.
 - Requires child care providers to receive, as part of their existing health and safety training, instruction in the prevention of lead exposure. This instruction is not currently required.
 - Requires child care providers, when enrolling a child in their care to give the parents information about lead exposure risks and blood lead testing requirements.

2018-2019 Budget Allocation -- \$5 million to fund child care center testing and remediation.

2018 VETOED LEGISLATION

- AB 2963 (Kalra) –
- Required DPH to consider a report of worker BLL greater than or equal to 25 micrograms per deciliter to be injurious to health, and to report that case within 5 business days to CalOSHA. (Currently >30 mcg/dl).
- Required CalOSHA to initiate an investigation within 3 working days. Citations and fines imposed must be made publicly available.

2019 LEGISLATION AND RELATED ACTIONS

- 2019 Legislative Audit Request (Reyes) – Pending
 - Requires the State Auditor to investigate:
 - DHCS' and DPH's collection and tracking of BL testing data.
 - Medi-Cal managed care providers' BL testing rates.
 - DHCS and DPH BL case management programs.
 - Use of the CLPP fee – is it paying for duplicative services or services that should be funded by Medi-Cal?
 - Any other efficiencies/actions that could be taken to improve BL testing rates.

2019 LEGISLATION

- AB 206 (Chiu) –
 - States that a property owner who participates in a program to abate lead-based paint, created as part of a settlement of public nuisance litigation, is immune from liability for costs of inspection, abatement, or any other costs associated with the abatement program.

2019 LEGISLATION

- AB 35 (Kalra) –
 - Reintroduction of AB 2963 of 2017
 - DPH and CalOSHA worker BL investigations/reporting.
- AB 457 (Quirk and Smith) –
 - Requires CalOSHA to complete, by February 2020, rulemaking to revise the permissible worker exposure limit for lead.
- SB 647 (Mitchell) –
 - Updates the lead in children's jewelry standard to conform with the federal lead in jewelry standard.