

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3 □

Do Not Mark In This Box

FILED

2003 JUL 28 P 2:49

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Health and Human Resources TITLE NUMBER: 64

CITE AUTHORITY: WV Code §§16-1-4 and 16-35-4a

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 42

TITLE OF RULE BEING PROPOSED: Childhood Lead Screening

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

Statement of Circumstances

The rule establishes a protocol for the identification of children with elevated blood lead levels, provides protocols for blood lead level testing at appropriate ages and frequencies when needed, follow-up testing for children with elevated blood lead levels and reporting requirements as set forth in W. Va. Code §16-35-4a.

Brief Summary

The rule establishes and implements a statewide childhood lead poisoning screening and early identification program to alert parents and guardians of the need for intervention to prevent adverse effects of lead poisoning such as learning disabilities and behavior problems in young children.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: **Childhood Lead Screening Rule – 64CSR42**

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency: Division of Health
 Department of Health and Human Resources

Address: Building 3, Capitol Complex
 Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$		\$322,073	\$153,159
Personal Services				\$80,943	\$80,943
Current Expense				\$241,130	\$72,216
Repairs & Alterations					
Equipment					
Other					
Revenue					

2. Explanation of above estimates.

Personal Services

1.0 FTE - Nurse III	\$ 41556
1.0 FTE - Data Entry Operator	\$ 14772
FICA, Wrok Comp, PERS @23.59%	\$ 13287
Admin. Fees & Public Employees Health Ins. @ 2 FTE	\$ 11328
	\$ 80943

Current Expenses

Medical Expense Children<6	Children Not Tested	Current Fee For Lab Test	Current Fee For Speciman Collection	Federal Share of Cost	State Share of Cost	Total Cost
medicaid	52739	\$ 16 \$		4 \$ 824838	\$ 229942	\$ 1054780
chip	3021	\$ 16 \$		4 \$ 52883	\$ 7537	\$ 60420
2nd test	250	\$ 63 \$		4 \$ 13099	\$ 3652	\$ 16750
				\$ 890820	\$ 241130	\$ 1131950
Personal Services					\$ 80943	
				\$ 890820	\$ 322073	\$ 1212893

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

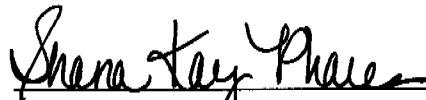
Specific Industries; Specific Groups of Citizens. WV laboratories will receive an additional 50,000 - 60,000 specimens initially to provide results on and approximately 40,000 additionally each year thereafter. Private insurance companies will incur additional costs for approximately 10,743 specimens.

C. Economic Impact on Citizens/Public at Large.

There are approximately 7,162 children that have no insurance that a plan will need developed for. Insurance companies may pass the cost on to the customers. Those families without insurance may have to pay for the test.

Date: July 28, 2003

Signature of Agency Head or Authorized Representative:



Paul L. Nusbaum, Secretary

Department of Health and Human Resources

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 28, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Martha Barnitt

Department of Health and Human Resources

State Capitol Complex, Building 3, Room 206; Charleston, WV 25305

Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: Childhood Lead Screening

1. Authorizing statute(s) citation: WV Code §§ 16-1-4 and 16-35-4a

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 25, 2003

b. What other notice, including advertising, did you give of the hearing?

Notice of the proposed rule was sent to physicians, especially pediatricians, county health departments, state medical schools, the state medical association, and all stakeholders of the WV Childhood Lead Poisoning Prevention Program.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 25, 2003

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing (be exact):

July 28, 2003

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule (please type):

Martha Barnitt

Policy Development & Regulatory Affairs - DHHR

Capitol Complex, Building 3, Room 206

Charleston, WV 25305

Tel: 558-5598

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule (please type):

Melissa Baker

Office of Maternal, Child & Family Health

350 Capitol Street, Room 427

Charleston, West Virginia 25301

Tel: 558-5388

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH

FILED

2003 JUL 29 A 9:54

SERIES 42
CHILDHOOD LEAD SCREENING OFFICE WEST VIRGINIA
SECRETARY OF STATE

§64-42-1. General.

1.1. Scope. – This rule establishes and implements a statewide childhood lead poisoning screening and identification program. This rule should be read in conjunction with W. Va. Code §16-35-4a, -35, 16-1-17 and -18. The W. Va. Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.

1.2. Authority. – W. Va. Code §§ 16-1-4 and 16-35-4a.

1.3. Filing Date. –

1.4. Effective Date. –

§64-42-2. Application and Enforcement.

2.1. This rule applies to all physicians, hospitals, health care facilities, and health care providers who conduct or oversee medical examinations of children under the age of six (6) years.

2.2. Enforcement – This rule is enforced by the Commissioner of the Bureau for Public Health.

§64-42-3. Definitions.

3.1. Bureau. - The West Virginia Bureau for Public Health.

3.2. Commissioner. - The Commissioner of the Bureau for Public Health.

3.3. Elevated Blood Lead Level. – A concentration of lead in the blood stream as defined in the reference manual provided by the United States Centers for Disease Control and Prevention, "Managing Elevated Blood Lead Levels Among Young Children: Recommendations from the Advisory Committee on Childhood Lead Poisoning Prevention," 2002.

3.4. Health Care Provider. – A physician, or his or her designee, at any medical facility, including but not limited to, private clinics, health departments, and hospitals.

3.5. Laboratory. – A facility or place, however, named, for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, crytological, pathological, or other examination of materials derived from the human body for the purpose of providing

information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of human beings and is participating in the United States Centers for Disease Control and Prevention blood lead laboratory proficiency program.

3.6. Screening. – The extraction of blood from a patient and submission of the blood specimen to a laboratory for blood lead analyzation.

§64-42-4. Protocol for Screening of Children.

4.1. West Virginia health care providers shall, to the greatest extent possible, screen all children before the age of six (6) years for elevated blood lead levels in accordance with the United States Centers for Disease Control and Prevention reference, "Screening Young Children for Lead Poisoning: Guidance for State and Local Officials," November, 1997.

4.1.a. All children shall be screened at one (1) year and again at two (2) years of age, and children thirty-six (36) to seventy-two (72) months of age shall be screened if they have not been screened previously; and

4.1.b. Lead screening shall be recorded in each child's medical record at the physician's office. This information shall include the date of screening, the child's address, the location where the screening was conducted, the physician's name and the child's blood lead level.

4.2. The protocol for confirmation of elevated blood lead levels will be in accordance with the United States Centers for Disease Control and Prevention reference, "Managing Elevated Blood-Lead Levels Among Young Children: Recommendations from the Advisory Committee on Childhood Lead Poisoning Prevention," March, 2002.

§64-42-5. Follow-up Testing and Information.

5.1. In addition to the follow-up testing prescribed in WV Code §16-35-4a, when a child's results are confirmed as an elevated blood lead level, pregnant women residing at the same address will be advised by the Bureau for Public Health of the need to be tested as soon as possible.

5.2. All information concerning a child's blood lead level shall be provided by the health care provider to the legal parent or guardian and other agencies involved in lead poisoning testing.

5.3. Children with elevated blood lead levels shall be referred by the Bureau to the following services:

5.3.a. Children with blood lead levels of greater than or equal to ten (10) micrograms per deciliter shall be referred to Children's Specialty Care, a program offered by the Office of Maternal, Child and Family Health in the Bureau, within ten (10) days of confirmation;

5.3.b. Children with two (2) consecutive blood lead levels of greater than or equal to fifteen (15) micrograms per deciliter, and children with blood lead levels of greater than or

equal to twenty (20) micrograms per deciliter shall be referred to environmental assessments and nurse home visits within two (2) days of confirmation; and

5.3.c. All children with elevated blood lead levels of greater than or equal to ten (10) micrograms per deciliter shall have a follow-up blood lead level screening every three (3) months.

§64-42-6. Reporting Requirements.

6.1. The Bureau shall review this program at least every three (3) years and make available to all interested parties a summary of the quarterly results of the screenings, beginning in July of the effective year of this rule.

§64-42-7. Samples Submitted to a Laboratory.

7.1. All blood samples shall be submitted to a laboratory for analysis.

7.2. When submitting blood samples, the health care provider shall include a laboratory requisition obtained from the Bureau that contains the child's address, the county of residence, the name and address of the physician who completed the screening, and other information as requested on the form.

7.3. Laboratories processing blood lead samples for analysis shall submit all required data to the Bureau within seven (7) working days of analysis, or sooner if available.

§64-42-8. Confidentiality.

8.1. Records received and information assembled by the Bureau are confidential medical records and shall not be disclosed except as permitted by law.

8.2. Reports published using statistical compilations relating to childhood lead poisoning may not in any manner identify individual patients, individual addresses, or individual enforcement action, or be reported for such small geographic areas or other categories with few entries that a person could, with other publicly available information, reasonably be able to identify the patients.

§64-42-9. Enforcement Action.

9.1. The Commissioner may investigate all suspected violations of this rule or of W. Va. Code §16-35-1 et seq., and upon the finding of a violation in connection with this rule, the Commissioner shall initiate appropriate enforcement action.

§64-42-10. Penalties.

10.1. Any person who violates the provisions of W. Va. Code §16-35-4a or this rule is subject to the penalties provided in W. Va. Code §§16-1-17, -18 and 16-35-13.

§64-42-11. Administrative Due Process.

11.1. Those individuals adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests, or privileges shall do so in a manner prescribed in the Division of Health rule, "Rules of Procedure for Contested Case Hearings and Declaratory Rulings," 64CSR1.