

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

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Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: DHHR - Bureau for Public Health TITLE NUMBER: 64

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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 4205

SECTION 2(f), PASSED ON March 13, 2004

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: April 29, 2004

Paul L. Muslow
Authorized Signature

TITLE 64
WEST VIRGINIA LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

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SERIES 42
CHILDHOOD LEAD SCREENING

OFFICE OF 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. – December 8, 2003

1.4. Effective Date. – March 13, 2004

§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 assessment of a child’s environment and social conditions to determine risk for lead poisoning.

§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 risk of 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 using a risk assessment at one (1) year and again at two (2) years of age, and children thirty-six (36) to seventy-two (72) months of age if they have not been screened previously; and

4.1.b. The risk assessment 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 and the physician’s name.

4.1.c. If a child is determined to be at risk for lead poisoning, the health care provider shall perform or authorize a blood test to identify the blood lead level.

4.2. The protocol for confirmation of elevated blood lead levels shall 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, the Bureau for Public Health shall advise pregnant women residing at the same address of the need to be tested as soon as possible.

5.2. The health care provider shall provide all information concerning a child’s blood lead level to the legal parent or guardian and other agencies involved in lead poisoning testing.

5.3. The Bureau shall refer children with elevated blood lead levels 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 testing results, beginning in July of the effective year of this rule.

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

7.1. The health care provider shall submit all blood samples 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 name, address, the county of residence, the name and address of the physician who completed the screening, and other information 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.

§64-42-9. Confidentiality.

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

9.2. 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.

§64-42-10. Enforcement Action.

10.1. 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.

§64-42-11. Penalties.

11.1. 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 and 16-35-13.

§64-42-12. Administrative Due Process.

12.1. 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, Rules and Procedures for Contested Case Hearing and Declaratory Ruling, 64CSR1.