

Advocates 2nd Notice Clarification Requests

Comment #21: [Advocates' First Notice Recommendations in Red]

845.25 Disclosure Requirements

a) An owner of a regulated facility who has received a mitigation notice under Section 9 of the Act shall, before entering into a lease or purchase agreement for the regulated facility for which the mitigation notice was issued, provide prospective lessees or purchasers of that unit with written notice that a lead hazard has previously been identified in the regulated facility. An owner may satisfy this notice requirement by providing the prospective lessee or purchaser with a copy of the inspection report, mitigation notice and subsequent certificate of compliance prepared pursuant to Section 9 of the Act.

The passage of PA 99-0790 made changes to this section of the law that should be reflected in these rules to ensure consistency with the law.

IDPH Response: IDPH has reviewed the proposed changes to the rule in 845.25 and believes that the changes in PA 99-0790 are reflected in this rulemaking. No changes are needed for this Section.

Advocates' Second Notice Recommendations:

- We noticed that the rule does not include the part of the law in PA-99-0790 requiring that the seller provide notice to the Department with the buyer's information after the sale of a house with an open mitigation notice. We think this may have been inadvertently left out.
- Additionally, the requirement in the law to mitigate a lead hazard identified in a mitigation notice before entering into a new lease agreement seems to have been inadvertently left out. The language in the rule seems to only require the disclosure of the hazard, not its mitigation. We think that is a critical point of clarification.

Comment #23: [Advocates' First Notice Recommendations in Red]

845.55 Lead Testing

Any physician licensed to practice medicine in all its branches or health care provider who sees or treats children 6 years of age or younger shall test those children for lead poisoning when those children reside or spend significant time in an area defined as high risk by the Department. Children residing in areas defined as low risk by the Department shall be evaluated for risk by the Childhood Lead Risk Questionnaire developed by the Department, and if determined to be a high risk, shall receive a blood lead test. (Section 6.2 of the Act) Medicaid enrolled children shall receive a blood lead test as required in the Healthy Kids' Early and Periodic Screening, Diagnosis and Treatment Program (89 Ill. Adm. Code 140.485).

IDPH Response: IDPH agrees with part of this comment, and will amend the proposed rule to include the requirement for blood lead testing and will add a reference to the Healthy Kids Program (and will include the referenced rule in Section 845.15 also).

Advocates' Second Notice Recommendations:

- The phrase "or spend significant time in an area" (line 639) was not included in the line changes (Attachment A); this may have been inadvertently left out. To be consistent with IDPH's other guidance documents, you may want to alternatively phrase as "regularly

visited a regulated facility in an area”. Question #3 on the current [Childhood Lead Risk Questionnaire](#) uses the language “does this child live in or regularly visit a home built before 1978?” The proposed Childhood Lead Risk Questionnaire similarly asks “Does this child reside or regularly visit a home in a high risk ZIP code area?” Furthermore, in section 845.85 Environmental Follow-Up, IDPH adopted the following language: “2) If a regulated facility is occupied or frequently visited by a child or pregnant person” (line 1031).

- The word “lead” (line 643) was not included in the line changes (Attachment A). This may have been inadvertently left out, since the same phrasing was adopted in the previous line (“shall receive a blood lead test” in line 642).
- The referenced rule “(89 Ill. Adm. Code 140.485)” (line 645) was not included in the line changes (Attachment A). This may have been inadvertently left out, as IDPH states in their response that they “will add a reference to the Healthy Kids Program (and will include the referenced rule in Section 845.15 also).”

Comment #28: [Advocates’ First Notice Recommendations in Red]

845.60 Reporting

Every physician who diagnoses, or health care provider, nurse, hospital administrator, public health officer or director of a clinical laboratory who has verified information of the existence of a capillary or venous blood lead test result, including from a Lead Care II unit or equivalent, for any child or pregnant person, shall report the result to the Department. (Section 7 of the Act) If the analysis has been performed at the Department laboratory, or the provider has ascertained that the clinical laboratory where specimens are processed electronically reports all blood lead level results to the Department, then duplicate reporting is not required. Any blood lead test results of 5µg/dL or greater shall be reported to the Department within 48 hours after analysis. All other verified blood lead test results shall be reported to the Department no later than 30 days following the last day of the month in which the test results were analyzed. The information included in the laboratory report on all blood lead test results shall include the blood lead level, the child’s or pregnant person’s name, date of birth, sex and race, complete address (including street, apartment number, city, state and ZIP code), date of test, test type, date of report, testing health care professional’s name and address, the child’s and/or pregnant person’s primary care provider (PCP) name and address, Medicaid identification number (if applicable), and the reporting agency. All reports submitted shall identify blood lead test results quantitatively. These requirements shall be the same for all health care providers, hospital administrators and public health officers conducting a blood lead test by venous or capillary blood draw.

IDPH Response: *The suggested language is duplicative to existing or proposed language in the same section. The proposed rule will not be amended.*

Advocates’ Second Notice Recommendations:

- The suggestion to report the child’s and/or pregnant person’s primary care provider (PCP) name and address was not adopted by IDPH. There is no existing or proposed language in the same section that requires reporting of the PCP name and address, as existing language says “physician or clinic address” and we believe refers to where the test took place and not who the PCP is for the child or pregnant person. We think this is important to include for better health coordination. For example, we understand that local public health departments may only receive the name of the hospital where a lead test took place, such as Lurie Children’s Hospital. This makes it very difficult for the local health department’s nurse case managers to coordinate follow-up lead testing and other necessary services with the primary care provider. We recommend adding at least the highlighted language to line 712.

Comment #33: [Advocates' First Notice Recommendations in Red]

845.80 Case Management

a) Case management services shall be provided by the Department or a delegate agency when a confirmed EBL is indicated and shall be consistent with the duties set forth in the Department's Lead testing and Case Follow-up Guidelines for Local Health Departments and include conducting home visits.

1) Interviews shall be conducted with the parent or guardian, pregnant person, or with attending physicians as needed to assure the accuracy and completeness of reports and to perform the activities of case follow-up for confirmed EBL

2) The following activities shall be conducted and documented concerning patient or case follow-up:

- A) Track the case using the Department's surveillance database;
- B) Counsel the pregnant person, parent or guardian of the case;
- C) Educate the pregnant person, parent or guardian of the case;

IDPH Response: *IDPH concurs that "pregnant person" should be included in 845.80 A.1. The proposed rule will be amended.*

Advocates' Second Notice Recommendations:

- IDPH did not comment on why the referenced guidelines in "a)" (line 974) were not included in the changes. We referenced the Department's "Lead Testing and Case Follow-up Guidelines for Local Health Departments" as they provide a detailed overview of public health case management responsibilities.
- It is inconsistent to cite the use of "Prenatal Risk Evaluation for Lead Exposure" form (lines 992-993) during home visits without also referencing the Department's "Lead Testing and Case Follow-up Guidelines for Local Health Departments," as we understand IDPH expects that both be utilized. Accordingly, if prenatal visit content is specifically included by citing the Prenatal form, then the Lead Screening and Case Follow-up Guidelines should also be cited in reference to how to conduct case management activities in line 974.

Comment #35: [Advocates' First Notice Recommendations in Red]

845.85 Environmental Follow-Up [in relevant part]

- a. An EBL inspection to determine the source of lead poisoning shall be conducted under any of the following circumstances:

1) If a child

2) If a regulated facility is occupied by a child or pregnant person with an elevated blood lead level, the Department, in addition to all other requirements of the Act, must inspect the

dwelling unit of the child and common areas of the regulated facility.

3) If a child's or pregnant person's physician or health care provider requests an investigation based on a reasonable belief, such as information collected in the Childhood Lead Risk Questionnaire and/or other sources, that environmental factors are putting the child or pregnant person at risk of an elevated blood lead level.

Advocates' Second Notice Recommendations:

- The numbering in this section seems to be inconsistent based on IDPH's line changes in Attachment A. Lines 1020-1026 begin with "1)" while lines 1031 and 1039 subsequently begin with "B)" and "C)". To be consistent, the "1)" in line 1020 should be changed to "A)".

Definition: "Confirmed Blood Lead Level"

"Confirmed Blood Lead Level" means a blood lead level resulting from a single blood lead test. Elevated capillary blood test results shall be confirmed by a venous test.

Advocates' Second Notice Recommendations:

- In section 845.80 Case Management, the phrase "confirmed EBL" is used in line 979 but was inadvertently not defined in the rule. "Confirmed blood lead level" is used elsewhere and is defined. We suggest changing the defined term in line 340 to "Confirmed Blood Lead Level or Confirmed EBL" for consistency.