

Lead Based Paint Update

D L Morgan and Associates

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Application of PIH 2017-13, August 10, 2017

- Applies to:
 - Public Housing
 - Housing Choice Voucher
 - Project-Based Voucher Program

Purpose

- To guide housing agencies on actions they must take when a child in a family receiving assistance is identified as having an elevated blood lead level (EBLL)
- Focuses on changes to HUD's Lead Safe Housing Rule (LSHR)
- Emphasize the required compliance with policy updates no later than July 13, 2017

Applies to:

- “Target housing” constructed prior to 1978, except for housing for the elderly or persons with disabilities or any 0-bedroom dwelling unit (unless a child who is less than 6 years of age resides or is expected to reside in such dwelling)

Key Changes

- Revision of HUD's "Environmental Investigation Blood Lead Level (EIBLL) to the EBLL, enhancing the level of investigation required for a housing unit of a child with an EBLL to and "environmental investigation"
- Adds a requirement for testing in other covered units when a child is identified in a multi-unit property

Lead Poisoning

- Has serious negative consequences on development and growth of children
- The CDC has lowered its reference level for lead in the blood of children under age 6 to 5 micrograms of lead per deciliter of blood
- CDC guidance has been provided to medical professionals and health departments with regard to the new lowered lead level
- States or local governments may establish a more protective standard but must meet, at a minimum, the CDC standard adopted by HUD

Definitions

- Assisted unit: Federally assisted or federally owned units assisted by Section 8 or Section 9 of the United States Housing Act of 1937, as amended
- Designated Party: the housing agency or the property owner is responsible for complying with the applicable requirements
- Elevated Blood Lead Level (EBLL): confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the U.S. Department of Health and Human Services

Definitions

- Environmental Investigation: a risk assessment with additional questions for the family regarding other sources of lead exposure (e.g., water, pottery, daycare settings), and testing of other potential sources of lead exposure
- Expected to reside: actual knowledge that a child under age 6 resides or is expected to reside in the unit. THIS INCLUDES THE EXPECTATION OF A CHILD BEING BORN TO A PREGNANT WOMAN.
- Index unit: the unit where a child with an elevated blood lead level resides

Section 8 Project Based Vouchers

- Owners receiving more than \$5000 annually per unit in project based assistance are required to ensure that target housing receives a lead risk assessment by a certified risk assessor, regardless of whether there is a child under age 6 in residents, and that occupants are notified of the results of the risk assessment.
- Owners must ensure that lead-based paint hazards identified by the risk assessment receive interim controls by a certified renovation or abatement firm, that clearance by a certifies risk assessor is passed before re-occupancy

Section 8 Changes

- For PBV project-based assistance, the owner is the designated party and is responsible for all the activities regarding EBLL response
- For HCV tenant-based assistance, the PHA is the designated party, with the owner responsible for some activities and the PHA for other activities

When there is an EBLL: Owner Responsibilities

- Initial notification of a confirmed case to HUD within 5 business days
- Initial notification of a confirmed case to the Department of Public Health within 5 business days
- Verification of the case if not provided by a medical professional. At minimum the owner should immediately convey the information to the PHA and the public health office
- Control of lead-based paint hazards: complete the reduction of lead-based paint hazards in the index unit (child's residence) and common areas servicing that unit within 30 calendar days, using a certified lead abatement firm or lead renovation firm.

Owner's responsibility, continued:

- Provide evidence of clearance of the unit by a certified lead assessor
- Notification to other residents: The owner must notify all residents in a multi-unit property of the lead evaluation and hazard control activities
- Ongoing maintenance: Owner must maintain all assisted housing units without current deteriorated paint if there are children under 6 in the family to prevent any deterioration that could lead to EBLLs

PHA Responsibilities

- Verification of the case when notification is not by a medical professional: The PHA shall immediately verify the information with the public health department or other medical health care provider.
- Environmental investigation: Conducting an environmental investigation of the child's unit and the common areas servicing that unit.
- Monitor the owner's compliance:
 - Notify HUD of a confirmed case
 - Notify Public Health officials when any other medical professional notified the owner of the case

PHA Responsibilities, continued:

- Monitor the owner's compliance, continued:
 - Verifying the case when the owner receives information from a person who is not a medical professional
 - Ensuring that any required lead hazard control is complete
 - Ensuring that residents of other units in a multiunit property were notified of the lead evaluation and hazard control activities
 - Ensuring that ongoing maintenance of paint is conducted in accordance with Section 35, 1220, and 35.1355(a)

PHA Responsibilities, continued:

- Control: Ensuring the owner completes and clears the control of lead-based paint hazards identified in the Environmental Investigation of the index unit and common areas servicing that unit.
- The PHA may wish to collaborate with the owner on the response, including names of qualified and certified lead hazard control contractors

Responsibility by Activity

Activity	PHA Responsibility	Owner Responsibility
Initial notification of confirmed case to HUD within 5 days	*	✓
Verification, when necessary	✓	
Initial notification of a confirmed case to the Public Health Department	*	✓
Environmental Investigation	✓	
Lead Hazard Control		✓
Clearance after work completed	*	✓
Notification to other residents		✓
Ongoing LBP Maintenance		✓
Monitor owner's compliance	✓	

* PHA may want to collaborate with owner on implementation

Project Based Vouchers: Owner

- Initial notification of a confirmed case to HUD within 5 business days
- Initial notification of a confirmed case to Public Health Department within 5 business days
- Verification of the case
- Environmental Investigation within 15 calendar days
- Control and clear any lead-based paint hazards within 30 calendar days by a lead paint abatement contractor or a lead renovation contractor
- Notification to other residents in a multi-unit property

Project Based Voucher: Owner

- Follow-up notification: owner must notify HUD of results of the environmental investigation and any required follow-up activities within 10 business days of the deadline for each activity
- Ongoing Lead-based paint maintenance: After the work passes clearance, the owner must ensure that the unit and common areas are maintained as lead-safe for continued occupancy
- If PBV assistance exceeds \$5000 per year, the owner must conduct re-evaluations every two years using a certified lead risk assessor

Project Based Vouchers: PHA Responsibilities

- Monitoring owner's compliance
 - Notify HUD of a confirmed case
 - Notify public health department when any other medical health care provider notified the owner of the case
 - Verifying the case when the owner receives information from a person who is not a medical health care provider that a case may have occurred
 - Ensuring that any required lead hazard control, including passing clearance, is complete
 - Ensuring that residents of other units in a multi-unit property were notified of lead evaluation and hazard control activities
 - Ensuring that ongoing maintenance of paint is conducted

PHA Responsibilities, continued:

- Housing Assistance Payments Contract Monitoring:
 - Before the owner can allow the family to return to full occupancy, they must notify the family of the completion of work and passing of clearance.
- Lead Hazard Control:
 - Ensuring the owner completes all work items suggested in the Environmental Investigation. If hazards were found, the other units in a multi-family property would also be subject to an environmental investigation and appropriate notification of lead hazard abatement and a clearance inspection.

PHA Responsibilities, continued:

- Ongoing monitoring:
 - Ensure units identified with lead based paint hazards have an annual re-examination for deteriorated paint. This can be done during HQS inspections, but not less than once annually

Responding to EBLLs, Environmental Investigations and Lead Hazard Control

- The first step is to verify the results of an elevated EBLL through a venous blood draw, or two capillary blood specimens drawn within 12 weeks of each other. A finger prick (the notice reads “print”) test may be an indicator but further testing is needed.
- If the parent provides results from a medical professional or public health department, no further testing is needed.
- If an EBLL has been reported but not verified, the PHA or owner shall make at least 2 attempts to verify the information with a medical health care provider or health department. If the attempts fail, the PHA or owner must notify HUD

Once An EBLL Is Verified

- Upon verification of an EBLL, the PHA or owner will notify HUD within 5 business days
- The field office notification should include PHA name and PHA code, HUD program, unit address, date of the EBLL test result, and the date the public health department was notified
- Information to HUD should not include the child's name or blood result because it contains personal identification information (PII) and is considered confidential medical information

Exemptions

- The property has been certified by a state or EPA certified lead inspection that the property is paint free or all lead based paint has been identified and abated (does not cover units in which lead paint was mitigated by enclosure or encapsulation)
- Dwelling units scheduled for demolition. If lead is discovered, the tenant family must be relocated within 15 days

Possible other exemptions

- A unit may be exempt if the owner conducted a risk assessment of the dwelling and common areas and any necessary interim controls on the lead based paint hazards were performed, including passing clearance. The lead paint controls and assessment must have been between the time of the EBLL and the exemption date
- The PHA has documentation of compliance with evaluation, notification lead disclosure, ongoing lead based paint maintenance and lead paint management throughout the previous 12 months

Penalties

- Property owners or PHA found to be non-compliant with lead based paint evaluation and hazard control, within specified timeframes, are subject to suspension, reduction or termination of housing assistance payments under HQS standards or under UPCS protocol for public housing
- There are protection for persons who report non-compliance by an owner or PHA under the Whistleblower Act with prohibits under penalty of law for retaliation against said persons by any involved owner or agency

Disclaimer

- PIH notice 2017-13 was used as a reference for this program
- The creator of the program presents the interpretation of the notice as it pertains to the Section 8 program. Further information and the complete notice are available on the HUD website under PIH notices

Thank you!