

Michigan Lead Safe Partnership

testimony to the

Childhood Lead Poisoning Prevention and Control Commission

August 2, 2005

Elimination of Childhood Lead Poisoning by 2010. Prompted by the leadership of the Centers for Disease Control and Prevention, states across the union have drafted and adopted childhood lead poisoning elimination plans. These plans are strategies that will assist each state with eliminating this 100% preventable problem by the year 2010. The State of Michigan has adopted such a plan.

It is the concern of the Michigan Lead Safe Partnership, however, that this goal will not be met without a significantly increased effort to address this problem. While the details of this elimination effort are certainly fought at the local level, there is a clear role for both State and Federal government. The State of Michigan must adopt creative and aggressive policies that assist local communities with getting children tested and making sure homes are repaired and made safe for children *before* they are poisoned. The State must provide fair and adequate resources to get the job done. The Michigan Lead Safe Partnership would like to assist in these efforts.

Economic Benefit of Preventing Childhood Lead Poisoning. Again and again, research has proven that the costs associated with preventing childhood lead poisoning provide an overwhelming cost-benefit to those who invest in prevention.

"In 1989, the CDC estimated that an average of \$4,631 was spent on medical care and special education for each severely lead-poisoned child (BPb $\geq 25\mu\text{g}/\text{dL}$)¹. There were 1,240² children with blood lead levels great than $25\mu\text{g}/\text{dL}$ identified between 2000 and 2004 in the State of Michigan. If these 1989 research figures hold true, the cost of medical treatment alone for these children was an estimated \$5,742,440. We can only assume that costs today are significantly greater.

Yet there is more to the equation than medical costs alone. The research literature supplies ample evidence that childhood lead poisoning has very real costs in terms of education, social services, lost wages and even corrections.

We know that childhood lead poisoning has an adverse impact upon cognitive development, specifically as measured by IQ. Research has tabulated the cost of this negative impact and the costs are significant. In 2002, total annual economic costs for childhood lead poisoning were estimated to be \$43.4 billion nationally³. We also know that reduced IQ results in lost worker productivity. It is estimated that for each IQ point lost to lead poisoning, there is a decrease in worker productivity of 1.76-2.38%⁴.

"Improvements in cognitive ability benefit society by raising economic productivity, including profits and tax revenues, and by reducing crime and other behaviors with negative impacts on others. Because society has borne the costs of preventing lead exposure, through higher prices or lower profits and through public expenditures, examining the benefits from society's perspective makes sense." (Grosse et al. 2002).

¹ Brown MJ. Cost and Benefits of Enforcing Housing Policies to Prevent Childhood Lead Poisoning. Med Decision Making 2002; Nov-Dec 482-492.

² Source: Michigan Department of Community Health. Children less than six years of age only, January 1, 2000 through December 31, 2004, unduplicated.

³ Landrigan PJ, Schechter CB, Lipton JM, Fahs MC, Swartz J. Environmental Pollutants and Disease in American Children: Estimates of Morbidity, Mortality, and Costs for Lead Poisoning, Asthma, Cancer, and Developmental Disabilities. Environ Health Perspect 2002; 110(7).

⁴ Grosse SD, Matte TD, Schwartz J, Jackson RJ. Economic Gains Resulting from the Reduction in Children's Exposure to Lead in the United States. Environ Health Perspect 2002; 110(6): 563-569.

Even an investment in simple changes to housing policy can bear quick economic returns by preventing poisonings. According to the research, appropriate and targeted housing code enforcement has been proven an effective tool in preventing childhood lead poisoning and results in savings from decreased medical and (special) education costs and increased productivity for protected children (Brown 2002).

Lead poisoning will adversely effect the education of many 1000's of Michigan children and their preparation for the work force. Clearly, this loss of productivity will be significant to those children and Michigan's economy.

The Michigan Lead Safe Partnership encourages the Commission to work with us on developing and promoting an economic analysis of the cost/benefit of preventing childhood lead poisoning to the State of Michigan and its citizens.

Specific Action Steps for the Commission. There are very specific action steps that the Michigan Lead Safe Partnership encourages the commission to take. They are as follows:

Immediate Action

- Call upon the Michigan Legislature to restore the \$500,000 in funding cuts for childhood lead poisoning prevention being called for in the Senate budget for the Department of Community Health (DCH). *See attachment A*
- Call upon the Michigan Legislature to restore full funding for the Michigan Childhood Immunization Registry (MCIR) and keep this important tool under the management of the DCH. *See attachment A*

Short Term Action

- Pass legislation allowing for the integration of childhood lead poisoning blood lead testing activity and results into the MCIR database. Provide appropriations sufficient to make this change effective by the end of 2005 (estimated at \$200,000). *See attachment B*
- Strengthen the testing and follow-up requirements through improved legislation and/or rule making. Make it clear to providers which populations are subject to universal screening and the recommended periodicity of screening. These populations should include Medicaid and all children residing in the thirteen high-risk communities as identified by DCH, as well as all children living in high-risk zip codes. Limit incentives to those providers who do comply with these requirements. *See attachments C & D.*

Long Term Action

- Create a Public Health Trust Fund as called for in the November 2004 Task Force Report. Have the Trust Fund created by 2006. Secure a minimum of several million dollars (not necessarily state budget appropriations) in deposits earmarked for childhood lead poisoning prevention by 2007. Develop funding mechanisms to supply ongoing revenue for childhood lead poisoning prevention by 2007. For example, Michigan should establish fees on sale of paint and other surface coating materials (similar to that adopted New Jersey and Maine). *See attachment E*
- Build upon the 2004 legislation creating a statewide Lead-Safe Housing Registry by enacting legislation to make the Lead Safe House Registry mandatory for all rental property by 2012. Take a reasoned, graduated approach, beginning in 2006, that allows rental property owners adequate time to bring their entire portfolio of pre-1978 housing into compliance. Provide rental property owners who comply with liability protection. Use this registry to prioritize the use of State and Federal resources for tenant-based rental assistance. The Michigan Lead Safe Partnership is willing to assist with drafting and supporting legislation to strengthen the housing registry. *See attachment F*

Attachment A

MICHIGAN LEAD SAFE PARTNERSHIP

18581 Jamestown Circle
Northville, MI 48168

-DRAFT-

Date

The Honorable Name
MI House/Senate
Address
Lansing, Michigan ZIP

Dear Title Name:

This letter is written to express the concerns of the Michigan Lead Safe Partnership (MLSP) regarding two current appropriations proposals.

MLSP objects to the proposed \$500,000 reduction in funding for childhood lead poisoning in the Senate appropriations bill for the Department of Community Health (SB 267).

MLSP also objects to the House recommendation to reduce funding for the Michigan Childhood Immunization Registry (MCIR) by \$875,000 and shifting operation of this essential public health tool from the State to the HMOs.

The proposed 50% funding reduction for childhood lead poisoning prevention activities is inconsistent with the bold steps and visionary actions that were taken by the 92nd legislature in 2004. This reduction in funding will compromise many of the legislative strategies just enacted:

- Abatement of lead hazards would be severely limited or eliminated.
- Public awareness activities would be severely limited or eliminated.
- Case management for severely lead-poisoned children would be reduced.
- Efforts to build and leverage the essential support of local coalitions in eight high-risk communities would be cut.
- Without effective local coalitions, the ability of communities to capture federal HUD dollars for abatement of lead hazards would be seriously jeopardized. In recent years, three communities were assisted with securing \$8 million in federal grants.

Michigan is estimated to have the sixth highest number of lead-poisoned children in the U.S. By continuing the existing funding amounts, Michigan can improve its standing nationally, and continue to evolve as a leader in efforts to eliminate childhood lead poisoning by 2010—the national goal.

Only 15 percent of the State's children under age 6 were tested for lead in 2004. Yet for those tested, 2.5 percent had elevated levels of lead in their blood. In some high-risk neighborhoods incidence rates still exceed 15%. That is one out of every six children permanently and negatively impacted by a preventable poisoning.

We respectfully call upon you to advocate for reinstating \$500,000 in funding for childhood lead poisoning prevention in the Department of Community Health budget, for a total appropriation of \$1 million.

Keeping consistent with our concern for all of Michigan's children, we stand in solidarity with our colleagues in Flint and request that a grant addressing racial disparity in childhood lead poisoning in that City be reinstated. Flint is one of the high childhood lead poisoning areas in the state.

The proposal to reduce MCIR funding by \$875,000 is inconsistent with the House Appropriations Committee's "Results Based Budgeting Framework" goal that "government will be effective, efficient, and accountable." A fully funded, state-managed MCIR is central to ensuring that Michigan's children are fully immunized. Since its inception, the MCIR has ensured a steady increase in immunization levels. *Previously identified as the state with the worst immunization rates*, today Michigan is in the top third of all states for immunization levels, with 81 percent.

This is of additional concern to MLSP because the MCIR is being planned for use in childhood lead poisoning surveillance. With a simple legislative amendment, Michigan could be the first state in the union to have an integrated electronic registry for childhood lead poisoning surveillance. Linking lead to the MCIR is an effective tool that is being urged by doctors, HMOs, public health, communities, parents and children.

To accomplish this, we respectfully call upon you to advocate for fully restored funding for the Michigan Childhood Immunization Registry (MCIR) and keeping this essential public health tool under the management of the Department of Community Health.

Last year, the State of Michigan increased its concerted efforts to end childhood lead poisoning. We have come a long way in our battle to end childhood lead poisoning in the State of Michigan. We have identified and executed effective strategies that are greatly reducing the incidence of this preventable problem. We have reduced the number of children who are impacted by the permanent brain damage caused by lead poisoning. And we know how to completely eliminate this problem in the near future—a solution that will retire the need for both current interventions and future remedial services.

We call upon you to help us finish this work by reinstating these proposed cuts.

If you have any questions about this request, please feel free to contact either of us.

On behalf of the Partnership,

Glenn Brown
Partnership Co-chair (Southeast Michigan)
(248) 374-6075

Paul Haan
Partnership Co-chair (West Michigan)
(616) 241-3300

Attachment B

Fact Sheet Including Childhood Lead Testing in the Michigan Childhood Immunization Registry (MCIR)

What is the Michigan Childhood Immunization Registry (MCIR)?

The MCIR is a statewide database of all childhood immunization activity. Access to this database is restricted to healthcare providers, public health, and schools (“read only” access) to ensure all children are getting the immunizations needed to protect personal and public health. Since its implementation almost a decade ago, the MCIR has drastically improved childhood immunization rates in Michigan from some of the worst in the nation to some of the best. It can do the same thing for childhood lead testing.

Why Include Lead?

- Pediatricians and physicians are requesting this information.
- Avoid the cost of duplicate testing, especially between managed care and public health programs.
- Removing uncertainty will encourage more doctors and parents to test children.
- The MCIR can be used as a prompt to make sure ALL doctors and parents are following the latest protocol.
- We have the technology that allows us to have this data at our fingertips. We can give providers the most current guidelines and data for follow-up care for lead poisoned children.
- The State is already mandated to keep comprehensive data on both immunizations and childhood lead testing. It makes sense to link this data and to maintain one common database, rather than two.
- Including lead will help Medicaid payment plans come into compliance the State (PA 55 of 2004) and federal Medicaid requirement that require lead testing.
- Avoid unnecessary stress to parents and children.
- Timely and coordinated testing will save the State intervention resources, including the ongoing educational costs required for children with cognitive impairments.
- To protect children from the 100% preventable problem of childhood lead poisoning.

What Needs to Happen?

Two things need to happen in order for childhood lead testing results to be included in the MCIR.

- Legislation will need to be passed revising the MCIR. The legislation that authorized the MCIR restricted it to immunizations only. This statute would need to be updated to allow specified additional uses.
- Preliminary discussions suggest that it will cost about \$200,000 to make the technological improvements to link the MCIR with the current childhood lead poisoning database (STELLAR). This one-time cost will allow this system to be fully automated.

Additional Information

- The Lead Advisory Committee of the Michigan Department of Community Health has been discussing the benefit of this change for more than two years now, but legislation has still not been proposed. The community needs action, and would welcome legislation initiated by elected officials.
- Helpful contacts in drafting this legislation would include the following people, both of whom have researched the needed changes to make this proposed change functional:
 - Doug Paterson, patersond@michigan.gov
 - Therese Hoyle, hoylet@michigan.gov

Prepared by: Paul Haan, *Get the Lead Out!* Project Coordinator

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.9207 Childhood immunization registry; establishment; purpose; confidentiality and disclosure requirements; use of information.

Sec. 9207.

(1) The department shall establish a registry, to be known as the "childhood immunization registry", to record information regarding immunizations performed under this part. The department shall enter information received under sections 2821 and 9206 in the registry.

(2) The information contained in the childhood immunization registry is subject to the confidentiality and disclosure requirements of this section and sections 2637 and 2888 and to the rules promulgated under section 9227. The department may access the information contained in the childhood immunization registry when necessary to fulfill its duties under this part.

(3) The department shall use the information in the childhood immunization registry only for immunization purposes. The department shall delete information in the childhood immunization registry pertaining to an individual child immediately upon the child reaching the age of 20.

History: Add. 1996, Act 540, Imd. Eff. Jan. 15, 1997

Popular Name: Act 368

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Attachment C

**From the 11/16/04 Final Report of the
Task Force to Eliminate Childhood Lead Poisoning**

Attachment A, p. iii

Issue	Focus Area II: Identifying Those at Risk Recommendation
Assure compliance with existing requirements/ recommendations	<p>A) Assure compliance with existing requirements /recommendations for lead testing.</p> <ol style="list-style-type: none"> 1. Identify barriers to testing by primary care providers; develop policies and practices to eliminate barriers to testing in provider offices. 2. Assure that providers understand that collecting specimens and/or packaging /mailing of blood lead samples can be completed without being CLIA certified. Providers should be strongly encouraged to complete specimen collection in their offices. 3. Utilize and share information regarding the availability of the Michigan Department of Community Health laboratory for commercial/public use at \$11 per analysis. 4. Provide incentives for providers to comply with testing requirements/recommendations. 5. Assure that Medicaid Health plans test all enrolled children for lead at 1 & 2 years of age.
	<p>B) Provide incentives for parents to comply with testing requirements/recommendations.</p>
	<p>C) Strictly enforce Early and Periodic Screening, Diagnosis, Treatment (EPSDT) screening requirements.</p>

Attachment D

May 2005 JAMA Article Here

Attachment E

From the 11/16/04 Final Report of the Task Force to Eliminate Childhood Lead Poisoning

Priority Recommendation #3, pp. 5-6.

- 3. The Governor should establish a public health trust to serve as a repository for a variety of potential revenues in order to provide a stable ongoing funding stream for the prevention of lead poisoning in children as well as lead remediation and control activities. It is further recommended that the trust be established by legislation or executive order.**

Securing adequate funding to address lead poisoning is essential if Michigan is to achieve the goal of eliminating lead poisoning in children by 2010. A Public Health Trust could serve as the repository for a variety of revenues that would be utilized for prevention of childhood lead poisoning and addressing environmental hazards.

In addition to sources of federal funding found in Attachment E (of the 11/16/04 Final Report of the Task Force to Eliminate Childhood Lead Poisoning), other potential funding sources include: fees generated by building and remodeling permits; refinancing transaction fees; fees on paint sales; fees on licenses for building and remodeling contractors; grants from federal and state agencies; foundation grants; donations from corporations and individuals; fees from training programs for Lead Inspectors and Risk Assessors; out-of-court settlements and state General Funds.

A Public health Trust could hold both restricted (designated by donor or funding agency) and non-restricted funds that could be utilized for a variety of activities to prevent the exposure of children to lead hazards (primary prevention) as well as remediation and control activities designed to reduce environmental hazards. The initial cost of establishing a Public Health Trust, including legal fees and marketing the Trust to potential donors, is **\$150,000**. The annual cost of administering the Trust is estimated to be 10-15% of revenues.

Michigan should establish fees on sale of paint and other surface coating materials. This new legislation would be similar to that adopted by New Jersey in 2004 and Maine in 2005. The intent is to finance an array of lead poisoning prevention services such as those that the Task Force identified on page 10 of its final report.

As the Task Force reviewed the recommendations, it was determined that a multifaceted approach must be implemented to achieve the national and state goals of the elimination of lead poisoning by the year 2010. Four major focus areas emerged from this discussion and all recommendations developed by the Task Force and Subcommittees were identified as relating to one of the four focus areas:

- eliminating lead hazards in housing;
- expanding testing of children to determine their blood lead status;
- assuring capacity to serve children who may need special medical and educational services; and
- identifying resources to provide a stable funding stream to address lead hazards and lead poisoning.

These four focus areas became the foundation for operationalizing strategies that will result in a lead-safe environment for the children of Michigan."

Attachment F

Sample Mandatory Lead-Safe Housing Registry - State of Maryland

www.lead-safe.org/Maryland_laws/Env6-8/Env6-8_summary.html

Maryland Reduction of Lead Risk in Housing Program

(Maryland Code: Environment, Sections 6-801 - 6-852; Article 48A, Sections. 734-737; Real Property, Sec. 8-208.2)

In 1994 the General Assembly established the Lead Poisoning Prevention Program for the purpose of reducing the incidence of childhood lead poisoning while maintaining the stock of affordable rental housing. This program requires owners of older residential properties to meet certain risk reduction standards while providing the protection of limited liability for owners who comply. In addition, it provides a mechanism for potentially more affordable insurance for rental units. The Program is administered by the Maryland Department of the Environment.

Definitions:

- "Person at Risk" - A child under the age of six (6) or a pregnant woman who resides or regularly spends at least twenty-four (24) hours per week in an affected property.
- "Resident" - A tenant residing in the unit for more than thirty (30) days or a child under the age of six (6) spending more than twenty-four (24) hours per week in the unit.

The owners of all rental dwelling units built before 1950 must comply with this law. Owners of units built between 1950 and 1978 may choose to comply and thus benefit from limited liability protection.

The law exempts rental units owned or operated by federal, state or local government or by a public, quasi-public, or municipal corporation, provided the property is subject to standards that are at least as strict as the standards established by this law.

To obtain liability protection, owners must do the following:

1. Register all rental dwelling units with the Maryland Department of the Environment before December 31, 1995. Owners who acquire affected property after that date must register within thirty (30) days after acquisition.
2. Beginning February 24, 1996, Property Owners must provide the following two pamphlets to all occupied units: a) "Protect Your Family From Lead In Your Home" and, b) "Lead Poisoning Prevention *Notice of Tenant's Rights*," and notify tenants of lead hazards that may be in their units. Materials must go out to all occupied units. Property Owners may distribute 25% per quarter through the first year. All tenants must be given these materials by February 24, 1997. These materials are available from the Coalition or your local public library.
3. Meet specific Risk Reduction Standards upon each change in tenant occupancy before the unit is re-rented. These standards can be met by either
 - a) passing a lead dust "clearance test"
 - or
 - b) undertaking appropriate lead hazard reduction treatments such as:
 - removing chipping, peeling, or flaking paint,
 - stripping and repainting, replacing or enclosing interior window sills with approved materials,
 - making bare floors smooth and cleanable.
4. Have all "treated" units certified by a MDE-accredited visual inspector. Lists of Certified Inspectors may be obtained from the Coalition.
5. Comply with the Modified Risk Reduction Standards when notified of certain conditions such as damaged paint, structural defects, or the presence in the unit of a child with elevated blood lead levels. Tenants are given the right to send Notices of Defects which trigger the performance of the Modified Risk Reduction Standards within thirty (30) days, in most cases.

6. By February 24, 2001 certify that at least 50% of the owner's rental units have received Full Risk Reduction Treatments, and by February 24, 2006 certify that 100% of the units have received Full Risk Reduction Treatments.

Registration

Registration must be renewed annually, and any change in ownership, management, or insurance must be reported within thirty (30) days. Registration forms are open for public inspection, but the Department may not provide a list of properties owned by an individual landlord. However, the Department must disclose, upon request, whether the landlord has registered and complied with certain compliance standards (including the percentage requirements for inventory cleanup). Each time occupancy changes after the first time, the dwelling unit must meet the Full Risk Reduction Standards prescribed by the Department.

Owners are responsible for the cost of temporarily relocating tenants because of a required cleanup, however, tenants are still required to meet normal rent requirements during that time unless an Escrow Action has been filed.

New Tenancy

At the beginning of a new tenancy, the owner must give the tenant the mandated educational materials: a) "Protect Your Family From Lead In Your Home" and, b) "Lead Poisoning Prevention - 'Notice of Tenants' Rights'" prescribed by the Department. New notices and packets must be given to all tenants every two years if there is no change in occupancy. Notices and packets must be sent by certified mail or by a verifiable delivery method.

Repairs and Maintenance

If an owner of affected property undertakes repairs or maintenance that will disturb the paint on any interior surfaces, the owner must make reasonable efforts to ensure that all "persons at risk" are removed from the property while the work is being done, and to ensure that all other persons are not present in the area where the work is being done. Work must be done in a lead-safe manner as specified by Maryland Department of the Environment Regulations (please call the Coalition if you have questions).

Tenant must allow reasonable access so that work can be done.

If it is necessary that the tenant vacate the property for twenty-four (24) hours or more, landlord must pay the reasonable expenses that tenant incurs because of relocation.

Winter Waivers

An owner may apply for a "winter waiver" for work on exterior defects during the period November 1 - April 1 from the local housing authority or the Maryland Department of Housing and Community Development. The postponed work must be done within thirty (30) days after the end of the waiver period.

Landlord's Liability/Qualified Offer

The law provides a detailed formula and definitions for determining the extent to which an owner's liability is limited. With certain exceptions, an owner who is in compliance with the registration, notification, and cleanup requirements is protected by payment caps under a Qualified Offer system. The caps are currently \$7,500.00 for uncovered medical expenses and \$9,500.00 for rent and relocation costs.

Qualified Offers are triggered by an at-risk resident having an EBL of 25 µg/dl (micrograms per deciliter) or greater. Qualified Offers must be made by the Property Owner (or Agent) within thirty (30) days of notice of EBL. The tenant then has thirty days to accept or reject the offer.

Retaliatory Actions Prohibited

The owner of any dwelling units covered by this law may not evict or take any other retaliatory action against a tenant "primarily" as a result of the tenant providing information to the landlord in accordance with this law. Prohibited retaliatory actions include:

1. arbitrary refusal to renew a lease;
2. termination of tenancy;
3. arbitrary rent increase, or decrease in service to which a tenant is entitled, or;
4. any kind of constructive eviction or harassment.

A tenant who was subjected to a retaliatory eviction or other prohibited action is eligible for relief and reasonable attorney's fees and costs as provided in the State law prohibiting retaliatory actions by landlords.

Lead Poisoning Prevention Commission

The law also establishes a broadly representative eighteen (18)-member Lead Poisoning Prevention Commission. The Commission is responsible for studying and gathering information on economic, medical, and other issues relating to the effectiveness of the Lead Poisoning Prevention Program, including the need to expand the scope of the law to cover child care centers, family day care homes, and preschool facilities. Each year, the Commission is to review the implementation of the Program and submit a report to the Governor.

Community Outreach

The Maryland Department of the Environment has the responsibility of establishing community outreach programs in areas of high lead risk, and, if necessary, assisting local governments to provide case management services.

Units Exempted From State Law

- Rental units built after 1978
- Rental units owned or operated by Federal State or Local government or by a public, quasi-public, or municipal corporation, provided the property is subject to standards that are at least as strict as the standards established by this law.
- Rental units certified by a Maryland Department of the Environment accredited inspector to be "lead-free."
- Rental units not considered permanent dwelling units (e.g. vacation homes).