



Senate Fiscal Agency
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Senate Bill 31 (Substitute S-2 as passed by the Senate)
Sponsor: Senator John Cherry
Committee: Health Policy

Date Completed: 8-21-23

RATIONALE

Under Federal law, all children who receive Medicaid coverage are required to test for lead poisoning at the ages of one and two years old.¹ According to testimony before the Senate Committee on Health Policy, this covers fewer than 25% of children in the State. Testimony also indicates that Michigan ranked third highest in the nation for elevated blood lead levels in children in 2021. According to the Michigan Department of Health and Human Services (DHHS), 96,462 Michigan children under six years old underwent a blood lead test in 2021, and 3.5% of those children had elevated blood levels at or above 3.5 micrograms per deciliter, the level at which the Centers for Disease Control and Prevention (CDC) recommends action to be taken. Lead poisoning in children can cause damage to the brain and nervous system, slowed growth and development, learning and behavioral problems, and hearing and speech problems.² Implementing testing for lead poisoning on every child in Michigan would allow parents and doctors to minimize the risk of long-term harm to children not currently covered by Medicaid.

CONTENT

The bill would amend the Public Health Code to require a physician treating a minor to test or order a test for lead poisoning at early ages and require the DHHS to promulgate specified rules related to the testing for lead poisoning. The bill specifies that its provisions would not apply to a minor whose parent, guardian, or person in loco parentis objected to testing. Additionally, the DHHS could adjust the ages of testing or eliminate the requirement to test for lead poisoning after collecting and reviewing data on lead poisoning for five years, at which time it would have to submit a report to the Legislature detailing its rationale.

Beginning January 1, 2024, a physician treating a minor would have to test or order a test for the minor for lead poisoning with the rules promulgated by the DHHS as described below. The physician also would have to make an entry of the testing on the minor's certificate of immunization.

The DHHS would have to promulgate rules to implement the bill. The rules would have to require that a minor residing in the State was tested at the following ages:

- Once at one year old.
- Once at two years old.
- Once at four years old, if the minor were in a geographic area of the State identified to pose a high risk for childhood lead poisoning as determined by the DHHS.
- At least once between two and six years old, if the minor had no prior experience with testing.

¹ Centers for Medicare & Medicaid Services, Lead Screening, 2023.

² Centers for Disease Control and Prevention, Prevent Children's Exposure to Lead, October 2022.

In addition, the rules would have to include the following:

- Factors to identify a minor who was at high risk for lead poisoning, including residing in a home where other minors had been diagnosed with lead poisoning and residing in a home built before 1978.
- A requirement that a minor was tested at intervals determined by the DHHS if a physician determined the minor was at high risk for lead poisoning by applying the factors above, through a parent's attestation, or through the physician's own independent medical judgement.
- Procedures for entering the testing information onto the certificate of immunization, including procedures for entering the information if the testing were performed by a person other than a physician.

The DHHS, by rule, could adjust the age requirements above or eliminate testing requirements if, after collecting and reviewing data on lead poisoning in Michigan for five years, it determined that testing minors at the determined ages was no longer necessary or appropriate to maintain the health and safety of minors in Michigan. If the DHHS used this power, it would have to submit a report to the Legislature detailing its rationale.

Under the Code, a health care provider administering an immunizing agent to a child must present the person accompanying the child with a written certificate of immunization or make an entry on a certificate in the person's possession. Certificates must indicate certain immunization information. Under the bill, beginning January 1, 2024, the certificate also would have to have a space indicating whether the minor had been tested for lead poisoning.

MCL 333.9206 et al.

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

The bill is similar to House Bill 5365 from the 2019-2020 Legislative Session.

BACKGROUND

According to the CDC, adults can help reduce children's lead exposure by frequently washing children's hands and children's toys that may have come into contact with contaminated paint or soil, and by covering up cracks in paint in houses built before 1978 to reduce contact with lead dust. In addition, other common sources of lead exposure include certain water pipes, candies or traditional home remedies, and aviation gas from piston engine aircrafts.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Preventative care for lead poisoning is more financially prudent. Once the neurological damage caused by lead poisoning is done, it is permanent and irreversible.³ According to testimony before the Senate Committee on Health Policy, a mandate for testing for lead poisoning would lead to fewer children with lead poisoning, resulting in more productive lifelong workers and more wages generated in the long-term. In addition, the State would spend less money on services like special education for kids with learning disabilities

³ *Id.*

stemming from lead-based poisoning. Additionally, the normal cost of a lead poisoning test is less than \$20. Lead poisoning tests are covered under the Affordable Care Act by five different private insurers. Given that often it is affordable for a lead poisoning test, it would not be harmful to people experiencing poverty to require that children be tested.

Supporting Argument

According to testimony before the Senate Committee on Health Policy, 78% of children who were tested in Michigan had lead present in their blood (not necessarily elevated blood lead levels). This demonstrates a need for further testing in Michigan, as more tests may uncover similar rates of children who have lead present in their blood. Identifying these children with the bill's testing program could prevent further damages to their lifelong wellbeing.

Supporting Argument

Requiring testing for lead poisoning in children would better inform public health guidance. For example, the CDC specifies that children living in homes built before 1978, children in low-income households, and immigrants and refugees coming from countries with less strict regulations on lead exposure, among other populations, are at higher risk for lead poisoning.⁴ The CDC bases this guidance upon testing data. Expanding testing data could help identify more childhood risks for lead poisoning.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

The bill would have a minor negative fiscal impact on the DHHS and no fiscal impact on local units of government. The DHHS would incur costs as a result of increased administrative activities from promulgating rules to implement the required testing for lead poisoning and then reviewing the rules after five years. The costs would be borne by existing DHHS resources.

Fiscal Analyst: Ellyn Ackerman

⁴ Centers for Disease Control and Prevention, Populations at Higher Risk, October 2021.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.